

## **Proposed “Sewage Regulations”**

For your information, here is my take on the current situation.

Currently there are in effect in BC two sewage pollution prevention regulations affecting smaller (under 400 GRT) vessels – “The Pleasure Craft Sewage Pollution Prevention Regulations” applicable to pleasure craft, and “The Non-Pleasure Craft Sewage Pollution Prevention Regulations” applicable to smaller non-pleasure vessels.

For the most part these two regulations are similar, the major difference bring that in designated “no-discharge” zones, pleasure craft with heads are required to have holding tanks, whereas non-pleasure craft are not. In either case however, discharge of sewage in “no-discharge” zones is prohibited.

These two Regulations were drafted in the late 1980’s and simply permitted individual Provinces to restrict the discharge of sewage into designated environmentally sensitive bodies of water. The Provinces would apply for a “no-discharge” designation for a body of water; the Coast Guard would evaluate the application taking into account tidal flushing, numbers of boats, proximity of shell fish operations, use of beaches for swimming, etc. Based on the evaluation, the “no-discharge” designation would be approved if determined to be “sensitive”, or rejected if not. There are currently 17 such designated “no-discharge” zones in B.C.

Summarizing, these Regulations are currently restricting sewage discharge in a few sensitive areas, and vessels are permitted to discharge untreated sewage in most of the other waters of coastal B.C. This approach allayed some of the concerns re lack of reception facilities (pump-outs) near the “no-discharge” zones.

In 2001, a new Canada Shipping Act was proclaimed, and this necessitated a review of all regulations in effect to ensure they were consistent with the new Canada Shipping Act 2001 (CSA), and to update regulations that were inconsistent or outdated. The Sewage Pollution Prevention Regulations were considered by Transport Canada to be in the later category.

Transport Canada and Canadian Coast Guard in Pacific Region were asked to form a “Working Group” of stakeholders for the updating of the sewage regulations in late 2002. This working group was made up of persons representing diverse interests – environment, government, industry, fishing and recreational boating. It was chaired by a Senior Marine Inspector from Transport Canada. Draft Sewage Pollution Prevention Regulations had been prepared. Numerous meetings of this working group were held in 2003, a number of revisions were made to the draft, and a final version, Version 14, was submitted to Transport Canada Marine Safety HQ in Ottawa. The recreational boating representatives on the working group had difficulties with some aspects of draft #14, and a minority report was filed with Transport Canada. Some of the problem areas identified in this minority report were:

- The proposed distances from shore for discharge of treated sewage (3 NM), and untreated sewage (12NM), were considered excessive for smaller vessels. It was recommended that they be reduced to 1 NM for treated sewage, and 3 NM for untreated sewage respectively, excluding of course “no-discharge” zones.

- That it was unrealistic due to lack of reception facilities to restrict discharge of sewage in waters north of 50 degrees North (other than in the designated “no-discharge” zones).
- Since it had been agreed by the working group to accept Type II MSD’s, it was recommended that the section on “Operational Testing” be deleted, as it was inconsistent with the Standard to which the Type II had been manufactured.
- The section on “Record Keeping” for small vessels was considered impractical, unrealistic, unenforceable, and should be deleted.
- It is also important to note that in the version 14 draft submitted to Transport Canada in Ottawa by the Pacific Region Transport Canada chaired Working Group, it stated in section 8: **“The availability of approved reception facilities shall be a pre-requisite for the designation of areas.”**

During 2004, 2005, and 2006 there were numerous exchanges of e-mail, a number of telephone discussions, presentations to Regional CMAC, National CMAC and National RBAC meetings between the recreational boating representatives and Ottawa Transport Canada staff to discuss the problem areas. Transport Canada agreed to a reduction in the distances from shore for the discharge of sewage of 1 mile for treated sewage and 3 miles for untreated sewage, *but rejected the recommended prerequisite “availability of approved reception facilities”, the north of 50 degrees North exemption, deletion of the additional “operational testing” criteria, and continued to insist upon the onerous “record keeping” requirement.*

On June 17<sup>th</sup>, 2006, in the Canada Gazette Part I, the new “Regulations For The Prevention Of Pollution From Ships And For Dangerous Chemicals” were published. Division 4 contains the “Sewage” regulations. As indicated previously, Transport Canada had accepted the recommended reductions in distances from land for discharge of sewage for the smaller vessels (under 400 GRT). *It had been agreed by Transport Canada that this would permit the discharge of sewage into wide, well flushed waters such as the Strait of Georgia and Strait of Juan De Fuca, provided vessels were at least 1 mile or 3 miles as appropriate from land. The new proposed Regulations however as gazetted included a definition of “from the nearest land” which stated that it was to seaward from the baseline from which the territorial sea of Canada is established – in other words some distance to seaward from the west coast of Vancouver Island. This of course was entirely different than what was agreed to, in effect nullifying the agreement and prohibiting the discharge of sewage in virtually all BC waters.*

