



November 30, 2017

Amy Jankowiak
Department of Ecology
3190 160th Ave., SE
Bellevue, WA 98008-5452
Submitted online at <http://ws.ecology.commentinput.com/?id=EQHJt>

Dear Ms. Jankowiak:

Friends of the Earth fights to protect our environment and create a healthy and just world by promoting clean energy and solutions to climate change, keeping toxic and risky technologies out of the food we eat and products we use, and protecting marine ecosystems and the people who live and work near them. Friends of the Earth's oceans campaign fights to protect our waters from the threats posed by oil spills, air and water pollution from the shipping industry, industrial ocean fish farming, and unnatural ocean noise. We are one and a half million members and activists across all 50 states working to make these visions a reality. We are part of the Friends of the Earth International federation, a network in 74 countries working for social and environmental justice.

Together with Futurewise, Puget Soundkeeper Alliance, the Sierra Club, and Washington Environmental Council, our members strongly support establishing the Puget Sound No Discharge Zone. Our coalition of groups has generated over 25,000 comments in 2014 supporting Ecology's draft designation and over 40,000 comments in 2016 supporting EPA's determination. Friends of the Earth's members have generated almost 34,000 comments supporting the Puget Sound No Discharge Zone during this comment period and establishing a Puget Sound No Discharge Zone is wildly popular with our members and the general public.

Puget Sound deserves to be a No Discharge Zone

The Department of Ecology has spent over 6 years considering a No Discharge Zone, with a carefully considered process that included state agencies, cruise lines, recreational boaters, marinas, yacht clubs, commercial vessels including tugboats and fishing vessels, trade associations, shellfish growers, environmental organizations, scientists, EPA, the Coast Guard, legislators, and members of Congress.

A No Discharge Zone will protect public health and Puget Sound

Vessel sewage, either treated or not, directly discharged into Puget Sound contains high concentrations of bacteria and other pathogens that can impact public health and shutdown shellfish beds. Marine sanitation devices used on board some vessels do not sufficiently kill microorganisms and do not protect public health. Raw or partially treated sewage discharged in one location can impact water quality miles away because the waters of Puget Sound are so highly connected.

Every year shellfish beds must be closed due to bacterial contamination. Tracking down the source can be timely and complicated, particularly if the source is mobile or intermittent. Other pollution sources, including stormwater runoff from urban and rural land, failing septic systems, combined sewer overflows, and municipal wastewater, each have controls in place to reduce and eliminate contamination. A No Discharge Zone would complement other pollution controls in the Puget Sound region.

Establishment of a No Discharge Zone would protect water quality

Current Clean Water Act regulations do not require that minimally-treated sewage from vessels meet water quality standards. United States Coast Guard (USCG) and EPA regulations concerning marine sanitation devices (MSDs) require that treatment devices meet certain specifications when installed. However, MSDs require maintenance over time or they fall into disrepair, resulting in decreased treatment efficacy. There is no USCG oversight to ensure that MSDs maintain functionality after their installation date. In addition, the EPA MSD standards have not been updated in more than 35 years.

There is no monitoring to track the level of pathogens, bacteria and other harmful pollutants in vessel discharges. The inadequacy of current marine treatment systems is evinced in the State Department of Health's automatic closure of shellfish beds within a designated proximity of moorage areas. Establishing a No Discharge Zone would strengthen the state's ability to regulate and enforce water quality related protections to this source in state waters and protect resources and beneficial uses.

Protection of swimmers, shellfish resources and marine mammals in the nearshore is especially important

In addition to toxic pollutants that are released from marine vessels, including cleansers, detergents, personal care products, pharmaceuticals, and other contaminants, we are concerned about pathogens and other human health-related pollutants that can potentially harm important contact recreation and shellfish harvesting beneficial uses in the nearshore. Contact recreation in our waters, a growing beneficial use in recent years, includes swimming, diving, paddling and rowing, kite-boarding and stand-up paddle boarding. Use of our waterways and health of our shellfish are pillars of local culture, including tribal interests. In addition, recent studies have shown the endangered southern resident orca community has antibiotic resistant strains of bacteria in their respiratory tracts. As we all work to reduce pollution from all sources, including stormwater, wastewater treatment plants, industrial discharges, and aerial deposition, we must include direct sources such as marine vessels. It all adds up.

Nutrient releases contribute to dissolved oxygen and ocean acidification problems

Especially in the South Sound, Hood Canal, and in bays and inlets around the Sound and Straits, releases of excess nutrients have been documented to lead to low dissolved oxygen conditions and potentially fish kills. In addition, new research is showing that these conditions may exacerbate ocean acidification problems leading to potential impairments to the calcification process for shellfish and other species and the weakening of the ability of species like mussels to hang on to rocks. Marine vessels, especially recreational boaters, are out in large numbers in the Sound at exactly the time of year – the warm summer and early fall months – when these problems are experienced in our marine waters. Nutrient loading also acts as a stressor for species such as eelgrass.

