

**ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-9959-09-Region 10]**

**Washington State Department of Ecology Prohibition of Discharges of Vessel Sewage;  
Final Affirmative Determination**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of determination.

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**SUMMARY:** The Regional Administrator of the Environmental Protection Agency, Region 10, has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for all marine waters of Washington State inward from the line between New Dungeness Lighthouse and the Discovery Island Lighthouse to the Canadian border, and fresh waters of Lake Washington, Lake Union, and connecting waters between and to Puget Sound. This notice constitutes EPA's final determination on the petition submitted by the Washington State Department of Ecology on July 21, 2016, pursuant to Section 312(f)(3) of the Clean Water Act, 33 U.S.C. § 1322, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound. This determination does not itself constitute the designation of a no-discharge zone, rather, the State of Washington may now in its discretion finalize its proposed designation in accordance with state law and take the steps it deems appropriate to implement and enforce the discharge prohibition.

**EPA Response to Public Comments on the November 7, 2016 Preliminary Affirmative  
Determination**

On November 7, 2016, EPA published notice of its preliminary affirmative determination that

adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters subject to Washington's proposed no-discharge zone [FR Number 2016-26877; 81 FR 78141, November 7, 2016] with a 30-day public comment period. At the request of stakeholders, EPA extended the 30-day public comment period from December 7, 2016 to December 23, 2016.

EPA received a total of 40,462 comments via letter, email, online using the Federal eRulemaking Portal, and in person. All forms of input were considered equally. Of the comments received, 328 were individual letters and 40,134 were form letters, mass mailers and/or petitions, a few with minor additions. Of the individual letters, approximately two-thirds supported and one-third opposed EPA's preliminary affirmative determination. Two mass mailers totaling 72 signatures opposed EPA's tentative affirmative determination and 40,062 supported it.

Comments were submitted by individuals, environmental organizations, vessel associations, boating and yacht clubs, industry representatives, port authorities, county, federal, local and tribal governmental entities, and other interested groups.

In addition to comments expressing support or opposition to a Puget Sound no-discharge zone, many commenters specifically addressed the adequacy and availability of pumpout facilities, while others focused on broader issues beyond the scope of EPA's review and determination. All of the relevant comments received have been considered. EPA has prepared a response to comments that supports this determination. The response to comments document can be found at this website:

*<https://www.epa.gov/puget-sound/epas-final-determination-no-discharge-zone-puget-sound>*

**FOR FURTHER INFORMATION, CONTACT:** Catherine Gockel, U.S. EPA Region 10,

Office of Water and Watersheds, 1200 Sixth Ave, Seattle, Washington 98101; telephone number (206) 553-0325; fax number (206) 553-1280; email address [gockel.catherine@epa.gov](mailto:gockel.catherine@epa.gov).

**SUPPLEMENTARY INFORMATION:** The Department of Ecology has petitioned the United States Environmental Protection Agency (EPA), Region 10, pursuant to section 312(f)(3) of the Clean Water Act, 33 U.S.C. 1322, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound. As described in the State's petition, submitted to EPA on July 21, 2016, the Washington State Department of Ecology has determined that the protection and enhancement of the quality of the waters of Puget Sound requires greater environmental protection, and petitioned the United States Environmental Protection Agency, Region 10, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for those waters, so that the State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters.

According to the Ecology's petition, the western boundary of the NDZ would be the exit of the Strait of Juan de Fuca near the entrance of Admiralty Inlet. This boundary is known and visible to vessel operators as it is the line between New Dungeness Lighthouse and Discovery Island Lighthouse. The northern boundary would be the border with Canada and heading south including all marine waters down to the south end of the south Sound and Hood Canal. The fresh waters of Lake Washington, Union Bay, Montlake Cut, Portage Bay, Lake Union, Fremont Cut, the Lake Washington Ship Canal, and Salmon Bay (the connecting waters from Lake Washington to Puget Sound) would be included. For more information regarding the State's planned no-discharge zone, please go to:

*<http://www.ecy.wa.gov/programs/wq/nonpoint/CleanBoating/nodischargezone.html>*

### **Washington State Department of Ecology's Certificate of Need**

The Washington State Department of Ecology developed its petition in order to establish a vessel sewage no-discharge zone for all marine waters of Washington State inward from the line between New Dungeness Lighthouse and the Discovery Island Lighthouse to the Canadian border, and fresh waters of Lake Washington, Lake Union, and connecting waters between and to Puget Sound, and has submitted a certificate that the protection and enhancement of the waters described in the petition require greater environmental protection than the applicable Federal standard.