Other recommendations made by the pleasure craft representatives over some 2.5 years were also not accepted. The problems that exist are significant. To mention some:

**Sewage discharge will be prohibited even in areas that are unlikely to have any sewage reception facilities (areas north of 50 degrees North).** The recommendation from the Transport Canada Pacific Region working group that **“The availability of approved reception facilities shall be a prerequisite for the designation of areas” has not been incorporated.** Interestingly, this recommendation mirrored that of the IMO’s Marpol Annex IV which requires that reception facilities be provided for large vessels over 400 GRT. In other words, here in B.C. reception facilities must be made available for these large vessels, but not for smaller vessels such as pleasure craft and small commercial vessels. **The recommendation that the new regulations should not be applicable north of 50 degrees North was similarly rejected.** The new proposed Regulations as

gazetted with their **definition of “from the nearest land” of course was entirely different than what was agreed to and in effect prohibits discharge of sewage in virtually all BC waters.**

**The strict standards applicable to “Operational Testing” are in the new Regulations and would appear to invalidate the use of Type II MSD’s, shown as approved elsewhere in the Regulations.**

**The new Regulations require a very detailed “Sewage Record Book” or log to be maintained by every vessel, recording the date and time of any sewage transfer whether internal or external transfer overboard or to a holding tank, quantity of sewage transferred, speed of vessel if underway,, position of ship at start and finish of transfer, quantity of sewage transferred, etc. Entries are to be made in the Record Book without delay every time a transfer is made, and if the transfer is to a reception facility a receipt must be obtained from the reception facility.**

The forgoing briefly are some of the most obvious and serious problems with these Regulations. The BC Marine Trades Association and the Council of BC Yacht Clubs have written the Minister of Transport detailing their concerns, requesting that the Regulations gazetted on June 17<sup>th</sup>, be withdrawn, and that Transport Canada work with the affected stakeholders in a proper, meaningful way to address and resolve any serious sewage pollution issues.

It is suggested that boaters obtain a copy of these Regulations, review them and forward comments to the “contact” person: Mr. Tom Morris, Transport Canada, E-Mail [morrist@tc.gc.ca](mailto:morrist@tc.gc.ca).

Copies should also be sent to the Honourable Lawrence Cannon, Minister of Transport, E-Mail [cannon.l@parl.gc.ca](mailto:cannon.l@parl.gc.ca), the Honourable Michael Chong, President of Privy Council, E-mail [chong.m@parl.gc.ca](mailto:chong.m@parl.gc.ca), John Cummins, MP, E-mail [Cummins.j@parl.gc.ca](mailto:Cummins.j@parl.gc.ca), and to your local Member of Parliament. **Comment deadline – September 15, 2006.** Note: mail to MP’s in Ottawa does not require postage.

To access the Canada Gazette proposed Sewage Regulations, officially titled

**“Regulations for the Prevention of Pollution from ships and for Dangerous Chemicals”**

<http://canadagazette.gc.ca/partI/2006/20060617/pdf/g1-14024.pdf>

review the “Regulatory Impact Statement”, then the “Definitions” in Part 1, and finally the most important – “Division 4 – Sewage”. These proposed Regulations are to replace the current Pleasure Craft Sewage Pollution Prevention Regulations and the Non-Pleasure Craft Sewage Prevention Regulations.

You may also wish to review a document entitled **“Government of Canada Regulatory Policy”** to familiarize yourself on the process government personnel are to follow in the preparation of new regulations. To view this document go to:

[http://www.pco-bcp.gc.ca/raoics-srdc/docs/publications/regulatory\\_policy\\_e.pdf](http://www.pco-bcp.gc.ca/raoics-srdc/docs/publications/regulatory_policy_e.pdf)

**And finally, on Sept. 12<sup>th</sup> and Sept 13<sup>th</sup>, the Regional Canadian Marine Advisory Council will be meeting at the BC Institute of Technology (Marine Campus) 265 West Esplanade, North Vancouver, starting at 9:00 A.M. on the 12<sup>th</sup>, and at 8:00 A.M. on the 13<sup>th</sup>. Members of Transport Canada responsible for drafting of these Regulations are expected to be in attendance. These meetings are open to all interested in attending.**

An agenda may be requested from Ms. Connie Fajnor, E-mail-  
[fajnorc@tc.gc.ca](mailto:fajnorc@tc.gc.ca) .

If you wish to make your views known to Transport Canada I would suggest attending this important meeting. A good turn-out might help Transport Canada appreciate the concerns.

Norm Dyck