



ENVIRONMENTAL PROTECTION AGENCY

[EPA-R03-OW-2025-2004; FRL-12999-01-R3]

Virginia - Waters of the Northern Neck Peninsula Vessel Sewage No-Discharge Zone;

Tentative Affirmative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative determination.

SUMMARY: Pursuant to the Clean Water Act, the Commonwealth of Virginia has determined that the protection and enhancement of the quality of the waters of the Northern Neck peninsula require greater environmental protection. As such, Virginia has submitted an application to the U.S. Environmental Protection Agency (EPA or Agency), Region 3, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available, so that Virginia may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters. The proposed no-discharge zone includes waters in the counties of Richmond, Lancaster, Northumberland, and Westmoreland. Through this notice, the EPA is soliciting public comment on the Agency's tentative 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 the proposed no-discharge zone.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OW-2025-2004, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Byron Riggins, Wetlands Branch, Water Division (3WD10), U.S. Environmental Protection Agency, Region 3, Four Penn Center, 1600 John F Kennedy Blvd, Philadelphia, PA 19103-2852; telephone number: (215) 814-5146; email address: riggins.byron@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Notice is hereby given that the Commonwealth of Virginia has submitted an application to the U.S. Environmental Protection Agency, Region 3, for a determination under Clean Water Act section 312(f)(3) that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters within the Northern Neck peninsula, including waters in Richmond, Lancaster, Northumberland, and Westmoreland Counties (hereafter, “the Northern Neck”).

The EPA’s role under Clean Water Act section 312(f)(3) is to review state applications to determine whether adequate pump-out and treatment facilities are reasonably available.

Applications submitted pursuant to section 312(f)(3) must include specific information, as outlined in EPA’s implementing regulations found at 40 CFR 140.4(a), related to the need for a complete prohibition of vessel sewage discharges, the location and operational details of available pump-out facilities, and the vessel population and usage of the proposed waters.

Virginia’s application is available electronically in Docket ID No. EPA-R03-OW-2025-2004 through <https://www.regulations.gov>.

After consideration of all comments received, if 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 Northern Neck, Virginia may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into those waters through designation of a vessel sewage no-discharge zone. Vessels with installed toilets are required to operate U.S. Coast Guard-approved marine sanitation devices (MSDs). MSDs are either flow-through systems—Type I or Type II MSDs—that treat sewage before discharging to surrounding waters or holding tanks—Type III MSDs—that retain sewage onboard. Upon designation of a vessel sewage no-discharge zone, vessels with flow-through systems that operate within the zone's boundaries would need to retrofit to holding tanks to prevent any overboard discharge. These vessels' holding tanks would then need to be pumped out at available facilities. In lieu of retrofitting, vessel operators may instead comply with U.S. Coast Guard regulations found at 33 CFR 159.7(b) that specify the acceptable methods of securing a flow-through MSD to demonstrate compliance with a no-discharge zone. The EPA must determine whether adequate facilities are reasonably available to those vessels that would require access to pump-out facilities to support the designation of a no-discharge zone.

II. Application Information

A. Proposed Waters and Certification of Need

As described in its application, the Commonwealth of Virginia has determined that the protection and enhancement of the quality of the waters of the Northern Neck require greater environmental protection than is afforded by the applicable Federal standard. The proposed no-discharge zone encompasses various waterbodies in the rural watersheds of Virginia's Coastal Plain, specifically on the Northern Neck peninsula, in the counties of Richmond, Lancaster, Northumberland, and Westmoreland. All subject waters are tidal and drain directly into the Chesapeake Bay or indirectly via the Rappahannock or Potomac Rivers. The following waterbodies are included in the proposed no-discharge zone: Rosier Creek, Mattox Creek and

Monroe Bay, Nomini Creek and Currioman Bay, Lower Machodoc Creek, Ragged Point, Gardner Creek, Jackson Creek, Bonum Creek, Yeocomico River, Judith Sound, Coan River and the Glebe, Cod Creek, Little Wicomico River, Great Wicomico River and Ingram Bay, Cloverdale Creek, Dividing Creek, Indian Creek, Dyer Creek, Tabbs Creek, Antipoison Creek, Windmill Point Resort, Little Oyster and Windmill Point Creek, Mosquito Creek, Carter Creek, Corrotoman River, Greenvale Creek, Deep Creek, Mulberry Creek, Lancaster Creek (including Morattico Creek), and Farnham Creek. Additional details on the geographic extent of the proposed waters, including maps and the geographic coordinates of the water bodies' boundaries, are provided in Virginia's application, which is available in the docket.

