



## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9944-20-Region 2]

New York State Prohibition of Discharges of Vessel Sewage; Notice of Proposed Determination

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

**ACTION:** Notice of Proposed Determination.

**SUMMARY:** By petition dated September 20, 2012 and submitted pursuant to 33 CFR § 1322(f)(3) and 40 CFR 140.4(a), the State of New York certified that the protection and enhancement of the waters of the New York State portion of the St. Lawrence River and the numerous navigable tributaries, harbors and embayments thereof, requires greater environmental protection than the applicable Federal standards provide, and petitioned the United States Environmental Protection Agency (EPA), Region 2, 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. On April 22, 2013, the EPA requested additional information regarding the population of commercial vessels using the subject waters and the availability of options for sewage removal from those vessels. Upon consideration of the petition, and subsequently obtained information regarding commercial vessels that has been made part of the administrative record, the EPA proposes to make the requested determination and hereby invites the public to comment.

**DATES:** Comments relevant to this proposed determination are due by [INSERT DATED 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**PETITION:** To receive a copy of the petition and/or any other part of the administrative record, please contact Moses Chang at 212 637 3867 or E-Mail at [chang.moses@epa.gov](mailto:chang.moses@epa.gov).

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail:* [chang.moses@epa.gov](mailto:chang.moses@epa.gov)

Include “Comments on Proposed Determination on New York State portion of St. Lawrence River NDZ Petition” in the subject line of the message.

- **Mail and Hand Delivery / Courier:** Moses Chang, U.S. EPA Region 2, 290 Broadway, 24th Floor, New York, NY 10007-1866. Deliveries are only accepted during the Regional Office’s normal hours of operation (8 a.m. to 5 p.m., Monday through Friday, excluding federal holidays), and special arrangements should be made for deliveries of boxed information.

**FOR FURTHER INFORMATION CONTACT:** Moses Chang, (212) 637-3867, E-mail address: [chang.moses@epa.gov](mailto:chang.moses@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**THE PROPOSED NO DISCHARGE ZONE:** The proposed Vessel Waste No Discharge Zone (NDZ) for the New York State portion of the St. Lawrence River includes the waters of the River within the New York State boundary, stretching from its southwestern boundary at Tibbetts Point, where the river meets Lake Ontario, to its northeastern boundary at the St. Lawrence-

Franklin County Line, near Akwesasne, New York.<sup>1</sup> The proposed NDZ encompasses approximately 112 miles of river and shoreline, and the numerous navigable tributaries, harbors, and embayments of the River – including, but not limited to, the New York State portions of the Raquette River, the Grass River, Brandy Brook, Sucker Brook, Whitehouse Bay, Oswegatchie River, Morristown Bay, Blind Bay, Chippewa Creek, Chippewa Bay, Crooked Creek, Goose Bay, Lake of the Isles, Eel Bay, South Bay, Carnegie Bay, Greens Creek, Otter Creek, Swan Bay, Spicer Bay, Carrier Bay, French Creek Bay, Sawmill Bay, Sand Bay, Dodge Bay, Millen Bay, Peos Bay and Grass Bay – and other formally designated habitats and waterways of local, state and national significance.

**CERTIFICATION OF NEED:** New York’s petition contains a certification by the Commissioner of the New York State Department of Environmental Conservation (NYSDEC) that the protection and enhancement of the New York State portion of the St. Lawrence River and the numerous navigable tributaries, harbors and embayments thereof, requires greater environmental protection than the applicable Federal standards provide. The certification states that the subject waters are of unique ecological, economic and public health significance, and that pathogens and chemicals contained in the currently-lawful effluent from discharging marine sanitation devices (MSDs) threaten public health and the environment and contravene the State’s

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<sup>1</sup> New York State’s petition proposes to establish a NDZ that extends, in the northeast, to the U.S.-Canadian border. However, New York State’s jurisdiction over waters of the St. Lawrence River ends, in the northeast, at the St. Regis Mohawk Reservation border at the St. Lawrence-Franklin county line. Therefore, New York State does not have the authority under the Clean Water Act to establish a NDZ for the 2.9 miles of the St. Lawrence River that lie within the United States, between the St. Lawrence-Franklin county line and the U.S.-Canadian border. Accordingly, this tentative determination only regards the approximately 112 miles of the St. Lawrence River over which New York State has jurisdiction.

ongoing efforts to control point and non-point source pollution from, among other things, municipal discharges, combined sewer overflows and stormwater runoff.

