

addition, as stated in the draft guidance, the EPA is also currently drafting a proposed rulemaking on specific elements of the draft guidance concerning the elements necessary for the section 110(a)(1) maintenance plan submittal. Since these two documents are linked in terms of issues involved, the EPA will be taking into consideration the comments that will be received on the draft guidance in making decisions concerning each document.

The draft of the guidance document is available online at <http://www.epa.gov/airquality/sulfurdioxide/implement.html> or within the associated docket, EPA-HQ-OAR-2010-1059.

Dated: October 25, 2011.

**Mary Henigin,**  
Acting Director, Office of Air Quality Planning and Standards.

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#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-9484-1]

#### Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

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

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held November 16 and 17 at 2660 Woodley Road NW., Washington, DC 20008. The CHPAC advises the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

**DATES:** The CHPAC will meet from 9 a.m. to 5:30 p.m. on November 16 and from 8:30 a.m. to Noon on November 17, 2011.

**ADDRESSES:** 2660 Woodley Road NW., Washington, DC 20001.

#### FOR FURTHER INFORMATION CONTACT:

Martha Berger, Office of Children's Health Protection, USEPA, MC 1107T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 564-2191, [berger.martha@epa.gov](mailto:berger.martha@epa.gov).

**SUPPLEMENTARY INFORMATION:** The meetings of the CHPAC are open to the public. Preliminary agenda includes finalization of two letters of advice to the Administrator, update on school guidance documents, presentation and

discussion on the use of electronic medical records for asthma screening, presentation and discussion on the IOM Sustainability Report and a panel on natural gas extraction. The final agenda will be posted at <http://www.epa.gov/children>.

**Access:** For information on access or services for individuals with disabilities, please contact Martha Berger at (202) 564-2191 or [berger.martha@epa.gov](mailto:berger.martha@epa.gov).

Dated: October 7, 2011.

**Martha Berger,**  
Designated Federal Official.

[FR Doc. 2011-27984 Filed 10-27-11; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-9484-7]

#### New York State Prohibition of Discharges of Vessel Sewage; Final Affirmative Determination

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

**ACTION:** Notice of determination.

**SUMMARY:** Notice is hereby given that, pursuant to Clean Water Act Section 312(f)(3) (33 U.S.C. 1322(f)(3)), the State of New York has determined that the protection and enhancement of the quality of Jamaica Bay (the Bay) in the New York City metropolitan area requires greater environmental protection, and has 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.

The New York State Department of Conservation (NYSDEC) on behalf of the New York City Department of Environmental Protection (NYCDEP) has proposed to establish a Vessel Waste No Discharge Zone (NDZ) for the Bay that covers an area of approximately 20,000 acres (17,177 acres of open water and 2,695 acres of upland islands and salt marshes). It is bounded on the west and northwest by Brooklyn, and on the north and northeast by Queens. The northeastern and southeastern corners of the Bay are bordered by Nassau County. The northern shore of the Rockaway Peninsula, a part of Queens, forms the southern boundary. The Bay is connected to the Atlantic Ocean

through the Rockaway Inlet and has a tidal range of approximately 5 to 6 feet. The NYSDEC certified the need for greater protection of the water quality. 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 Bay.

EPA published a tentative affirmative determination on August 3, 2011 in the **Federal Register**. Public comments were solicited for 30 days and the comment period ended on September 2, 2011. EPA received a total of twenty (25) comments via letter and email. The comment tally was twenty-three (23) in favor of, and two (2) questioning or opposing, the No Discharge Zone designation. All the relevant comments received have been considered in the final affirmative determination. This **Federal Register** document will address all comments submitted in response to the August 3, 2011 (Volume 76 Issue 149) **Federal Register** document.

#### Response to Comments

**1. Comment:** Twenty-three commenters including boaters, paddlers, kayakers, non-governmental organizations, and community advocates expressed strong support for EPA's action to establish a vessel waste no discharge zone for the Bay. Some commenters pointed out that this action will reduce pathogens and chemicals, improve water quality and further protect and restore the Bay.

**EPA Response:** EPA is in full agreement that designating the Bay is an important step to further protect this valuable natural resource, water quality, wetlands and habitats throughout the entire Bay area.

