

Dated: July 28, 1999.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6412-9]

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

Notice is hereby given that a final determination has been made by 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), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the Navesink River, County of Monmouth, State of New Jersey. A Notice of Receipt of Petition and Tentative Determination was published in the **Federal Register** on May 12, 1999 and public comments regarding the tentative determination were accepted through June 12, 1999.

Comments were received from two parties, both objecting to the establishment of the Navesink River No Discharge Area. One individual, who has a boat berthed on the Navesink River, stated that due to his vessel's six-foot draft the available pumpouts are inaccessible to him. He also raised general concerns about maintenance and operability of pumpouts and excessive fees for pumpout use. In response, the application description of depth restrictions to the pumpouts are based on mean low water depth. Two of the available pumpouts have a depth of six-feet at mean low water, so that vessels with a six-foot draft would find pumpouts inaccessible for relatively short periods of time before and after low tide. During high tides, many of the marina operators have indicated that larger vessels will be able to access the pumpouts. Further, the application documents that the fees charged for pumpout on the Navesink River are reasonable. The regulations, 40 CFR 140.4, regarding the prohibition of the discharge from all vessels of any sewage states that the determination will be based on "whether adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels using such waters are reasonably available". Based upon the application submitted by the State of New Jersey,

adequate facilities do exist in the no discharge area. Additionally, Monmouth County (in conjunction with the Navesink municipalities) is in the process of purchasing a pumpout boat for use in the Navesink River. The boat should be in operation by May 2000.

Another commenter stated that the calculations and estimates used to determine an adequate number of pumpouts to service the vessel population underestimated the number of pumpouts needed. This commenter indicated that the formula in an EPA guidance document estimates that in New Jersey 6% of the vessels greater than twenty-six feet in length are equipped with holding tanks. However, in the application submitted, the State estimated that 50% of the vessels greater than twenty-six feet were equipped with holding tanks. Based on these numbers and using the calculations as a guideline, four pumpouts available in this area are adequate based on the vessel population. Even if it were assumed that 100% of the vessels greater than twenty-six feet were equipped with holding tanks, the existing number of pumpouts would be sufficient.

Another comment concerned the lack of dump stations for disposal of waste from portable toilets. In response, EPA notes that the pumpouts which received Clean Vessel Act grant monies came equipped with wand systems. The wands permit the portable toilets to be pumped out in a safe and sanitary manner.

An additional comment cited a general provision of the Clean Water Act (CWA) which reads, "* * * it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans." The commenter claims the Agency is going against the intent of the CWA by eliminating a person's ability to use marine sanitation devices. The goal of the CWA which was cited actually envisions that eventually, through research, the discharge of any pollutants to waters of the U.S., in any quantities, would be eliminated. The Agency does not agree that this affirmative decision violates any provisions of nor the intent of the CWA.

This petition was made by the New Jersey Department of Environmental Protection (NJDEP) on April 3, 1998 in cooperation with the Navesink Regional Environmental Council. Members of the Council include the Borough of Fair Haven, the Township of Middletown, the Borough of Red Bank, the Borough

of Rumson, the Borough of Tinton Falls, the Township of Holmdel, the Township of Colts Neck, the Township of Freehold and the Township of Marlboro. The Council worked in conjunction with Clean Ocean Action, Marine Development USA, Inc.; Marine Trade Association of New Jersey, Monmouth County Health Department, Monmouth County Planning Board, New Jersey Marine Sciences Consortium, New Jersey Sea Grant Advisory Service, New Jersey State Police Marine Division, U.S. Coast Guard Auxiliary and the U.S. Coast Guard. Upon receipt of an affirmative determination in response to this petition, NJDEP would completely prohibit the discharge of sewage, whether treated or not, from any vessel in Navesink River in accordance with section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

The Navesink River, located in central New Jersey, is part of the Hudson-Raritan Bay Estuary and drains approximately 95 square miles of urban/suburban residential development and agricultural lands. The Navesink River runs easterly from Red Bank, New Jersey and then joins the Shrewsbury River and empties into Sandy Hook Bay. The tidal waters of the Navesink River extend from the Shrewsbury River, near Sea Bright, upstream to the Swimming River Reservoir dam. The Navesink River has been identified as a waterbody of national significance and is part of the New York-New Jersey Harbor Estuary Program. The No Discharge Area (NDA) will include all tidal waters of the Navesink River which extend from the Shrewsbury River, near Sea Bright, upstream to the Swimming River Reservoir dam. The eastern boundary of the NDA is a line from Lat./Long. 73° 58' 45", 40° 22' 40" to Lat./Long. 73° 58' 58", 40° 23' 04". The western boundary of the NDA is at Lat./Long. 74° 06' 48", 40° 19' 12".

Information submitted by the State of New Jersey and the Navesink Regional Environmental Planning Council states that there are five existing pumpout facilities available to service vessels which use the Navesink River. Sea Land Marina, located at 261 West Front Street, Red Bank, operates a portable pumpout. The pumpout is available from 7 a.m. to 5 p.m. beginning April 15 until October 15 and is operated by the marina staff. A \$5.00 fee is charged for the use of the pumpout. Irwin's Boat Works, located at 1 Marine Park, Red Bank, operates a stationary pumpout. The pumpout is available from 8 a.m. to 5 p.m. beginning May until October 31 and is operated by the marina staff. A fee of \$5.00 is charged for the use of the

pumpout. Red Bank Municipal Basin, located at Marine Park, Red Bank, operates a stationery pumpout. The pumpout is available 24 hours a day year round and is self-operated. No fee is charged for use of the pumpout. Fair Haven Yacht Works, located at 75 DeNormandie Avenue, Fair Haven, operates a portable pumpout. The pumpout is available from 8:00 a.m. to 5:00 p.m. and is operated by the marina staff. A \$5.00 fee is charged for the use of the pumpout. Molly Pitcher Inn and Marina, located at 88 Riverside Avenue, Red Bank, operates a stationary pumpout. The pumpout is available upon request for customers of the marina. One facility, Sea Land Marina, located in Red Bank has a restriction which would exclude boats greater than 26 feet in length. This restriction impacts approximately 18% of the vessel fleet and there are three facilities available for their needs.

