



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-9925-75-Region 2]**

**New York State Prohibition of Discharges of Vessel Sewage; Proposed Determination**

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

**ACTION:** Notice of proposed determination.

**SUMMARY:** By petition dated May 19, 2014 and submitted pursuant to 33 CFR 1322(f)(3) and 40 CFR 140.4(a), the State of New York certified that the protection and enhancement of the waters of Seneca Lake, Cayuga Lake, the Seneca River and tributaries thereto requires greater environmental protection than the applicable Federal standards provide and petitioned the 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. Upon consideration of the petition, EPA proposes to make the requested determination and hereby invites the public to comment on the proposed determination.

**DATES:** Comments relevant to this proposed determination are due by [insert date 30 days from the date of publication in the **Federal Register**].

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [chang.moses@epa.gov](mailto:chang.moses@epa.gov). Include “Comments on Proposed Determination on Seneca Lake/Cayuga Lake NDZ Petition” in the subject line of the message.
- Mail and Hand Delivery / Courier: Moses Chang, U.S. EPA Region 2, 290 Broadway, 24th Floor, New York, NY 10007-1866. Deliveries are only accepted during the Regional Office’s normal hours of operation (8 a.m. to 5 p.m., Monday through Friday, excluding federal holidays), and special arrangements should be made for deliveries of boxed information.

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

**SUPPLEMENTARY INFORMATION:**

Petition: To receive a copy of the petition, please contact Moses Chang at (212) 637-3867 or e-mail at [chang.moses@epa.gov](mailto:chang.moses@epa.gov).

**The Proposed No Discharge Zone**

New York proposes to establish a vessel waste No Discharge Zone (NDZ) covering the approximately 150 square miles of connected waters and tributaries of Seneca Lake, Cayuga Lake and the Seneca River.

**Certification of Need**

New York’s petition contains a certification by the Commissioner of the New York State Department of Environmental Conservation (NYSDEC) that the protection and enhancement of Seneca Lake, Cayuga Lake, the Seneca River and the navigable tributaries thereto, requires greater environmental protection than the applicable Federal standards provide. The certification states that Cayuga Lake and Seneca Lake are water bodies of unique ecological, economic and

public health significance, as well as drinking water sources. Pathogens and chemicals contained in the currently-lawful effluent from discharging marine sanitation devices (MSDs) threaten public health and the environment and contravene the State's ongoing efforts to control point and non-point source pollution from municipal discharges, combined sewer overflows and stormwater runoff. A NDZ designation covering the waters of each lake represents one component of a comprehensive approach to water quality management. Protecting Cayuga Lake and Seneca Lake warrants this greater level of environmental protection in order to maintain excellent water quality, prevent future degradation and speed the recovery of impaired segments. Seneca Lake is the largest and deepest of all the Finger Lakes at 4.2 trillion gallons in volume and 291 feet in average depth. The maximum depth of the lake is 618 feet. The Seneca Lake Watershed comprises 14% of the greater Oswego River Watershed. While the water quality of the lake is generally good, the lake is on the NYSDEC Priority Waterbody List (PWL) as a *Water with Minor Impacts*. This means that the current uses of the lake are fully supported but some negative water quality impacts have been observed and action must be taken to ensure that the water will continue to support its uses in the future. Pollutants that negatively impact the lake include pathogens and oxygen demand from the Watkins Glen wastewater treatment plant and general lakeside activities as well as sediment from eroding stream banks and steep slopes surrounding the lake. As part of its broader efforts to protect and enhance the water quality of Seneca Lake, New York seeks to eliminate the discharge of pathogens and chemicals from all vessels using the lake.

Cayuga Lake has a maximum depth of 435 feet and a volume of about 2.5 trillion gallons. The Cayuga Lake Watershed comprises 15% of the greater Oswego River Watershed. While the

water quality of Cayuga Lake is generally good, the northern to mid-south portions of the lake are on the NYSDEC Priority Waterbody List (PWL) as *Threatened Segments* because of the lake's significant value as a drinking water resource. As part of its broader effort to preserve and enhance water quality to maintain the lake's use as drinking waters with minimal required treatment, New York seeks to eliminate the discharge of pathogens and chemicals from all vessels using the lake.

### **Adequacy of Sewage Removal and Treatment Facilities**

In determining whether adequate facilities exist for the safe and sanitary removal and treatment of sewage from all vessels using a water body, EPA relies on the "Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines," (59 FR 11290, March 10, 1994) published by the Department of the Interior (DOI), which provides that at least one pumpout station should be provided for every 300 to 600 boats over 16 feet in length. The guidance also provides that approximately 20% of boats between 16 and 26 feet, 50% of boats between 26 and 40 feet and all vessels over 40 feet in length can be assumed to have an installed toilet with some type of MSD. Vessels below 16 feet in length are generally presumed not to have an MSD onboard.