In support of the certification, the Commissioner notes that the St. Lawrence River supports a diversity of uses, including providing drinking water for approximately 17,000 people in New York, valuable wildlife habitat, a commercial shipping corridor, recreational boating and numerous sites for aquatic recreation. The River serves as an economic engine for the region, and is heavily used and enjoyed by the citizens of the many lakeshore communities and throughout the watershed. The River is also home to the Thousand Islands Region, an international tourism destination encompassing communities on both sides of the U.S. and Canadian border along the River and the eastern shores of Lake Ontario. While New York acknowledges that a No Discharge Zone designation alone will not obviate the need for other water quality improvement efforts, a NDZ for the St. Lawrence River would complement the benefits of the State's other efforts to protect and improve water quality in the River.

#### **ADEQUACY OF SEWAGE REMOVAL AND TREATMENT FACILITIES:**

In determining whether adequate facilities exist for the safe and sanitary removal and treatment of sewage from all vessels using a water body, the EPA relies on the "Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines," (CVA Guidelines) published by the U.S. Department of the Interior, which provides that at least one pumpout station should be provided for every 300 to 600 vessels over 16 feet in length. *See* 59 F.R. 11297. The guidelines also provide that approximately 20% of vessels between 16 and 26 feet, 50% of vessels between 26 and 40 feet and all vessels over 40 feet in length can be assumed to have an installed toilet with some type of Marine Sanitation Device (MSD). Vessels below 16 feet in length are

generally presumed not to have an MSD onboard.

### **Estimated Recreational Vessel Population**

There is no single definitive source of information on the number of vessels, or vessels with MSDs, that frequent the St. Lawrence River. The number and distribution fluctuates depending on the time of year, day of the week, weather conditions and special events. In order to develop a reasonable estimate of recreational vessel population, New York relied on two major sources of information. The first was the New York Department of State's (DOS's) Clean Vessel Act Plan ("Statewide Plan"), released in 1996. The purpose of the plan was to characterize pumpout adequacy across New York State. From August 1994 to July 1995, DOS surveyed municipalities to assess the availability of public sewage pumpout facilities. Many private marina operators were also contacted. Private pumpouts and dump stations were initially estimated from the NYSDEC and New York Sea Grant boating guides, augmented with information on vessel registration, aerial photographs of peak season use and local plans and studies. Using data from the Statewide Plan, the estimated number of recreational vessels in Jefferson and St. Lawrence Counties, which border the St. Lawrence River, is a total of 3,775 vessels (3,170 and 605, respectively).

The second, and more recent, source for information about the recreational vessel population in the proposed NDZ is the New York State Office of Parks, Recreation and Historic Preservation's 2012 Boating Report (OPRHP Report) for the counties of Jefferson and St. Lawrence, which encompass the proposed NDZ. The OPRHP Report provides a breakdown of the of the vessel registrations by vessel length for each county. Applying the CVA Guidelines, above, on the relationship between vessel length and MSDs to the data in the OPRHP Report yields an

estimate of 2,611 vessels with MSDs registered in Jefferson and St. Lawrence counties, all of which, conservatively, were assumed to operate on the St. Lawrence River.

### **Available Pumpout Facilities to Recreational Vessels**

The federal Clean Vessel Act of 1992 made grants available to states for construction, replacement and renovation of recreational vessel pumpouts. The NYSDEC applied for the first federal grant in 1994 and initiated a statewide program known as the Clean Vessel Assistance Program (CVAP), managed and administered by the New York State Environmental Facilities Corporation (NYSEFC). The NYSEFC provides three distinct grant programs: CVAP Construction Grants (for new installations or replacement), CVAP Upgrade Grants (for improvements to existing pumpouts) and CVAP Operation & Maintenance Grants (for annual upkeep of pumpouts). The NYSEFC also provides funding for information and education on the benefits, use and availability of pumpouts. New York's petition listed 22 currently operating stationary CVAP pumpout facilities that serve the St. Lawrence River in Jefferson and St. Lawrence counties in the state, but the EPA's review has determined the number to be 21. These facilities are summarized in Table 1, below.

### **Ratio of Pumpout Facilities-To-Recreational Vessels**

In calculating the ratio of pumpout facilities-to-vessels, only CVAP-funded facilities were considered. (If all pumpout facilities (CVAP and non-CVAP) are considered, the ratios would show even greater coverage.) This calculation shows that overall, within the proposed St. Lawrence River NDZ, there are an adequate number of stationary pumpout facilities to support the proposed NDZ, with a pumpout-to-vessel ratio as high as 1:180 (using the estimate of 3,775

vessels from the 1996 CVAP Statewide Plan) and as low as 1:119 (using the estimate of 2,611 registered vessels from the 2012 OPRHP Report). By either of the methods discussed above, there are currently sufficient pumpout facilities to meet the upper/maximum 1:600 ratio, and both ratios fall well below the lower/minimum 1:300 ratio used to determine adequacy of pumpout facilities.

