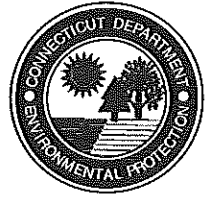


# STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



IN THE MATTER OF VESSEL PRESSURE  
WASHING WASTEWATER

## CONSENT ORDER REGARDING VESSEL PRESSURE WASHING WASTEWATER

- A. With the agreement of the Respondent identified in Exhibit A of this Consent Order, the Commissioner of Environmental Protection ("the Commissioner") finds:
1. The Respondent is the owner or operator of a marina, yacht club, boatyard, boat repair and maintenance facility, or other facility ("the facility") and has engaged in the pressure washing of vessel bottoms that have been coated with marine anti-fouling paints. Such activity generates a wastewater. The name and location where the Respondent conducts its operations is identified on Exhibit A;
  2. Marine anti-fouling paints regulated by the U.S. Environmental Protection Agency ("EPA") are customarily applied to the bottom of a vessel to inhibit the attachment and growth of aquatic organisms on the vessel's bottom. Such paints may contain one or more biocide compounds including, but not limited to, copper, that are by design toxic to fish and other aquatic organisms;
  3. The long-standing practice at the facilities referenced in paragraph A.1 is to pressure wash the bottom of vessels to remove the growth of marine organisms when the vessels are hauled for maintenance, repairs, or for winter storage. Such pressure washing produces wastewater that may contain one or more of the biocide compounds in marine anti-fouling paint;
  4. The Respondent has discharged wastewaters from pressure washing the bottom of vessels to the waters of the state;
  5. The discharge of wastewaters from pressure washing the bottom of vessels to the waters of the state requires a discharge permit from the Commissioner pursuant to Section 22a-430 or 22a-430b of the Connecticut General Statutes ("CGS");
  6. The Commissioner has not issued the required permit, pursuant to CGS Section 22a-430 or 22a-430b, to authorize the discharge of vessel pressure washing wastewater to the waters of the state to the Respondent;
  7. The discharge of vessel pressure washing wastewaters to the waters of the state by the Respondent without a permit issued by the Commissioner pursuant to CGS Section 22a-430 or 22a-430b, has, among other things, created or is maintaining a facility or condition which can reasonably be expected to create a source of pollution to the waters of the state;

8. Given the difficulties in moving an industry from long-standing practices to regulatory compliance, along with need for the industry to explore and implement appropriate treatment and disposal measures, the Commissioner advised the regulated community that in general, until September 30, 2009, the Department would exercise enforcement discretion and not pursue enforcement actions for unauthorized discharges associated with pressure washing of vessel bottoms;
  9. The Commissioner agrees to extend the September 30, 2009 deadline described in paragraph A.8, above, until no later than December 31, 2010. This extension, however, is limited to only those marinas, yacht clubs, boatyards, boat repair and maintenance facilities or other facilities covered by and that are in compliance with this Consent Order, subject to the terms and conditions set forth herein; and
  10. By agreeing to the issuance of this Consent Order, the Respondent makes no admission of fact or law with respect to the matters addressed herein except for paragraphs A.1 and A.4.
- B. With the agreement of the Respondent, the Commissioner, acting under CGS sections 22a-6, 22a-424, 22a-430, 22a-431, and 22a-432, orders the Respondent as follows:
1. a. On or before July 31, 2009, the Respondent shall implement Best Management Practices (“BMPs”) for the interim management of vessel pressure washing wastewaters until all measures for the containment, collection, treatment, storage, discharge and/or hauling of vessel pressure washing wastewaters in compliance with CGS sections 22a-430, 22a-430b, or 22a-454 are implemented and in use. Such BMPs shall:
    - i. conform to the practices specified in the 2002 Connecticut Clean Marina Guidebook, which is hereby incorporated into and made part of this Consent Order as Attachment A; and
    - ii. prevent or minimize wastewaters with a visible discoloration or plume to discharge to surface waters, commingle with stormwater, or otherwise result in observable adverse surface water quality impacts (i.e. fish kill);
  - b. On or before September 30, 2009, the Respondent shall prepare and complete plans and specifications for the design, construction, installation, operation and maintenance of any measures for the containment, collection, treatment, storage, discharge and/or hauling of vessel pressure washing wastewaters in compliance with CGS Sections 22a-430, 22a-430b, 22a-454 and any other applicable requirements;
  - c. On or before October 31, 2009, the Respondent shall file the requisite applications for all local permits, licenses or approvals and for a permit or certificate of permission under CGS sections 22a-32, 22a-361, or 22a-363b, as applicable, regarding the design, construction, installation, operation and

maintenance of any measures for the containment, collection, treatment, storage, discharge and/or hauling of vessel pressure washing wastewaters in compliance with CGS Sections 22a-430, 22a-430b, 22a-454 and any other applicable requirements;

