

National Marine Manufacturers Association

Please see the attached comments. Thank you



02/03/2023

Hazardous Waste and Toxics Reduction Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

RE: Proposed Rule: Department of Ecology, Chapter 173-337 WAC -- Safer Products Restrictions and Reporting

The National Marine Manufacturers Association (NMMA) appreciates the opportunity to provide comments to the Washington State Department of Ecology (Ecology) regarding the Proposed Rule: “Safer Products Restrictions and Reporting” (“Safer Products Rule” or “Proposed Rule”).

NMMA is the trade association for the U.S. recreational boating industry, representing nearly 1,500 marine businesses, including recreational boat, marine engine, and accessory manufacturers. Our members are often U.S.-based small businesses, many of which are family owned. NMMA members collectively manufacture more than 85 percent of the marine products sold in the U.S. Furthermore, the recreational boating industry has a \$170 billion impact on the nation’s economy and in communities across the country, with nearly 700,000 American jobs across 35,000 U.S.-based marine businesses.¹ In the state of Washington, recreational boating drives almost \$7 Billion dollars toward the economy, supports over 22,000 jobs, and 1,433 marine related businesses.

NMMA and our members in Washington State have serious concerns with the Proposed Rule because it will create undue hardship on marine businesses and marine retailers, especially small business owners. Marine manufacturers are generally assemblers of articles that are installed in recreational boats and **should be included in the exemptions** provided within RCW 70A.350.030 5 (a) (vi). These exemptions already include: *motorized vehicles, including on and off-highway vehicles, such as all-terrain vehicles, motorcycles, side-by-side vehicles, farm equipment, and personal assistive mobility devices*. The US Environmental Protection Agency (USEPA) has already set a precedent in including marine vessels in its broad definition of “vehicles” in its recent ruling of phenol propylated phosphate 3:1 (PIP 3:1)²; we urge Ecology use the same logic here.

The recreational marine industry is very fragmented compared to other industries and is often comprised of many small businesses that assemble boats from a variety of purchased components. The same person that orders supplies may also oversee payroll, for example. An

¹ <https://www.bea.gov/news/2022/outdoor-recreation-satellite-account-us-and-states-2021>.

² <https://www.federalregister.gov/documents/2022/03/08/2022-04945/regulation-of-persistent-bioaccumulative-and-toxic-chemicals-under-tsca-section-6h-phenol>.

extensive tracking system to fully account for all chemicals used throughout today's complex, international and multi-tiered supply chains is simply beyond the capabilities of these businesses.

Under the current draft of the Proposed Rule, boat builders are considered manufacturers because they manufacture, sell, and distribute a consumer product (a boat) that *may* contain a priority chemical in Washington State. If manufacturers at the start of the supply chain have not completed their reporting, then boat builders would need to disassemble every component that is listed as a priority product and send them out to a laboratory for third-party testing. For complex durable goods such as boats, there are literally thousands of components.

Once test results are available, the boat builder will then need to report on the amount of priority chemicals contained within each of those components. Since many boat builders simply select products to install in the boat, it is often the case that no two boats are the same in terms of the types of products selected for use. This further complicates the situation as every selected component that is on the priority list would need to be tested, tracked, and reported.

Although the Proposed Rule in Washington State is more specific to a limited list of priority products, it is important to highlight some of the challenges associated with tracking specific chemicals used within components across the marine supply chain. Boat builders may be able to acquire safety data sheets (SDS) data on some materials, but SDSs are not available for chemicals found within parts and components.

If there is SDS data, calculation of specific quantities and concentrations is not a simple task. To illustrate the challenge for our members, a common 20-foot open bow runabout or small fishing boat can have over a thousand stock keeping units (SKUs). Identifying the chemicals in the parts or components of larger boats with accessories required for galleys, heads, salons, and sleeping quarters is beyond comprehension. One boat manufacturer informed NMMA that its outboard powered 23-foot runabout has 1,013 distinct SKUs. A 35-foot cabin cruiser produced by the same manufacturer has 2,516 individual SKUs. Many of these accessories and components are often manufactured outside the U.S. Even if these boat builders could acquire this information, they would have to purchase special software and hire additional, dedicated staff to track, monitor, and report this information. This process is further complicated when there are no Chemical Abstract Service (CAS) numbers provided by the regulating agency to help companies identify the unique chemical(s) in question.

In addition to the complexities described above, marine vehicles serve and support many critical functions including those for government agencies, including the military; law enforcement, first responders, and public safety; food and agriculture, including commercial fishing and sea farming; energy; transportation and logistics, including for commuting and for island residents; public works and infrastructure support services; critical manufacturing; defense industrial base; and conservation.³ Often, the health, safety, and the functioning of society depends on NMMA member products for which alternatives are not reasonably available. Burdensome regulations could impair our sector's ability to meet these needs.

³ Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVI-19 Response Version 2.0 (March 28, 2020).

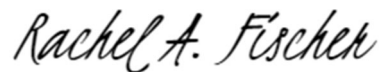
In conclusion, the diverse community of boat builders have unique challenges. Generally, the marine vessel supply chain is simultaneously global and many tiers deep, but predominantly comprised of small businesses with limited resources and capabilities for the emerging and numerous burdens of chemical regulations. These companies have unique challenges in obtaining chemical information across the numerous components used in recreational boats. We urge Ecology to include marine vehicles in the same category with the other motorized vehicles already afforded exemptions under the Proposed Rule. Lastly, marine vehicles serve important critical functions that should not be impaired by overly restrictive mandates.

Therefore, we respectfully ask that recreational marine finished goods, products, accessories, and articles be included in the exemptions within RCW 70A.350.030 5 (a) (vi). Please do not hesitate to reach out to NMMA for further information.

Sincerely,



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