The waters of the Northern Neck have extensive shellfish harvest and aquaculture acreage, including five of the top 20 aquaculture sites in Virginia. Additionally, these waters are important for recreational activities like boating, fishing, and swimming. However, many of these waters are poorly flushed and lack environmentally important submerged aquatic vegetation. The shellfish growing areas have also been compromised by bacterial impairment, resulting in non-attainment of water quality standards. More specifically, each of the waterbodies included in the proposed no-discharge zone contain areas with current or recent shellfish harvest closures or restrictions. In its application, Virginia indicates that the designation of a no-discharge zone would complement other water quality improvement programs underway in Virginia, such as the establishment of best management practices and Total Maximum Daily Loads, by addressing pollutant loadings from vessels.

B. Adequacy and Availability of Pump-out Facilities

The EPA's analysis of the reasonable availability of adequate facilities considers the number of recreational and commercial vessels that use the proposed waters on both a regular and transient basis. To estimate the number of vessels operating in the proposed waters, Virginia queried datasets maintained by the Virginia Department of Wildlife Resources (DWR) and the United States Coast Guard (USCG) and determined that there are approximately 11,000 vessels

that may be using the proposed waters. Because duplicates are expected across the two datasets, this is likely an overestimate of the vessel population. About 9,658 of these vessels are used for recreational purposes. This vessel count is limited to those vessels that are 16 feet in length or greater under the assumption that smaller vessels would not have an installed toilet onboard. Recreational vessel traffic is seasonal, largely occurring between April and November, with little traffic during the winter season. Using a similar approach to the one described in the state of Maryland's application to the EPA to designate certain waters in Anne Arundel County as a no-discharge zone, Virginia also estimated that there are about 892 transient vessels. Virginia reasons that vessel traffic patterns may be similar since they are neighboring states on the Chesapeake Bay but notes that the Northern Neck likely experiences significantly less transient traffic as it is a less developed area. Like the resident recreational vessel traffic, transient vessel traffic also decreases during the winter and increases during the summer. However, transient traffic is also high during spring and fall months when boaters are relocating their vessels.

To estimate how many of these 10,550 recreational and transient vessels have MSDs onboard, Virginia used the "Recreational Vessel Worksheet" from the EPA's *Guidance for Vessel Sewage No-Discharge Zone Applications (Clean Water Act Section 312(f))*. The Worksheet provides default values for the percent of vessels, by length, that are expected to have an MSD onboard. Based on these calculations, about 3,105 recreational and transient vessels are likely to require pump-out services if a no-discharge zone is designated.

Virginia also estimates that there are 494 commercial vessels that may operate in the waters of the Northern Neck peninsula, including 352 fishing vessels, 14 tug/barge/construction vessels, 10 search and rescue/military vessels, 6 research vessels, 8 passenger vessels (tours/ferries/charters), and 104 vessels of unspecified type. Virginia indicates that the seasonality of commercial vessel traffic varies by vessel type but generally follows similar patterns to recreational and transient traffic except for the commercial fishing fleet, which has year-round operations that track with the oyster harvesting season and other key fisheries. Following

conversations with vessel operators and their representatives, Virginia estimates that, at most, 10 percent of the 494 commercial vessels (i.e., about 50 commercial vessels) would require pump-out services if a no-discharge zone is designated. This is based on a determination that most of these vessels currently manage sewage in a manner that would not be meaningfully impacted by a no-discharge zone. The vessels carry portable toilets that are emptied at dump stations; are equipped with holding tanks that are already being pumped out; do not have installed toilets onboard; or are equipped flow-through MSDs but operate for a limited time in the proposed waters before transiting out to areas where sewage can be discharged.

In support of its application, Virginia provided information on the stationary and portable pump-out facilities that are available to service vessels operating in the waters of the Northern Neck, as summarized in table 1 of this document. Of the 25 marinas with pump-out facilities, 24 are publicly accessible, while one is a private, members-only facility. Nineteen facilities store pumped out sewage in a holding tank or on-site septic tank with removal by a licensed septage hauler to a wastewater treatment facility, four discharge directly to a public sewer system, and two maintain private on-site waste treatment facilities. All of the facilities have at least one universal connection for pumping out, while most of the facilities have several other connection options as well. The Virginia Department of Health performs annual inspections of marinas to ensure pump-out facilities are operable, and specific design and operation requirements are addressed in Virginia's Administrative Code (12VAC5-570).

Virginia expects that few vessels, if any, may be excluded from accessing available pump-out facilities. The mean low water depth at the facilities is comparable to the surrounding waterbodies and there are no identified height restrictions. Because the facilities are not evenly distributed across the waters proposed for designation, Virginia's application included Automatic Identification System data to approximate vessel traffic and density in the region. The data shows that pump-out facilities are largely located in the areas experiencing the most traffic, except for Antipoison Creek and Dividing Creek. These two creeks, as well as those waters with

the least vessel traffic and no pump-out facilities, are surrounded by forest and agricultural land with light residential use. As such, these waters are primarily used for transit to and from the mainstem of the Chesapeake Bay and would not have adequate traffic to support an economically viable marina. Vessel operators in waters without pump-out facilities may either travel to adjacent waterways to access facilities (between 5.5 and 10.9 miles) or travel outside of the no-discharge zone, if approved, (between 0.25 and 3.2 miles) to discharge sewage. Vessel operators with pump-out facilities nearby would also have the option to travel outside of the no-discharge zone to discharge, in lieu of using available facilities.

To determine whether sewage pump-out capacity for vessels is sufficient to meet demand during periods of peak usage in the waters of the Northern Neck, the EPA compared the number of vessels anticipated as needing pump-out service during peak usage with the number of vessels supported by existing pump-out facilities within the proposed no-discharge zone. In its application, Virginia provided a completed copy of the “Recreational Vessel Worksheet” discussed earlier in this notice. The worksheet included the 50 commercial vessels expected to require pump-out services because recreational, transient, and commercial vessels are expected to access the same pump-out facilities. Based on the total number of vessels operating during peak usage (e.g., a holiday weekend), the number of vessels serviced per hour by each facility, and the hours of operation for each facility, the Worksheet generates a recommended number of pump-out facilities to provide a reliable level of service for the vessel population within a proposed no-discharge zone. For purposes of the analysis, neither EPA nor Virginia included the one private pump-out facility because it is unclear how many vessel operators have access to it. However, it does provide 24-hour services during the weekends to members free of charge. The Worksheet assumes that 40 percent of recreational vessels would be operating during peak usage, such as a holiday weekend. As such, both Virginia and the EPA applied the peak occupancy rate of 40 percent to the recreational and transient vessel population of 3,105, which results in an estimated 1,242 of these vessels requiring pump-out service during peak usage. In its application,

Virginia uses two approaches to calculate the number of commercial vessels that may be operating during peak usage. The first applies this same 40 percent modifier while the other conservatively includes all 50 commercial vessels that are expected to require pump-out services if the no-discharge zone is approved. For purposes of this analysis, the EPA considered the more conservative approach. As such, 1,292 vessels are expected to require access to pump-out facilities during peak usage, but up to 1,456 vessels may be served by existing pump-out facilities (see Section 7.0 of Virginia's application, available in the docket, for the complete calculations). The EPA therefore expects that adequate facilities are available to meet expected demand during periods of peak usage. Additionally, the ongoing cost for recreational vessels to access these facilities is minimal, with most publicly accessible facilities (18 of the 24 facilities) charging 10 dollars or less per pump-out. Information regarding each pump-out facility, including location, operating hours, and fees, can be found in table 1 of this document.

Because commercial vessels incur additional types of costs associated with accessing pump-out facilities that recreational vessels do not, the EPA evaluated the adequacy and reasonable availability of facilities for commercial vessels using the "No-Discharge Zone Cost Analysis Tool" (the Tool) from the EPA's *Guidance for Vessel Sewage No-Discharge Zone Applications (Clean Water Act Section 312(f))*. The Tool, which relies on a combination of default values and information provided in Virginia's application, may be used to forecast how frequently the demand for pump-out facilities (i.e., the volume of sewage produced by commercial vessels) is projected to exceed commercial vessel pump-out facility capacity (i.e., the volume of sewage that can be pumped out) across a typical year. This screening analysis is complemented by the cost analysis portion of the Tool, which generates an estimate of the percent increase in baseline operating costs that commercial vessels may incur as a result of using pump-out facilities if the no-discharge zone is established. For purposes of the analysis, the EPA divided the commercial vessel population into five categories: tugboats (used for tugs/tows/barges/construction vessels), commercial fishing vessels, excursion vessels (used for

tour and charter vessels), ferries, and offshore vessels (used for research and search and rescue vessels). The EPA used information provided by Virginia to determine the number of vessels in each category that may be affected by a no-discharge zone designation. The EPA conservatively included all 14 tugboats and five excursion vessels. Ten percent of the commercial fishing fleet was included based on information provided by Virginia regarding vessel sizes and operational profiles. Of the three ferries, only one was included in the analysis because the others do not have bathroom facilities onboard. Finally, the offshore vessel category included all six research vessels but just one search and rescue vessel, since Virginia does not expect these vessels to be affected. Regarding available pump-out facilities, the EPA included only the 24 publicly accessible facilities. Default values were used for the cost inputs except for the offshore vessel category, for which default values are unavailable. Instead, the EPA used publicly available information regarding the 93-foot vessel the R/V Virginia from the Virginia Institute of Marine Science to approximate the cost inputs, such as annual baseline operating costs and vessel speed, for this vessel type.

The EPA's screening analysis showed that demand for pump-out services, represented by the volume of sewage to be pumped per day, is far exceeded by available pump-out capacity in the proposed no-discharge zone over a model year, and therefore should accommodate both recreational and commercial vessels. The EPA also considered the various costs incurred by commercial vessels associated with accessing facilities, including pump-out fees and lost revenue due to the time spent pumping out. The Tool estimates that the expected increase in baseline operating costs would be 0.2 percent for tugboats, 1.8 percent for commercial fishing vessels, 2.3 percent for excursion vessels, and 1.3 percent for offshore vessels. The increase is largely attributable to lost revenue due to the time it takes to pump out sewage from a vessel; therefore, savings may be achieved if the vessel operators are able to time pump-out activities to minimize cost impacts. The true percent increase is also likely lower because the EPA used conservative values in populating the Tool. Based on the outputs of the "Recreational Vessel

Worksheet” and the Tool, the EPA tentatively determined that facilities are reasonably available to these vessels. A copy of the completed Tool that includes the calculations and additional details regarding the underlying assumptions is available in the docket.

Finally, the EPA evaluated whether waste would be treated in conformance with Federal law if a no-discharge zone is established. Within the Northern Neck, sewage from vessels is treated across seven wastewater treatment facilities that are permitted under the Virginia Pollutant Elimination Discharge System (VPDES). VPDES permits are reviewed by the Virginia Department of Environmental Quality, revised (if necessary), and reissued every five years if the facilities comply with local, state, and Federal regulations. While two of these WWTPs – Reedville and Town of Colonial Beach – have had VPDES violations within the last five years, Reedville WWTP is now subject to a consent order intended to bring that facility into compliance. The EPA tentatively determines that, upon implementation of appropriate corrective actions, the Colonial Beach WWTP could be operated consistent with Federal, state, and local requirements. The seven facilities have design capacities ranging from 0.030 million gallons per Day (MGD) to 10 MGD, with average actual flows ranging from 0.006 MGD to 5.392 MGD. Virginia estimates that the volume of sewage produced by vessels during a peak weekend would be approximately 24 thousand gallons or 0.012 MGD over two days. During a 68-month period between 2019 and 2024, only the Town of Colonial Beach WWTP had average monthly flows nearing design capacity during two of the months. The average monthly flow otherwise represented an average of 47 percent of design capacity. Based on this information, Virginia indicated that it does not anticipate any facilities would exceed capacity due to increased volumes that may result from establishment of a no-discharge zone.

III. Determination

In summary, the EPA makes a tentative determination that adequate facilities for the safe and sanitary removal of sewage are reasonably available to vessels that operate within the waters of the Northern Neck peninsula identified in Virginia’s application. This tentative determination

is based on an assessment of whether existing pump-out facilities could meet the expected demand during periods of peak usage, as well as a consideration of the costs associated with accessing those facilities. The EPA tentatively finds that existing pump-out capacity is adequate, accessing pump-out facilities would incur minimal costs, and sewage is handled in conformance with Federal law by the pump-out facilities and associated wastewater treatment facilities.

Based on the information above, the EPA Region 3 hereby makes a tentative affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are available for the waters of the Northern Neck peninsula in, Virginia, including waters in Richmond, Lancaster, Northumberland, and Westmoreland Counties as identified in Virginia’s application. The EPA is seeking public comment on the contents of the Commonwealth of Virginia's application and the EPA's tentative affirmative determination.