No Discharge Zones in other areas of the country have been widely supported and successful once approved

Other states have paved the way for No Discharge Zones. No Discharge Zones now exist along the entire California coast (for large vessels), Florida Keys coast, inland waters of Texas, Michigan, Minnesota, Missouri, numerous areas in the Great Lakes and much of the east coast, including New York, Massachusetts, Connecticut, Virginia, Rhode Island, Vermont, North Carolina, New Jersey and New Hampshire, Maine and Maryland. In many of these places, No Discharge Zone approval has been met with widespread community support as it is a source of pride for boaters and regulators alike.

Pumpout stations and mobile facilities serve all of Puget Sound

There are currently more than 173 stationary pumpout units in 102 locations, and 23 pumpout boats available for recreational vessels, far more than the criteria for NDZ designation (Figure 1) and publicized through www.pumpoutwashington.org. Our coalition partner, WEC, personally verified that at least 7 of the 8 facilities in South Puget Sound, inland of the Tacoma Narrows, were operational even during the off season – December 20, 2016. Six pumpouts are free and one charges \$5. Adjacent to South Puget Sound,

another 13 pumpout facilities serve Commencement Bay, three serve Gig Harbor, and one serves Quartermaster Harbor. Other basins of Puget Sound are equally well served: Hood Canal has 7 pumpouts; 13 serve Sinclair and Dyes Inlet, Liberty Bay, and Bainbridge Island; 13 serve Lake Washington, Lake Union, and the connecting waters; 4 serve Everett and southern Whidbey Island; 9 serve La Conner, Anacortes, and northern Whidbey Island; 6 serve the San Juan Islands; and many more serve Blaine, Bellingham, Sequim, and Port Townsend. This is not an exhaustive list of pumpout facilities within the proposed NDZ but confirms the geographic coverage of the existing network, particularly in places with substantial numbers of recreational boaters.

In addition, we along with our colleague organization Futurewise confirmed that at least five large marine services companies serve the Puget Sound region, as of December 14-19, 2016 (Table 1). The number of pumpouts available is far more plentiful than the recommended one per 300 to 600 boats (Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines). Recreational boats have at least one pumpout facility per 171 vessels, and commercial vessels have at least one pumpout per 11 vessels. Commercial pumper trucks and mobile commercial pumpout barges already serve numerous commercial vessels and represent a range of capacities to serve a variety of dock sizes and vessel drafts.

Most vessels already comply

As Ecology's web site explains, only 2% or fewer vessels would need to add holding tanks. The vast majority of vessels already comply with a No Discharge Zone.

Commercial Vessels already have holding tanks and use pumpouts

Costanzo (2013)¹ indicates about 25% of the tugboat fleet based out of Puget Sound already utilize holding tanks. Many of these have simply adopted the company-wide policy to store and pump out all blackwater. The Economic Evaluation also mentions that Campbell Maritime, a small tugboat company has outfitted every tugboat with 50 to 100-gallon holding tanks because those were less expensive than MSDs. The owner noted that while he had no detailed information on the cost of these retrofits, "they were not 'a memorably significant cost.'"

U.S. Navy already uses pumpouts

The Department of Ecology confirmed that Navy vessels already use pumpout facilities to treat wastewater generated onboard their ships.

Reduce implementation period to 2 years for nearly all commercial vessels

We urge the Department of Ecology to reduce the implementation period from 5 years in the proposed rule. While the 5-year compliance period was cited as mitigation of disproportionate impact per RCW 19.85.040, a 2-year compliance period would also mitigate disproportionate impact. No other No Discharge Zone has included a compliance period, and even two years would mitigate impacts.

Overwhelming support for establishing a No Discharge Zone

Over the years, people have consistently weighed in supporting the Puget Sound No Discharge Zone. During the 2014 draft petition comment period, over 25,000 comments supported the No Discharge Zone while 250 opposed it. In December 2016, during EPA's public comment period regarding the adequacy and availability of pumpout facilities, over 40,000 comments supported the No Discharge Zone. And Friends of the Earth members have submitted nearly 34,000 comments supporting this rule. Rarely do the Department of Ecology and EPA receive this level of support.

¹ Costanzo, Charlie. 2013. American Waterways Operators Vice President-Pacific Region, November, personal communication to the Washington State Department of Ecology.

Summary

In summary, Friends of the Earth and our members and activists support establishing a No Discharge Zone for the marine waters of Washington State inward from the line between the 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. Now is the time to add this protection for Puget Sound.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Marcie Keever
Oceans & Vessels Program Director
Friends of the Earth

Figure 1. South Puget Sound and Puget Sound-wide pumpout facilities through <https://pumpoutwashington.org/>, accessed November 30, 2017.