Vessel waste generated from the pumpout facilities within the NDA is discharged into municipal sewer lines and is conveyed to the Northeast Monmouth Regional Sewage Authority (NJPDES Permit No. NJ0024520) at 1 Highland Avenue in Monmouth Beach for treatment.

According to the State's petition, the maximum daily vessel population for the waters of Navesink River is approximately 1122 vessels. This estimate is based on (1) vessels docked at marinas and yacht clubs (866 vessels), (2) vessels docked at non-marina facilities (227 vessels) and (3) transient vessels (29 vessels). The vessel population based on length is 915 vessels less than 26 feet in length, 193 vessels between 26 feet and 40 feet in length and 14 vessels greater than 40 feet in length. Based on number and size of boats, and using various methods to estimate the number of holding tanks, it is estimated that one pumpout is needed for the Navesink River. As previously stated, five pumpout facilities are currently available to service the boating population. Additionally, four marinas have applied for pumpout grants to install a total of five new pumpouts.

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 Navesink River in the county of Monmouth, New Jersey. For further information contact Jim Olander at (212) 637-3833.

Dated: July 26, 1999.

Jeanne M. Fox,

Regional Administrator, Region II.

[FR Doc. 99-20041 Filed 8-3-99; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice Concerning Issuance of Powers of Attorney

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Public notice.

SUMMARY: In order to facilitate the discharge of its responsibilities as a conservator and liquidator of insured depository institutions, the Federal Deposit Insurance Corporation (FDIC) publishes the following notice. The publication of this notice is intended to comply with Title 16, section 20 of the Oklahoma Statutes (16 O.S. 20) which, in part, declares Federal agencies that publish notices in the **Federal Register** concerning their promulgation of powers of attorney, to be exempt from the statutory requirement of having to record such powers of attorney in every county in which the agencies wish to effect the conveyance or release of interests in land.

Notice

Pursuant to section 11 of the Federal Deposit Insurance (FDI) Act (12 U.S.C. 1821), as amended by section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the FDIC is empowered to act as conservator or receiver of any state or federally chartered depository institution which it insures. Furthermore, under section 11A of the FDI Act (12 U.S.C. 1821a), as enacted under section 215 of FIRREA, the FDIC is also appointed to manage the FSLIC Resolution Fund.

Upon appointment as a conservator or receiver, the FDIC by operation of law becomes successor in title to the assets of the depository institutions on behalf of which it is appointed. As Manager of the FSLIC Resolution Fund, the FDIC became successor in title to both the corporate assets formerly owned by the now defunct Federal Savings and Loan Insurance Corporation (FSLIC), as well as to the assets of the depository institutions for which the FSLIC was appointed receiver prior to January 1, 1989. In addition, pursuant to section 13(c) of the FDI Act (12 U.S.C. 1823(c)), the FDIC also acquires legal title in its corporate capacity to assets acquired in furtherance of providing monetary

assistance to prevent the closing of insured depository institutions or to expedite the acquisition by assuming depository institutions of assets and liabilities from closed depository institutions of which the FDIC is receiver.

In order to facilitate the conservation and liquidation of assets held by the FDIC in its aforementioned capacities, the FDIC has provided powers of attorney to selected employees of its Dallas Field Operations Branch. These employees include: Priscilla Catapat, Charles W. Joyce and Karen Powell.

Each employee to whom a power of attorney has been issued is authorized and empowered to: sign, seal and deliver as the act and deed of the FDIC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery of any and all monies and properties of every kind and nature whatsoever for and on behalf of the FDIC and to give proper receipts and acquittances therefore in the name and on behalf of the FDIC; release, discharge or assign any and all judgments, mortgages on real estate or personal property (including the release and discharge of the same of record in the office of any Prothonotary or Register of Deeds wherever located where payments on account of the same in redemption or otherwise may have been made by the debtor(s)), and to endorse receipt of such payment upon the records in any appropriate public office; receipt, collect and give all proper acquittances for any other sums of money owing to the FDIC for any acquired asset which the attorney-in-fact may sell or dispose of; execute any and all transfers and assignments as may be necessary to assign any securities or other choses in action; sign, seal, acknowledge and deliver any and all agreements as shall be deemed necessary or proper by the attorney-in-fact in the care and management of acquired assets; sign, seal, acknowledge and deliver indemnity agreements and surety bonds in the name of and on behalf of the FDIC; sign receipts for the payment of all rents and profits due or to become due on acquired assets; execute, acknowledge and deliver deeds or real property in the name of the FDIC; extend, postpone, release and satisfy or take such other action regarding any mortgage lien held in the name of the FDIC; execute, acknowledge and deliver in the name of the FDIC a power of attorney wherever necessary or required by law to any attorney employed by the FDIC; foreclose any mortgage or other lien on either real or personal property, wherever located; do and perform every act necessary for the use, liquidation or