### **Adequacy and Availability of Sewage Pumpout Facilities**

EPA's determination is based on the information provided in Ecology's July 21, 2016 petition as well as supplemental information that Ecology submitted to EPA on October 14, 2016, regarding commercial vessel pumpout availability in Puget Sound. In reaching this final determination, EPA has conducted additional outreach to verify and confirm the information provided in Ecology's submittals and follow up on comments received. The information obtained further supports EPA's determination that adequate pumpout out facilities for the safe and sanitary removal of sewage are reasonably available for both commercial and recreational vessels. Additional detail is provided below and in EPA's response to comments document.

Guidelines issued pursuant to the Clean Vessel Act for recreational vessels recommend one pumpout station for every 300-600 boats [Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines, Federal Register, Vol. 59, No. 47, March 10, 1994]. In its petition, the State described the recreational vessel population in Puget Sound as well as the stationary pumpout facilities and mobile pumpout services that are available for use.

The State used two methods to develop a reasonable estimate of the recreational vessel population in Puget Sound. The first method was based on boater registration records obtained from the Washington State Department of Licensing (DOL). Using data from the DOL, the maximum estimated number of recreational vessels in each of the Washington State counties bordering Puget Sound that might require access to pumpout facilities or services under NDZ regulations (i.e., boats larger than 21 feet) is 43,677. Vessels under 21 feet were not included in the estimate because they typically do not have an installed toilet. Because boater registration data may include a number of small, locally registered, commercial vessels such as fishing boats or tug boats, the total may be an overestimate.

The second method was based on the number of moorages and slips available to boaters, using Google Earth imagery captured during the summers of 2011 and 2012 to count vacant and occupied marina slips and moored vessels. Using this method, the State estimates a recreational vessel population of 23,555. The State believes that this also may be an overestimate, albeit less of an overestimate than the number calculated using the DOL boater registration data.

The State's petition also provided information about 173 pumpout units at 102 locations, and 21 mobile pumpout boats available for recreational vessels in Puget Sound. EPA's review of Ecology's petition and the comments received has confirmed that the total number, location and availability of these pumpout facilities and services track the overall distribution of the recreational vessel population. The ongoing costs for recreational vessels to pumpout is minimal, with most pumpouts being free or \$5 per pumpout. The majority of pumped sewage is sent to wastewater treatment plants; however, some is sent to onsite septic tanks that meet federal requirements.

The most conservative estimate of the ratio of pumpout facilities to recreational vessels is 1:171

boats for each pumpout facility, not including the mobile services. Based on DOL vessel registration data, there is a maximum of 43,677 recreation vessels in Puget Sound that could require access to pumpout facilities. As noted above, this is the State's most conservative (high) estimate. Using a 40 percent peak occupancy rate recommended by the Clean Vessel Act Technical Guidelines cited above, EPA has calculated that 17,471 of the 43,677 boats recreational vessels would require access to a pumpout facility during peak boating season. The State identified 102 recreational pumpout locations, which results in a ratio of 171 recreational vessels for each pumpout location, not including the mobile services. Applying the same 40% occupancy rate to the lower recreational vessel estimate of 23,555 obtained from the moorage count results in a ratio of 92 recreational vessels for each pumpout location, not including the mobile services.

Accordingly, even using the more conservative vessel count, the resulting ratio well exceeds the recommended minimum ratio of 1:600. In addition, EPA has confirmed that numerous mobile pumpout trucks and vessels are available to provide service for recreational vessels throughout Puget Sound. As set forth in Table 8 of Ecology's supplement information, there are 194 mobile pumpout companies; of these, at least 52 vacuum trucks and two mobile pumpout vessels are available for pumping out larger recreational vessels. Mobile pumpout services are available seven days a week, with extended hours during the busy summer months. These mobile services provide additional pumpout options to address concerns raised regarding location or access issues. Additional information is provided in EPA's response to comments document.

Based on this information, EPA determines that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage for recreational vessels are reasonably available for the waters of Puget Sound.

Puget Sound is also used by many different sizes and types of commercial vessels. The State used a study conducted by the Puget Sound Maritime Air Forum (Starcrest, 2007) to develop a reasonable estimate of commercial vessel use of Puget Sound. The study concluded that there were 2,937 entries of large oceangoing vessels into Puget Sound in 2005, and an estimated 678 other commercial vessels that operate mostly within Puget Sound (e.g., escort tugs) or have Puget Sound as their home port (e.g., the fleet of fishing vessels that travels to Alaska each year). According to the State, current commercial vessel statistics are estimated to be similar to the data from 2005. Based on information provided by a commenter, updated information in 2013 may raise this number to 709. As discussed below, this difference of 31 vessels does not make a measurable difference in terms of EPA's conclusions regarding the ratio of commercial vessels to available pumpout facilities.