### **Adequacy of Available Pumpout Facilities to Commercial Vessels**

Commercial vessel populations were estimated using data from the National Ballast Information Clearinghouse (NBIC), which records ballast water discharge reports for ships arriving at the two main commercial ports on the St. Lawrence River (U.S. side) – Ogdensburg and Massena. In calendar year 2011, ballast manifests showed eight vessels arriving in Ogdensburg and one in Massena. These vessels were either bulkers or passenger cruise ships. Most passenger cruise ships using ports in the proposed NDZ are smaller, chartered site-seeing boats, but this commercial traffic also includes two cruise passenger vessels (the St. Laurent and Pearl Mist), which can hold 200 to 300 passengers each. In calendar year 2010, there were four commercial arrivals at Ogdensburg and seven at Massena. Overall, at both ports combined, annual commercial traffic averages approximately one vessel per month. While other commercial vessels move through the proposed NDZ, they do not stop at the main commercial ports.

Commercial vessels in the proposed NDZ that are too large to use a CVAP stationary pumpout facility may dock at either commercial port, and call a mobile septic waste hauler (pumpout truck) to meet the vessel and provide pumpout services at the dock. There are at least four mobile septic waste hauling companies with trucks that have the capacity to pumpout and transfer a combined total of 36,400 gallons of sewage to a local sewage treatment plant. Based on the low

level of commercial vessel traffic using the ports in the proposed NDZ, and the transience of these vessels, the availability of four septic hauler pumpout truck companies provides adequate pumpout capacity for commercial vessels. These services are summarized in Table 2, below.

**Table 1.** List of stationary sewage pumpout facilities serving vessels in the proposed St. Lawrence River No Discharge Zone.

#	Marina Name	Location Lat./Long.	Contact Information	*Days and Hours of Operation	Water Depth (feet)	Fee
1	Navy Point Marina	Black River Bay 43.950172/ -76.120633	315-646-3364  VHF - Channel 9	May 1 – November 30 8:00 AM to 5:00 PM	10'	\$0.00
2	Kitto's Marina	Chaumont Bay 44.003881/ -76.171825	315-639-6043 315-639-6922	April – October 15 8:00 AM to 7:00 PM	7'	\$5.00
3	Henchen Marina	Henderson Bay and Harbor 43.862222/ -76.202500	315-345-4294 VHF - Channel 16	April 1 – October 31 7:00 AM – 8:00 PM	8'	\$10.00
4	Village of Morristown – Bayside Park	Morristown Bay 44.585944/ -75.650281	315-375-8822	May 1 – October 30 Dawn to Dusk	6'	\$5.00
5	Spicer Marina Basin	Spicer Bay 44.255990/ -76.036610	315-686-3141 VHF - Channel 16	May 1 – October 15 8:00 AM – 6:00 PM	8'	\$5.00

<b>#</b>	<b>Marina Name</b>	<b>Location Lat./Long.</b>	<b>Contact Information</b>	<b>*Days and Hours of Operation</b>	<b>Water Depth (feet)</b>	<b>Fee</b>
6	Northern Marine, Inc.	Spicer Bay 44.257500/ -76.035833	315-686-4398 VHF - Channel 16	April 1 – September 30 9:00 AM – 6:00 PM	8'	\$5.00
7	French Bay	French Creek Bay 44.234444/ -76.090833	315-686-5574 VHF - Channel 16	April 1 – November 15 8:00 AM – 5:00 PM	8'	\$3.00
8	Madison Barracks Marina	Black River Bay 43.953333/- 76.113333	315-646-3374	May 15 – October 15 8:00 AM – 6:00 PM	10'	\$0.00
9	French Creek Marina – North	French Creek Bay 44.235160/ -76.089050	315-686-3621 VHF - Channel 16	April 15 – October 15 8:00 AM – 5:00 PM	8'	\$2.00
10	French Creek Marina - South	French Creek Bay 44.232689/ -76.086183	315-686-3621 VHF - Channel 16	April 15 – October 15 8:00 AM – 5:00 PM	4'	\$2.00
11	Harbor's End, Inc.	Henderson Bay and Harbor 43.849083/ -76.210714	315-938-5425  VHF - Channel 67	April 1 – November 1 8:00 AM – 4:30 PM	4.5'	\$5.00
12	Chaumont Yacht Club	Black River Bay 44.063200/ -76.131360	315-523-5055	April 15 – November 1 7:00 AM – 5:00 PM	6.5' - 7'	\$0.00

