



Public Comment
Marina del Rey Toxics TMDL
Deadline: 5/13/14 by 12:00 noon

Government Affairs
880 South Pickett Street, Alexandria, VA 22304

147 Old Solomons Island Road, Suite 508
Annapolis, MD 21401

Phone: (703) 461-2878 x8363 Fax: (410) 224-3807
Website: www.BoatUS.com/gov
Email: govtaffairs@BoatUS.com

May 13, 2014

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Re: Comments on Marina del Rey Harbor Toxic Pollutants TMDL.

Ms. Townsend:

BoatU.S. is the largest organization of recreational boat owners in the United States, with more than 500,000 members nationwide and over 55,000 members in California. On behalf of our members we would like to register our grave concerns with the current proposal by the Los Angeles Water Quality Control Board (LAWQCB) to set a Total Maximum Daily Load (TMDL) for copper in the Marina del Rey Harbor. We also object to the highly burdensome regulatory approach proposed for Marina del Rey boat owners in order to meet the TMDL. We urge the State Board to reject this proposal.

By way of background, we note that seventy-five percent of the nation's boat owners have an annual household income of less than \$100,000. Boating is a healthy family activity connecting children with nature and promoting physical fitness for all. For many families, the boat is the single biggest investment they make in family recreation..

Antifouling paints are necessary for any vessel left in the water to deter growth of marine organisms. These vessels range from a trailer boat left in the water for a week or a larger cruising sailboat left in the water all season to a commercial tug or container ship that is in the water year round. The use of antifouling paint is fundamental to the proper maintenance and performance of almost all watercraft. Copper is the primary anti-fouling active ingredient currently in use.

BoatU.S. has worked on the issue of antifouling paints and other bottom coatings for more than a decade, and based on that experience we have severe reservations with the LAWQCB TMDL proposal. Our primary goal is to ensure that boaters have effective, affordable and available anti-fouling options. The State Board should consider the following:

- Recreational boats have a very wide range of operating characteristics and thus require a number of different antifouling paint options. According to studies by Sea Grant over 10 years in San Diego Bay, nontoxic bottom coatings (i.e. Teflon or ceramic coatings) are only effective for boats that regularly get used – they need to leave their slips and attain speeds of at least 8 knots. The slick surface

allows slime to slip off but only if the boat is used regularly at speed. They don't work for a sailboat that operates at slower speeds, or any boat that only leaves the dock once a week. It is important that a range of effective coatings be available for the many different types of boats and boat uses.

- Effective antifouling paints help to prevent the spread of invasive species, lengthen boat life, reduce maintenance costs, and increase fuel efficiency. Antifouling paints have been a key part of reducing the spread of invasive species nationwide. According to the International Union for the Conservation of Nature (IUCN), "In the absence of anti-foulants that are as effective, it is likely fouling will increase and that more species will be transported this way in the future."
- The proposal for 85% of all vessels in Marina del Rey Harbor utilize copper free antifouling paint to achieve water quality objectives is a drastic measure. It disregards other methods for reducing copper discharges such as best management practice for in-water hull cleaning, treatment of land-based process water, and low-leach rate copper paints.
- The economic assessment of the cost for recreational boats to transition to non-copper paints is inadequate and should not be relied upon. For example, it is suggested that paint must be routinely stripped from boats as often as every 7 to 10 years. While some boat owners may follow such a maintenance routine, it is far more common to only remove old paint when it is no longer possible for a new coat to adhere. We are also concerned that limited boatyard capacity in the area will cause significant maintenance costs increases as owners attempt to comply with these new requirements.
- The possibility that individual boat owners could be named as "responsible parties" and thus subjected to permitting requirements and their attendant costs is particularly alarming. BoatU.S. was a very active participant in the passage of the Federal Clean Boating Act in 2008 which specifically provides that recreational vessels shall not be subject to the requirement to obtain a Clean Water Act permit to authorize discharges incidental to their normal operation. The implementation of a local discharge permit would have far reaching implications and pose an unreasonable burden on individual boaters.
- LAWQCB is relying on overly restrictive water quality standards in its justification for setting the TMDL. The United States Environmental Protection Agency is in the process of approving the use of site specific criteria to determine the impact of copper on a particular area. Known as the Biotic Ligand Model (BLM), its use should provide a realistic picture of the actual impact of copper in Marina del Rey. We urge the LAWQCB to work in concert with the USEPA to develop a consistent approach routed in science.

- While alternative anti-foulants such as E-conea™ and zinc are available, they do not always meet the various operating characteristics and maintenance regimes of many boaters. Studies of some of these products have found them to have a wide range of effectiveness. It should also be noted that these products are only in a limited number of approved anti-fouling paints.

Recreational boaters have a fundamental interest in clean water and healthy ecosystems. We are not only on the water, but often in the water, and eating fish that live in the water. It will be difficult for this user group to accept regulations and policies that are not fully supported by science, cost effective and reasonable to achieve. The Marina del Rey TMDL for copper and the LAWQCB policy prescriptions to achieve it do not meet these tests. We urge the State Board to reject this change.

On behalf of our boat owning members, thank you for the opportunity comment on this proposal. Please feel free to contact us for any needed clarifications or for further assistance.

Sincerely,



Margaret B. Podlich
President, BoatU.S.