

AB 1691 - Marine resources: copper-based antifouling paint.

SUMMARY

AB 1691 would provide regulatory clarity regarding the usage of copper-based boat paint.

EXISTING LAW

Current law gives the Department of Pesticide Regulation (DPR) the authority to regulate the leach rate for copper-based antifouling paint for use on recreational vessels and to make recommendations for appropriate mitigation measures to protect aquatic environments from the effects of exposure to the paint. The California State Water Resources Control Board (SWRCB) has the authority to develop and enforce water quality objectives for copper in water bodies.

The DPR has set the leach rate for copper-based antifouling paint at 9.5 µg/cm²/day in the State of California, while the California SWRCB has set separate regulations for allowable levels of copper within waterways and harbors.

BACKGROUND

Copper-based antifouling paint is a legal, California registered pesticide which has been distributed and sold throughout the state for decades. This widely used and necessary paint is proven to be the most effective barrier against marine growth which, if left unchecked, can adversely impact vessel fuel consumption and efficiency, leading to increased operational cost and emissions. These paints also serve as an important line of defense against the transport and spread of invasive species into and out of the various harbors and waterways within the State, and around the world in which vessels travel.

ISSUE

Over the last several years, SWRCB and DPR have issued several conflicting regulations in an attempt to reduce the amount of dissolved copper that is discharged in harbors. The boats within the harbor are using paints regulated by the DPR, but some waterways exceed saturation levels established by the SWRCB, causing confusion and complications.

Cities are now being asked by local water boards to invest millions of dollars into lowering the copper levels within harbors, while cities have no authority, control of paint formulation, use, or movement of vessels utilizing these paints. These vessels are using state (DPR) approved copper-based antifouling paint and thus should not be subject to enforcement or required modification if their planned and expected localized discharge exceeds another state set standard.

SOLUTION

Current regulation and enforcement mechanisms are not uniform and do not adequately consider approved paint levels.

AB 1691 requires DPR to complete a reevaluation of copper-based antifouling boat paint products and consider any modifications or suspension of its current standards by January 1, 2029.

Additionally, AB 1691 requires Cal EPA, DPR and the SWRCB to collaborate with local water boards to craft more uniform standards for the state to regulate and enforce copper-based antifouling paint regulations.

SIMILAR LEGISLATION

AB 425 (2013, Atkins) - Pesticides: copper-based antifouling paint - Chaptered
SB 315 (2001, Alpert) - Antifouling Paints - Chaptered

FOR MORE INFORMATION

Contact: Bennett Simpson

Phone: 916-319-2072

Email: Bennett.Simpson@Asm.Ca.Gov