

**ENVIRONMENTAL PROTECTION
AGENCY**

[FRL-7512-9]

**New Jersey State Prohibition on
Marine Discharges of Vessel
Sewage;
Final Affirmative Determination**

Notice is hereby given that EPA has made a final affirmative determination regarding the petition dated March 27, 2002 that was received from the State of New Jersey. The Regional Administrator, Environmental Protection Agency (EPA), pursuant to section 312(f) of Public Law 92-500, as amended by Public Law 95-217 and Public Law 100-4 (the Clean Water Act), has found that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the Barnegat Bay, Ocean County, New Jersey. This petition was made by the New Jersey Department of Environmental Protection (NJDEP) in cooperation with the Barnegat Bay Estuary Program, New Jersey Marine Sciences Consortium, Ocean County Planning Board and Ocean County Vocational-Technical School. Upon the receipt of this affirmative determination, NJDEP will completely prohibit the discharge of sewage, whether treated or not, from any vessel in the Barnegat Bay Complex in accordance with section 312(f) (3) of the Clean Water Act and 40 CFR 140.4(a).

On April 1, 2003, EPA published a Receipt of Petition and Tentative Determination and accepted comments from the public for a thirty (30) day period. EPA received letters from the following individuals:

1. A. Jerome Walnut, Chairman, Ocean County Planning Department, P.O. box 2191, Toms River, New Jersey 08754.
2. Christopher Claus, President, Ocean Nature and Conservation Society, 21 Winding River Drive, Toms River, NJ

08755-5122.

3. David J McKeon, Assistant Planning Director, Ocean County Planning Board, P.O. Box 2191, Toms River, NJ 08754-2191.

4. William deCamp, Jr., President, Save Barnegat Bay, 906-B Grand Central Avenue, Lavallette, NJ 08735.

5. Angela C. Andersen, South Jersey Coordinator, American Littoral Society, P.O. Box 1306, Tuckerton, NJ 08097.

6. Cindy Zipf, Executive Director, Clean Ocean Action, P.O. Box 305, Highlands, NJ 07732-0505.

EPA received emails from the following individuals:

1. Bob Scro, Barnegat Bay Estuary Program Director, Ocean County Planning Department, P.O. Box 2191, Toms River, New Jersey 08754.

Mr. Scro identified some typographical errors made in the original petition submitted to EPA: "Ocean County Vacation and Technical School" should read as "Ocean County Vocational-Technical School" and "Ocean County Municipal Utilities Authority" should read as "Ocean County Utilities Authorities". Mr. Scro also commented that since the petition was submitted, a third pumpout boat had been purchased and is servicing boaters in Barnegat Bay. These corrections have been made to this Final Determination.

Several of the commenters expressed support for the establishment of a No Discharge Zone (NDZ) and commented that this Final Determination was an important step in protecting the water quality of Barnegat Bay and its marine resources. The Ocean County Planning Board forwarded a Resolution, passed by the Ocean County Board of Chosen Freeholders, supporting the NDZ. Many of the commenters, especially the Ocean County Planning Board, stated that there were a number of threats to Barnegat Bay including non-point source pollution and that this designation was just one of many action items in the Barnegat Bay Comprehensive Conservation and Management Plan.

The American Littoral Society

(ALS) expressed support for the establishment of the NDZ, but asked several questions regarding education, enforcement, water quality improvements and legislative issues. Regarding the issues of education, ALS commented that a mechanism should exist to inform boaters about the requirements of a NDZ. As part of the petition, an education program is outlined. This program is part of the New Jersey Clean Vessel Act Program and the Barnegat Bay Estuary Program. Regarding the enforcement of the NDZ, the U.S. Coast Guard is responsible for the enforcement and the State of New Jersey has a Memorandum of Understanding, with the Coast Guard, designating the New Jersey State Police as the lead law enforcement agency. The petition submitted to EPA states that the State Police will enforce the boating safety standards and marine sanitation device regulations. ALS raises a question regarding improvements in water quality and whether EPA or NJDEP will attempt to quantify the improvements in water quality as a result if this designation is approved. Certainly, improvements in water quality can be demonstrated through routine ambient sampling. Since there are several ongoing programs to improve the water quality in the estuary, it is difficult to attribute these improvements to a specific program. Currently, EPA is undertaking a national study to evaluate the efficacy of the NDZ designations and will publish the results when they are available. ALS asked whether EPA is aware of a legislative bill that was introduced by Congressman Saxton that would eliminate NDZ restrictions for vessels that use state of art treatment devices. ALS raised certain concerns about this bill and asked if EPA had comments or concerns. In response, EPA is aware of the legislative but chooses not to comment on the bill at this time.