The large, oceangoing transient commercial vessels that are only in Puget Sound for a short period of time (e.g., large cruise ships, freighters and tankers) have large enough holding tanks to hold their waste during the time they are in Puget Sound, with some exceptions. Although included in the initial overall vessel estimate, these vessels do not have a need to pumpout and were not included when assessing the adequacy of pumpout facilities. Washington State Ferries (WSDOT ferries) and U.S. military vessels have holding tanks and use large-scale, dedicated pumpout facilities where they are moored. Smaller commercial vessels, such as ferries, tugboats, excursion vessels, and fishing vessels with installed toilets can use the stationary pumpouts, mobile pumpout service vessels, some of the recreational pumpouts, or shore-based pumper trucks, described in more detail below.

The State identified eight stationary pumpouts dedicated to WSDOT ferries, three dedicated to U.S. Navy vessels, one dedicated to the Victoria Clipper vessels and one for the McNeil Island

Department of Corrections vessels. The Port of Bellingham cruise terminal area also has three stationary pumpouts, one of which is used for Alaska Marine Highway vessels and two other pumpouts that can serve other commercial vessels. Although not included in this analysis, EPA notes that two more commercial pumpouts are being installed, one in Seattle for all commercial vessels and another at the Port of Bellingham mostly for fishing vessels. Estimated dates for completion are March and September 2017, respectively.

The State's supplemental information identified five companies that specialize in commercial marine work and that are capable of removing sewage from commercial vessel holding tanks. These five companies have a combined total of approximately 52 trucks (capacity ranging from 2,200-7,000 gallons each) and two mobile barges (capacity of 3,000 gallons each). These companies serve all of Puget Sound and can provide pumpout services at a variety of docks and ports for all types of commercial vessels, including tugs, fishing vessels, USCG vessels, smaller cruise ships, tankers, and other vessels. EPA contacted four of the commercial marine work companies identified in Ecology's supplemental information document and confirmed that the information provided was accurate.

The State's petition and supplemental information also identified 21-23 mobile pumpout vessels. These mobile pumpouts primarily service recreational boats, but several have serviced commercial vessels such as charter boats, fishing vessels, U.S. Coast Guard vessels, and passenger vessels. The mobile pumpout boats have a capacity between 40 and 450 gallons and cover vast areas geographically as they are able to move to vessels, although some stay within their own marina or harbor area. In addition to the pumpouts described above, there are approximately 140 licensed or certified pumper truck companies in Puget Sound that primarily pump out septic tanks, but that can also pump out vessel sewage. The number of trucks in each



company ranges from 1-13, and approximately half of these companies contacted by the State are currently, or are willing to, pump out commercial vessel sewage.

The State indicates that the number of commercial vessels that are likely to be in regular need of pumpout facilities within a no-discharge zone would include the non-ocean going vessels that include tugboats, commercial fishing vessels, small passenger vessels, NOAA research and survey vessels, WSDOT Ferries, military and other government vessels, excursion and other commercial vessels. Given that the WSDOT Ferries, military vessels, and Victoria Clipper vessels all have dedicated stationary pumpouts, they have been removed from the count and EPA has not included their 14 dedicated pumpout facilities in the analysis below. Using the starting number of 678 from the 2005 Starcrest survey, this leaves an approximate 600 vessels that would be in need of other pumpout facilities. Using the starting number of 709 from the 2013 Starcrest survey would leave 631 vessels in need of pumpout facilities.

With the two stationary commercial pumpouts, at least 52 Sound-wide commercial pumper trucks, and the two Sound-wide mobile commercial pumpout barges described above, this amounts to at least 56 pumpouts available for commercial vessels which results in an approximate ratio of 11:1, using either the 600 or 631 vessel estimates cited above. In addition to this ratio, EPA has considered the fact that these mobile pumpouts provide service throughout Puget Sound, provide sufficient capacity for commercial vessels, and generally do not experience dock access issues. Moreover, these pumpout services can be scheduled by appointment to accommodate vessel needs and itineraries, and are sufficiently diversified such that they do not experience seasonal fluctuations. Given the widespread availability and flexibility of these services and the overall ratio of 11:1, EPA determines that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage for commercial vessels are reasonably

available for the waters of Puget Sound.

EPA further notes that the estimated ratio may be conservative, given that a number of the mobile pumpout boats and pumper trucks described above may also provide commercial pumpout services.

**Table of Facilities**

A list of pumpout facilities, phone numbers, locations, hours of operation, water depth, and fees is provided at this link to the Washington Department of Ecology website:

<http://www.ecy.wa.gov/programs/wq/nonpoint/CleanBoating/VesselPumpoutTables.pdf>.

Based on the information above, the EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound.

February 13, 2017

Michelle L. Pirzadeh

Dated: February 13, 2017.

Michelle L. Pirzadeh

Acting Regional Administrator

Region 10