<b>#</b>	<b>Marina Name</b>	<b>Location Lat./Long.</b>	<b>Contact Information</b>	<b>*Days and Hours of Operation</b>	<b>Water Depth (feet)</b>	<b>Fee</b>
13	Bonnie Castle Yacht Basin	Alexandria Bay 44.342780/ -75.911980	315-482-2526 VHF - Channel 16	May15 - October 15 8:00 AM - 7:00 PM	5' - 6'	\$5.00
14	Hutchinson's Boat Works, Inc.	Alexandria Bay 44.334053/ -75.920244	315-482-9931	April – October 8:00 AM – 5:00 PM	6'	\$0.00
15	RJ Marine Associates, Ltd.	French Creek Bay 44.239989/ -76.090391	315-686-9805	April - October 7:00 AM – 7:00 PM	11'	\$15.00
16	City of Ogdensburg	Ogdensburg 44.700478/ -75.495156	315-393-1980 VHF - Channel 16	May1 - October 15 8:00 AM – 8:00 PM	11'	\$5.00
17	Cedar Point State Park	Alexandria Bay 44.204810/ -76.196740	315-654-2522 VHF - Channel 16	Memorial Day to Labor Day 7:30 AM – 8:00 PM	3' to 4'	\$5.00
18	Village of Waddington – Island View Park	Lisbon- Waddington 44.865264/ -75.206024	315-388-5534  None	April – November 24 Hours	3' – 4'	\$5.00
19	Millens Bay Marina	Cape Vincent 44.171790/ -76.244780	315-654-2174 VHF - Channel 16	April – November 8:00 AM – 7:00 PM	8'	\$5.00

<b>#</b>	<b>Marina Name</b>	<b>Location Lat./Long.</b>	<b>Contact Information</b>	<b>*Days and Hours of Operation</b>	<b>Water Depth (feet)</b>	<b>Fee</b>
20	Village of Waddington – Whitaker Park Dock	St. Lawrence River 44.867821/ -75.193852	315-388-5534  None	April – November 24 Hours	8'	\$5.00
21	Blind Bay Marina Corp.	Chippewa Bay 44.477440/ -75.776520	315-322-3762  None	May 15 – September 15 7:00 AM – 10:00 PM	5'	\$5.00

**\*Please note that the actual days of operation depend on the weather.**

**Table 2:** List of mobile sewage pumpout services serving vessels in the proposed St. Lawrence River No Discharge Zone.

#	Name Of Company	Location & Contact Information	# of Sewage Hauler Trucks / Holding Capacity	Days and Hours of Operation	Hose Fittings & Length (feet)	Truck serves the Port Area	Estimated Fee/Cost per 1,000 Gal
1	Pomerville's Septic Service	27440 Ridge Road, Watertown, NY 13601 Tel- 315 782 6056	2 trucks – 1 x 4,600 gal and 1 x 2,500 gal	Mon – Fri 7:00 am - 5:00 pm; or by appointment	Flexible up to 250 ft	Yes	\$ 225
2	Gleason's Septic Service	Route 3, Black River, NY 13612 Tel- 315 773 4135	3 trucks – 2 x 2,500 gal and 1 x 4,400 gal	Mon – Fri 7:00 am - 3:00 pm; or by appointment	Flexible up to 175 ft	Yes	\$ 250
3	Bach & Co	11176 County Road 9, Clayton, NY 13624 Tel– 315 686 3083	1 truck x 1,500 gal	Mon – Fri 7:00 am - 5:00 pm; or by appointment	Flexible up to 100 ft	Yes	\$ 250
4	Gilco Trucking Co.	20892 NYS Route 411 PO Box 112 LaFargeville, NY 13656 Tel- 315- 658-9916	2 trucks x 9,200 gal	Mon – Fri 7:00 am - 5:00 pm; or by appointment	Flexible up to 250 ft	Yes	NA

Based on a total recreational vessel population of 3,775 and 21 currently available pumpout facilities, the ratio of vessels to pumpouts is 180:1, which means there are significantly more

pumpouts than the recommended range of 300-600:1. Also, based on the low level of commercial vessel traffic (approximately one vessel per month) at the two St. Lawrence River commercial ports and the transience of these vessels, the availability of four septic hauler pumpout truck companies provides adequate pumpout capacity for vessels that are too large to use the stationary pumpout facilities. Therefore, the EPA proposes to issue a determination that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage for all vessels are reasonably available for the waters of the New York portion of the St. Lawrence River.

A 30-day period for public comment has been opened on this matter and the EPA invites any comments relevant to its proposed determination. If, after the public comment period ends, the EPA makes a final determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the New York State portion of the St. Lawrence River, the State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters.

Dated: March 4, 2016.

Judith A. Enck,

Regional Administrator, Region 2.

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