- d. On or before March 31, 2010, the Respondent shall obtain all requisite local permits, licenses or approvals, all permits required under CGS sections 22a-32, or 22a-361, and all certificate of permissions under CGS section 22a-363b regarding the design, construction, installation, operation and maintenance of any measures for the containment, collection, treatment, storage, discharge and/or hauling of vessel pressure washing wastewaters in compliance with CGS Sections 22a-430, 22a-430b, 22a-454 and any other applicable requirements;
- e. On or before April 30, 2010, if the Respondent intends to discharge vessel pressure washing wastewater to a sanitary sewer, or collect and haul such wastewaters to a municipal sewage treatment plant, the Respondent shall comply with the registration requirements of the General Permit for the Miscellaneous Discharges of Sewer Compatible Wastewater issued by the Commissioner pursuant to CGS Section 22a-430b;
- f. On or before April 30, 2010, the Respondent shall submit a written report on a form prescribed by the Commissioner: (1) providing an estimated timeframe for the initiation and completion of any necessary design, construction, installation, operation and maintenance measures; and (2) certifying that the required actions set forth above have been completed within the specified timeframe(s), with an explanation for any actions required by paragraphs B.1.b., to B.1.e, inclusive, that have not been completed within the specified timeframe(s). Such report shall, at a minimum:
  - i. contain a certification that all requisite measures for the containment, collection, treatment, storage, discharge and/or hauling of vessel pressure washing wastewaters in compliance with CGS Section 22a-430, 22a-430b, 22a-454 and any other applicable requirements, have been implemented and are currently in use; or
  - ii. contain a certification that since July 31, 2009, all vessel pressure washing wastewaters have been and will be managed in conformance with the requirements in paragraph B.1.a, above, until all requisite measures specified in paragraph B.1.f.i. have been implemented and are in use, and a certification that one or more of the following actions have been completed within the specified timeframes:
    - on or before September 30, 2009, all plans and specifications have been prepared and completed, as provided for in paragraph B.1.b., above;

- on or before October 31, 2009, all requisite local permits, licenses and approvals have been applied for and all applications for a permit, pursuant to CGS section 22a-32 and 22a-361 and for a certificate of permission pursuant to CGS section 22a-363b, have been applied for, as provided for in paragraph B.1.c., above;
  - on or before March 31, 2010, all requisite local permits, licenses and approvals have been obtained and all permits issued pursuant to CGS section 22a-32 and 22a-361 and certificates of permission issued pursuant to CGS section 22a-363b, have been obtained, as provided for in paragraph B.1.d, above;
  - on or before April 30, 2010, if required, the registration for the Miscellaneous General Permit has been filed with the Commissioner, as provided for in paragraph B.1.e., above.
- iii. if the Respondent provides a certification under paragraph B.1.f.ii, the Respondent shall also describe in detail reasons for not completing any actions required by paragraphs B.1.b. to B.1.e, inclusive, within the specified timeframes, and provide a revised timeframe for completing such actions, provided that regardless of the reasons specified by the Respondent, the discharge of any vessel pressure washing wastewater to the waters of the State that does not have a permit issued by the Commissioner pursuant to CGS section 22a-430 or 22a-430b shall cease no later than December 31, 2010. Reasons for not completing any actions within the specified timeframes shall be limited to:
- a demonstrated inability to pay, subject to verification by the Commissioner. (If making such a claim, the Respondent agrees to provide, upon the written request of the Commissioner, financial information that includes, but is not limited to, copies of income tax filings and other financial information prepared by a certified public accountant); and/or
  - circumstances beyond the control of the operator or owner (i.e., local or DEP/OLISP permit not issued as provided for in paragraphs B.1.d and B.1.e).
- g. On or before December 31, 2010, the Respondent shall cease all vessel pressure washing wastewater discharges to the waters of the state which do not have a permit issued pursuant to CGS section 22a-430, 22a-430b; and
- h. On or before December 31, 2010, the Respondent shall submit a written report on a form prescribed by the Commissioner certifying that:
- i. any action required by this Consent Order prior to April 30, 2010, noted

in paragraph B.1.f.iii.above, that was not completed within the timeframe specified by this Consent Order, has been completed by December 31, 2010; and