**2. Comment:** One commenter stated that discharges from several small tugs with the required Marine Sanitation Devices (MSDs) are a relatively small source of pollution compared to the pollution caused by 1,200 to 1,500 of recreational vessels that utilized the Bay.

**EPA Response:** These comments go beyond the scope of EPA's authority in this action. Because EPA's authority here is limited to determining whether adequate pumpout facilities exist, it cannot base its determination on whether commercial vessel sewage is comparable in quantity or impact to other sources of pollution, or whether banning such discharges is otherwise unfair to commercial boaters. However, it is noted that the sewage discharged from MSDs is treated with chlorine, quaternary ammonia and formaldehyde, which can all pose threats to the marine environment, especially if present in

substantial, concentrated amounts. EPA agrees with the NYSDEC, which certifies that the protection and enhancement of the waters of the Bay require greater environmental protection than the applicable federal regulations. Moreover, as noted above, the prohibition of sewage discharges pursuant to Clean Water Act Section 312(f)(3) applies to all vessels.

**3. Comment:** One commenter stated that the pumpout facilities that serve recreational vessels may not be reasonably available to commercial towboats and barges that service two oil terminals and two sand and gravel handling facilities located near Inwood at the head of the Bay, because some of those commercial vessels are too large to dock where the recreational vessel pumpout facilities are located. The commenter also stated that the type II flow-through MSD systems installed on the majority of their tugs have no storage capacity to retain effluent onboard.

**EPA Response:** EPA and NYCDEP gathered additional information about the location and accessibility of pumpout trucks in relation to commercial vessels that service the oil terminal and sand and gravel facilities. Pumpout trucks are readily available for hire and are able to reach commercial vessels on commercial docks at the head of the Bay. Therefore, commercial vessel operators can make arrangements to hire pumpout trucks and have their vessels pumped out at the accessible commercial docks. Alternatively, the tugs and barges could discharge sewage while at their home port(s). In order to achieve the storage capacity needed to hold sewage on board, a Type II MSD can be converted to a Type III MSD, commonly called a holding tank, which can be equipped with the valve, usually called a Y-valve, needed to discharge to a pumpout truck.

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

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the State of New York (NYS or State) has petitioned the United States Environmental Protection Agency, Region 2, (EPA) pursuant to section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and

Public Law 100–4, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the open waters and tributaries of the Bay, so that the State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters. Adequate pumpout facilities are defined as one pumpout station for 300–600 boats under the Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines (**Federal Register**, Vol. 59, No. 47, March 10, 1994).

The Bay is the largest estuarine water body in the New York City metropolitan area and one of the largest coastal wetland ecosystems in New York State. The open waters and tributaries within the Bay provide important natural and recreational resources for boating and recreational activities that contribute significantly to the local and regional economy. In 2005, the Jamaica Bay Watershed Protection Plan (JBWPP) was put into motion by the City Council of New York City under Local Law 71 (LL 71). The objective of LL 71 is to ensure a holistic watershed approach toward restoring and maintaining the water quality and ecological integrity of the Bay. The JBWPP recommends management actions for protecting and improving the health of the Bay, e.g., adoption of appropriate regulations to mitigate the impacts of boat vessel waste discharges.

The Bay is a component of the National Park Service's (NPS) Gateway National Recreation Area (GNRA). A significant portion of the Bay, approximately 9,100 acres, has also been designated by the NPS as the Jamaica Bay Wildlife Refuge and is designated by the New York State Department of State (NYSDOS) as a Significant Coastal Fish and Wildlife Habitat. The diversity of bird species and breeding habitats within the Bay were important factors in these designations. The Jamaica Bay Wildlife Refuge was also the first site to be designated by the National Audubon Society as an "Important Bird Area." It is clear that the Bay is currently functioning as a regional habitat for many different species of wildlife. In combination with other water quality improvement initiatives, the NDZ

designation will further enhance the recreational and ecological benefits of the Bay, potentially attracting more visitors to the Bay.

In order for EPA to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the New York State areas of the Bay, the State must demonstrate that the pumpout-to-vessel ratio does not exceed 1:600.