TABLE 1—LIST OF PUMP-OUT FACILITIES

Name	Location	Contact Information	Days and Hours of Operation	Water Depth (ft)	Fee
Blue Compass Marina at Horn Harbor (CB-3)	836 Horn Harbor Rd. Burgess, VA 22432	804-453-3351	April-Oct: M-F: 8am - 9pm Sat-Sun: 9:30am-4pm Nov-March: W-Sun: 11am-4pm 24/7 call ahead service	7 ft	\$0
Buzzard Point Dry Storage & Marina (CB-7)	468 Buzzard Point Rd, Reedville, VA 22539	804-453-3545	Late March- Dec**: M-Sat: 8am-5pm Sun: 8am-4pm	8.5 ft	\$5
Carter’s Cove Marina (RAP-3)	347 Carters Cove Drive, Weems, VA 22576	804-438-5299	April - Nov: 9am – 5pm daily **	5 ft	Free for slip holders \$5 for non-slip holders
Chesapeake Boat Basin (CB-10)	1686 Waverly Ave, Kilmarnock, VA 22482	804-436-1234	M-Sat: 8am-5pm Sun: 8am-3pm Closed Sun & Mon in Jan & Feb **	13 ft	\$5

Coan River Marina (POT-9)	3170 Lake Rd. Lottsburg, VA 22511	804-529- 6767	April-Oct: M-F: 8:30am - 5pm Sat: 9:30am-2pm November- March**: M-F: 9:30am-4pm	7 ft	\$10 for MSDs \$5 for Portable Toilets
Cockrell's Marine Railway Inc. (CB-12)	309 Railway Dr. Heathsville, VA 22473	804-453- 3560	Daily: 6:00am- 6:00pm	5 ft	Holding tank size dependent: \$5-20
Coles Point Marina (POT-6)	190 Plantation Drive, Hague, VA 22469	804-472- 4011	April-Oct: M-Th: 9am – 5pm F&Sat: 8am - 7pm Sun: 9am-4pm Nov-March**: M-Sat: 9am-5pm Sun: 9am-12pm	6 ft	\$20
Colonial Beach Yacht Center (POT-5)	1787 Castlewood Drive, Colonial Beach, VA 22443	804-224- 7230	April-Oct: M- Sun (except T): 10am - 4pm Nov – March**: F-Sun:10am-4pm	5 ft	\$5
Fairport Marina (CB-8)	252 Polly Cove Rd., Reedville, VA 22539	804-453- 5002	M,T,Sat,Sun: 9am-5pm W-F: 9am-10pm	8 ft	Holding tank size dependent: \$5-10
Indian Creek Country & Yacht Club (CB-9)	362 Club Drive, Kilmarnock, VA 22482	804-435- 1340	Not open to the public: Members & Invitees Only	6 ft	Free for members and guests
Ingram Bay Marina (CB-4)	545 Harveys Neck Rd. Heathsville, VA 22473	804-580- 7292	9am - 5pm daily	6 ft	\$5
Jenning's Boatyard Inc. (CB-5)	169 Boatyard Road Reedville, VA 22539	804-453- 7181	M-F: 8am - 5pm Sat: 8am - 12pm	9 ft	\$5
Lewisetta Marina (POT-10)	369 Church Lane Lottsburg, VA 22511	804-529- 7299	Daily: 7am - 5 pm	9 ft	\$5
Monroe Bay & Winkie Doodle Marinas (POT-7)	551 Lafayette Street Westmoreland, VA 22443	804-224- 7544	April-Oct: Daily: 8am - 8pm	5.5 ft	\$0
Olverson's Lodge Creek Marina (POT-8)	1161 Melrose Rd Lottsburg, VA22511	804-529- 5071	M-Sat: 8am - 5pm Sun: 8am - 2pm	10 ft	\$5
Reedville Marina - Crazy Crab Restaurant (CB-11)	902 Main St Reedville, VA 22539	804-453- 6789	April-Oct: Daily: 9am – 5pm	14 ft	\$5

Smith Point Marina (CB-2)	989 Smith Point Rd. Reedville, VA 22539	804-453-4077	April-Dec: Daily: 8am - 4pm Nov – Mar**: M-F: 8am-4pm	4.5 ft	Slip Holders: Free non-slip holders: \$10
Tides Inn & Lodge (RAP-6)	480 King Carter Drive, Irvington, VA, 22480	804-438-4418	Mid-March-Dec: Daily:8am – 7pm Jan-Mid March: Daily: 8am - 4pm	8 ft	\$0
White Point Marina (POT-4)	175 Marina Drive Kinsale, VA 22488	(804)472-2977	March 15- Nov 15: M-F: 7:30am - 4pm Sat & Sun: 7:30am - 5pm	8 ft	\$5
Yankee Point Marina (RAP-5)	1303 Oak Hill Rd., Lancaster, VA 22503	804-462-7635	May 1-Sept 30: M-TR: 8am - 4:30pm Sat-Sun: 7am-6pm Oct 1-April 30: M-F: 8am-4:30pm Sat: 9am-4pm	8.5 ft	Holding tank size dependent: \$10+

Amy Van Blarcom-Lackey,
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