No changes to the determination are necessary based on the comments received.

Barnegat Bay is a shall, lagoon-type estuary characteristic of a back bay system of a barrier island

coastline. Barnegat Bay is bordered by two barrier islands, Island Beach and Long Beach Island. These islands are approximately 64km in total length, are oriented north-south and separate the bay from the Atlantic Ocean. The NDZ will include Barnegat Bay Complex and its navigable tributaries. The boundary lines have been defined for the Point Pleasant Canal, Barnegat Inlet and Egg Harbor Inlet as lines between the following points:

Point Pleasant Canal	40 04.030 N	40 04.068 N
	74 03.281 W	74 03.278 W
Barnegat Inlet	Inside South Buoy	Inside North Buoy
	39 45.457 N	39 45.525 N
	74 05.519 W	74 05.519 W
Egg Harbor Inlet	39 30.521 N	39 30.476 N
	74 18.389 W	74 17.322 W

Barnegat Bay provides recreational, economic, and aesthetic benefits to the coastal users of New Jersey. The estuary is productive of shellfish harvesting, recreational activities such as fishing, kayaking, swimming and boating. The bay supports hard clam harvest and blue crab landings. NJDEP Bureau of Marine Water Classification and Analysis has divided the State into 36 Shellfish growing water reaches. The bay complex is identified as Reaches 7 through 13 which are as follows:

- Reach 7—Barnegat Bay (Bay Head to Seaweed Point)
- Reach 8—Barnegat Bay (Seaweed Point to Mathis Bridge)
- Reach 9—Toms River
- Reach 10—Barnegat Bay (Mathis Bridge to Forked River)
- Reach 11—Barnegat Bay (Forked River to Main Point)
- Reach 12—Manahawkin/Little Egg Harbor Bay (Main Point to Long Point)
- Reach 13—Long Point to Beach Haven Inlet

Information submitted by the State of New Jersey indicate that there are sixty-six existing pumpout facilities and three pumpout boats available to service vessels throughout the Barnegat Bay Complex. The typical facility is available to the boating community from April through November with hours of operation from 8:00AM until 5:00PM, seven days a week.

Seven facilities are available all years. Sixty-three of the existing pumpout facilities are connected to municipal sewage lines. Sewage from these facilities is routed to the Ocean County Utilities Authority where it undergoes secondary treatment. Three pumpout facilities (Ocean Gate Yacht Basin, Ocean Beach South and Causeway Boat Rental and Marina) store their waste in holding tanks for disposal by a septic waste hauler.

According to the State's petition, the vessel population for the waters of Barnegat Bay Complex is approximately 15,587 vessels which are docked at private residences and 12,900 vessels dock or moored at marinas or yacht clubs. The total vessel population is 28,587. The ratio of boats to pumpout facilities has been based on the total number of vessels which could be expected. With sixty-six shore-side pumpout facilities and two pumpout vessels available to boaters, the ratio of docked or moored boats (including transients) is approximately 420 vessels per pumpout. Standard guidelines refer to acceptable ratios falling in the range of 300 to 600 vessels per pumpout. If the EPA calculation is employed (as listed in the guidance manual entitled, "Protecting Coastal Waters from Vessel and Marina Discharges: A Guide for State and Local Officials—April 1994"), it estimates that twenty-four pumpouts are

needed to provide adequate facilities.

Commercial vessels which operate in and around Barnegat Bay are engaged in fishing activities exclusively. Most of the operators will use the pumpout facilities where they dock or obtain fuel.

The larger fishing vessels do not operate in the bay, but dock in the vicinity of Barnegat Light and fish the Atlantic Ocean

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 Barnegat Bay Complex in Ocean County, New Jersey.

Dated: May 30, 2003.

Jane M. Kenny,
Regional Administrator, Region 2.
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8:45 am]

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