In its petition, the State described the recreational vessels that use the Bay, and the pumpout facilities that are available for their use. Based on a review of NYS Department of Motor Vehicle boat registrations, site visits to marinas and reviewing high resolution orthoimagery of the Bay, NYCDEP has determined that there are approximately 1,200 to 1,500 boats that utilize the Bay throughout the boating season. This number may include a significant number of transient vessels and not only boats that are permanently moored in the Bay.

The Bay is primarily used for recreational boating with very little commercial traffic. The few commercial vessels that do enter the Bay are primarily sightseeing and fishing vessels which, pursuant to New York City regulations, must use private boat pumpout services to unload sewage within the Bay. Therefore, the boat pumpouts provided by NYCDEP within the Bay are utilized for recreational vessels only.

There are four vessel pumpout facilities available in the Bay. Three of those are land-based pumpout facilities operated by NYCDEP, and the fourth is a 24-foot sewage pumpout vessel operated by New York/New Jersey Baykeeper, that serves vessels docked or anchored throughout the Bay. All four facilities provide the pumpout services free of charge. Given that approximately 1,500 recreational vessels use the Bay, the pumpout-to-vessel ratio for those vessels is 1:375 (i.e., 4 facilities for 1,500 boats). Therefore, the pumpout facilities in the Bay satisfy the Clean Vessel Act criterion of 1 pumpout per 300–600 vessels.

A list of the facilities, phone numbers, locations, hours of operation, water depth and fee is provided as follows:

#### LIST OF PUMPOUTS IN THE BAY NDZ PROPOSED AREA AVAILABLE FOR RECREATIONAL VESSELS

Number	Name	Location	Contact information	Dates/days/hours of operation	Water depth (feet)	Cost
1 .....	Hudson River Yacht Club	Paerdegat Basin .....	718-251-9791; Channel 71.	May 1–Oct 31; daily, 10 a.m.–5 p.m.	10–14	Free.

## LIST OF PUMPOUTS IN THE BAY NDZ PROPOSED AREA AVAILABLE FOR RECREATIONAL VESSELS—Continued

Num- ber	Name	Location	Contact information	Dates/days/hours of operation	Water depth (feet)	Cost
2 .....	Coney Island WWTP .....	Shellbank Creek .....	718-743-0990; Channel 13.	May 1–Oct 31; 24 hrs .....	8–10	Free.
3 .....	Rockaway WWTP .....	Jamaica Bay .....	718-474-3663; Channel 68.	May 1–Oct 31; 24 hrs .....	10–14	Free.
4 .....	NY/NJ Baykeeper's 24 foot sewage-pumpout vessel.	Jamaica Bay .....	732-337-9262; Channel 9.	Memorial Day to Labor Day; Sunrise to sunset.	N/A	Free.

Based on the above, EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are available for the open waters and tributaries of the Bay of the New York City metropolitan area.

Dated: September 30, 2011.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2011-27990 Filed 10-27-11; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare and Medicaid Services

[CMS-2901-PN]

### Medicare and Medicaid Programs; The American Association for Accreditation of Ambulatory Surgery Facilities for Approval of Deeming Authority for Rural Health Clinics

**AGENCY:** Centers for Medicare and Medicaid Services, HHS.

**ACTION:** Proposed notice.

**SUMMARY:** This proposed notice with comment period acknowledges the receipt of a deeming application from the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF) for recognition as a national accrediting organization for rural health clinics (RHCs) that wish to participate in the Medicare or Medicaid programs. The statute requires that within 60 days of receipt of an organization's complete application, we publish a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on November 28, 2011.

**ADDRESSES:** In commenting, please refer to file code CMS-2901-PN. Because of

staff and resource limitations, we cannot accept comments by facsimile (Fax) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on this notice to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address *only*: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2901-PN, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address *only*: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2901-PN, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments *only* to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-(800) 743-3951.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** L. Tyler Whitaker, (410) 786-5236. Patricia Chmielewski, (410) 786-6899.

**SUPPLEMENTARY INFORMATION:** *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-(800) 743-3951.

### I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a rural health clinic (RHC) provided certain requirements are met. Sections 1861(aa) of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as RHCs. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification