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Thomas A. Allegretti
President & CEO

November 13, 2018

Mr. John Goodin
Acting Director, Office of Wetlands, Oceans and Watersheds
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Proposed Information Collection
Request for Establishing No-Discharge
Zones Under Clean Water Act Section 312
(Docket No. EPA-HQ-OW-2008-0150)

Dear Mr. Goodin:

The American Waterways Operators is the national trade association for the tugboat, towboat and barge industry. AWO's more than 300 member companies own and operate barges and towing vessels on the U.S. inland and intracoastal waterways; the Atlantic, Pacific and Gulf coasts; and the Great Lakes. Each year, our vessels safely, securely and efficiently move more than 760 million tons of cargo critical to the U.S. economy, including petroleum products, chemicals, coal, grain, steel, aggregates and containers. Tugboats also provide essential services in our nation's ports and harbors, including shipdocking, tanker escort and bunkering.

AWO appreciates the opportunity to comment on EPA's proposal to renew the information collection request (ICR) it maintains with the Office of Management and Budget to carry out its statutory responsibility under 33 U.S.C. §1322(f)(3) to review state applications for the creation of No-Discharge Zones (NDZs) and determine whether "adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply." Specifically, EPA has solicited comments to "enhance the quality, utility, and clarity of the information to be collected." AWO would like to take this opportunity to reiterate what we believe to be significant flaws in EPA's process for determining whether the statutory requirements stated above have been met to establish a state NDZ for treated sewage, and to urge EPA to reform this process.

The Information EPA Requires in State Applications is Insufficient to Accurately Determine Whether Adequate Facilities Exist for Commercial Vessels

At present, EPA's regulations require state applications made under §1322(f)(3) to include seven elements:

1. A certification that the protection and enhancement of the waters described in the petition require greater environmental protection than the applicable Federal standard;

2. A map showing the location of commercial and recreational pump-out facilities;
3. A description of the location of pump-out facilities within waters designated for no discharge;
4. The general schedule of operating hours of the pump-out facilities;
5. The draught requirements on vessels that may be excluded because of insufficient water depth adjacent to the facility;
6. Information indicating that treatment of wastes from such pump-out facilities is in conformance with Federal law; and
7. Information on the vessel population and vessel usage of the subject waters.

Even taken in combination, these seven elements do not add up to the comprehensive information that is needed for EPA to accurately assess the operational capacity of pump-out facilities and whether they are able remove and treat sewage from “all vessels” operating in a proposed NDZ in a safe and sanitary manner. AWO therefore proposes the following changes to these required information elements:

1. A certification that the protection and enhancement of the waters described in the petition require greater environmental protection than the applicable Federal standard, to include a description of current environmental harms resulting from the discharge of treated sewage and a projection of the water quality enhancements that will result from restricting those discharges;
2. A map showing the location of commercial and recreational pump-out facilities with detailed information on the operating capacity of each facility, to include:
 - a. Water depth at the facility and any limitations on vessel draft, length or maneuverability in the navigation route to reach the facility;
 - b. Dock size and characteristics including length of berths, height above the waterline, available fendering and any limitations on dock access, including width or height restrictions;
 - c. Working daily capacity (volume) of the facility and the minimum vessel pump-out flow rate of the facility;
3. A description of the location of pump-out facilities within waters designated for no discharge and their proximity to existing commercial navigation channels and routes;
4. The full schedule of operating hours of the pump-out facilities including any seasonal or periodic closures;
5. The draught requirements on vessels that will be excluded because of insufficient water depth adjacent to the facility and a certification that those vessels will be excluded from the state-implemented NDZ;
6. Information indicating that treatment of wastes from such pump-out facilities is in conformance with Federal law; and
7. Complete information on the vessel population and vessel usage, as well as the methodology used to determine population and usage, comprising all vessels within the subject waters, to include a projection of the volume of waste that will be generated that must be removed at pump-out facilities.

Although providing this additional information may establish new requirements for the petitioning states, the information is necessary for EPA to conduct its statutory role under §1322(f)(3). Furthermore, the burden on the petitioning state must be weighed against the substantial capital expenditure and ongoing operational costs borne by commercial and recreational vessels when a NDZ is implemented.

Conclusion

In addition to updating the information it collects and requires states to submit as part of a NDZ application, EPA should better utilize federal agencies with maritime expertise and experience in evaluating that information. The U.S. Coast Guard is the principal federal agency charged with regulating vessel navigation and safety, and it shares with EPA responsibility for enforcing NDZs. For these reasons, AWO believes that EPA should consult the Coast Guard when determining the adequacy of pump-out facilities in a proposed NDZ. Regrettably, the Coast Guard is on record as having concerns with EPA's refusal to reasonably consider its comments on recent NDZ determinations and has warned that the lack of communication and dialogue among petitioning states, EPA and the Coast Guard throughout the NDZ designation process is a worrying trend that will increasingly pose challenges to the successful implementation and enforcement of NDZs. We urge EPA to rectify this problem swiftly.

Thank you again for the opportunity to provide suggestions for improving the quality and utility of information that EPA collects in carrying out its statutory duty to review state NDZ applications. We would be pleased to answer any questions or provide further information to assist EPA in improving its ICR for establishing NDZs under Section 312 of the Clean Water Act.

Sincerely,

A handwritten signature in blue ink that reads "Tom Allegretti". The signature is written in a cursive, flowing style.

Thomas A. Allegretti
President & CEO