- ii. all construction, installation, operation and maintenance of all requisite measures for the containment, collection, treatment, storage, discharge and/or hauling of vessel pressure washing wastewaters in compliance with CGS sections 22a-430, 22a-430b, 22a-454, and any other applicable requirement, have been implemented and are currently in use; or
  - iii. that the Respondent has ceased all vessel pressure washing discharges to the waters of the State which do not have a permit issued pursuant to CGS section 22a-430 or 22a-430b and that the Respondent shall not initiate any discharge of vessel pressure washing wastewater to the waters of the state that does not have a permit issued by the Commissioner pursuant to CGS section 22a-430 or 22a-430b, unless such permit has been obtained before any such discharge initiated.
2. Full compliance. The Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.
  3. Approvals. The Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.
  4. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier.
  5. Dates. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order

means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

6. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by the Respondent or, if the Respondent is not an individual, by the Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in § 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and the Respondent or the Respondent's chief executive officer and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

7. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject the Respondent to an injunction and penalties.
8. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
9. Notice of transfer; liability of Respondent. Until the Respondent has fully complied with this consent order, the Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. The Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.
10. Commissioner's powers. Nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by the Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution,

or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Respondent to undertake further investigation or further action to prevent or abate violations or pollution.

11. Respondent's obligations under law. Nothing in this consent order shall relieve the Respondent of other obligations under applicable federal, state and local law.
12. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by the Respondent pursuant to this consent order will result in compliance.
13. Access to site. Any representative of the Department of Environmental Protection may enter the site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
14. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.
15. Notice to Commissioner of changes. Within 15 days of the date the Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, the Respondent shall submit the correct or omitted information to the Commissioner.
16. Notification of noncompliance. In the event that the Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, the Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, the Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and the Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
17. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Edward Finger  
Environmental Analyst 3  
Water Permitting and Enforcement Division  
Connecticut Department of Environmental Protection  
79 Elm Street  
Hartford, Connecticut 06106-5127

18. Signatories. This Consent Order may be executed in two or more counterparts, each of which shall be deemed and original, but all of which together shall constitute one and the same instrument.



Issued as a final order of the Commissioner of the Department of Environmental Protection  
on

*[To be signed after receipt of Exhibit  
A with Respondent's original  
signature]*

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Amey Marrella  
Acting Commissioner

ATTACHMENT A

BEST MANAGEMENT PRACTICES  
FOR  
VESSEL PRESSURE WASHING

- ✪ Prohibit in-water bottom cleaning or hull scraping or any process that occurs underwater to remove antifouling paint from the boat hull. This is a popular practice for racing sailboats prior to a race to reduce drag. However, the practice makes it impossible to treat what's cleaned from the boat bottom.
  
- ✪ The first priority for the marina facility is to keep the washwater free of soaps or other additives, collect all of the washwater, treat it, and discharge to sanitary sewer or store for hauling to a sewage treatment plant. Discharge to the sanitary sewer requires local water pollution control authority approval. See treatment options below.
  
- ✪ Minimize the amount of water used when boats are pressure washed out of the water. For example, wash the hull above the waterline by hand.
  
- ✪ If collecting and treating washwater is not feasible, wash boats on a level permeable surface (lawn, crushed stone, or sand) so that the wash water can infiltrate into the ground, if there is no drinking water well on the property. Place filter fabric over the permeable surface to collect solids and sediments. A hazardous waste determination should be conducted on collected pressure wash wastewater to establish whether or not disposal of the collected material is subject to hazardous waste regulations [40 CFR 262.11; RCRA §22a-449(c)-102(a)(2)(A)]. Hazardous waste must be managed in compliance with all applicable requirements.
  
- ✪ To ensure that the washwater has enough time to settle into the ground, pressure wash boats as far away as possible from the water, preferably over a grassed or otherwise vegetated area. Add a row of hay bales between the water's edge and the pressure washing operation.
  
- ✪ If it is not possible to wash boats over a pervious surface, pump the wash water to a pervious surface for infiltration.
  
- ✪ If there is a well nearby, pressure wash boats on an impervious surface as far as possible from the well, and treat the washwater to collect solids and sediments before discharge, preferably to the sanitary sewer.
  
- ✪ Pressure wash water can also be directed to a holding or settling tank for treatment. If the wastewater does not contain chemical additives, it may be diverted into wetpond detention basins, vegetated buffers, or swales.

★ Where feasible, wastewater from the washing operation can be collected and reused through a closed loop pressure wash system, or can be used after treatment to irrigate landscaped portions of the marina.

★ If none of the above-mentioned practices is feasible and the only apparent option is to discharge pressure washing wastewater to a surface water or storm drain, wash water should be treated prior to discharge. Options for treatment include filtering the washwater through catch basin inserts that will separate out debris, paint chips, and sediment. The use of filter fabric, oil/water separators or sand filters should also be considered. Contact the CT-DEP's Bureau of Water Management at (860) 424-3018 for more information regarding pressure washing wastewater discharges to surface waters or storm drains.