### **Estimated Vessel Population**

In support of its petition, New York provided information on the vessel population in the proposed NDZ. The population of recreational vessels using Seneca Lake, Cayuga Lake and the Seneca River was estimated based on the New York State Office of Parks, Recreation and Historic Preservation's 2012 Boating Report (OPRHP Report) for the counties of Cayuga, Ontario, Schuyler, Seneca, Stueben, Tompkins and Yates, which surround the lakes. While it is very unlikely that every single vessel registered in these counties will operate in the proposed

NDZ simultaneously, the state took a conservative approach and considered all boats registered in these counties as part of the overall recreational vessel population of the proposed NDZ.

According to the OPRHP Report, in the seven counties surrounding the proposed NDZ, there are 16,740 registered boats between 16 and 25 feet long, 1161 boats between 26 and 40 feet long and 71 boats over 40 feet long. Applying the percentages in the DOI guidance yields an estimate of 3,967 recreational vessels with MSDs that operate in the proposed NDZ.

The population of commercial vessels using Seneca Lake, Cayuga Lake and the Seneca River was estimated based on information provided by the Genesee Finger Lakes Regional Planning Board and the Finger Lakes Institute as well as information obtained from the internet.

According to these sources, the majority of commercial vessels operating in the proposed NDZ are chartered fishing boats. There are at least 18 charter services that operate primarily in Seneca Lake and Cayuga Lake, as well as 11 cruise companies. These companies own anywhere from one to three vessels. A conservative assumption of 40 companies (18 charter companies + 11 cruise companies + 11 unlisted business) with 3 vessels each yields a total of 120 commercial vessels that operate in the proposed NDZ. As an additional conservative assumption, all 120 commercial vessels are assumed to have MSDs. Therefore, there are approximately 4,090 vessels with MSDs operating in the proposed NDZ.

### **Available Pumpout Facilities**

In further support of its petition, New York provided information on the number of pumpout facilities available to the recreational and commercial vessels in the proposed NDZ. The federal Clean Vessel Act of 1992 made grants available to states for construction, replacement and renovation of recreational vessel pumpouts. New York applied for the first federal grant in 1994

and initiated a statewide program known as the Clean Vessel Assistance Program (CVAP), managed and administered by New York State Environmental Facilities Corporation (EFC) that has helped establish and support 17 pumpout facilities serving Seneca Lake and Cayuga Lake, of which two are pumpout boats and 15 are dockside pumpouts. EPA independently updated and verified these pumpout information and concluded that two pumpout boats are out of operation and only 14 dockside pumpouts are operational. An additional 3 pumpout facilities are available to the public but are not funded through CVAP. All these current 17 pumpout (14 CVAP + 3 non-CVAP pumpouts = 17 pumpouts) facilities either discharge to a holding tank, to a municipal wastewater treatment plant or to an on-site septic system.

While some commercial shipping vessels are so large as to require special docking accommodations or mobile pumpouts to access pumpout services, the commercial vessels that operate in the proposed NDZ are all small enough to use the same pumpouts that the recreational vessels use. Therefore, the total number of pumpout facilities available for use by the vessels that operate in the proposed NDZ is 17. A list of pumpout facilities, phone numbers, locations, hours of operation, water depth and fees is provided below:

**Pumpout Facilities**

<b>#</b>	<b>Name</b>	<b>Location Lat./Long.</b>	<b>Contact Information</b>	<b>*Days and Hours of Operation</b>	<b>Water Depth (feet)</b>	<b>Fee</b>
1	<b>Cayuga-Seneca – Lock CS1-4</b>	<b>Seneca Lake State Park</b> 42.870575/	315-789-2331	April 1 – September 30	6’	\$2.00

		-76.939667		24 hours		
2	<b>Cayuga Lake</b>	<b>Allan H Treman. State Marine Park</b>  42.458467/  -76.513033	607-273-3440	May 1 – October 15  24 hours	7'	\$2.00
3	<b>Cayuga Lake</b>	<b>Frontenac Harbor</b>  42.839778/- 76.695769	315-889-5532	April 1 – October 15  9:00 a.m. – 4:30 p.m.	4'	\$5.00
4	<b>Seneca Lake</b>	<b>Barret Marine, Inc. – Stationary</b>  42.874176/- 76.935906	315-789-9513	Year round  8:00 a.m. – 7:00 p.m.	5'	\$0.00
5	<b>Seneca Lake</b>	<b>Village Marina</b>  42.384630/- 76.87871697	607-535-7910	June – October  11:00 a.m. – 6:00 p.m.	5'	\$5.00
6	<b>Seneca Lake</b>	<b>Stivers (GPJ) Seneca Marine, Inc.</b>  42.868925/- 76.939064	315-789-5520	May 1 – Labor Day  8:00 a.m. - 8:00 p.m.  8:00 p.m.	6'	\$5.00

7	<b>Cayuga Lake</b>	<b>Johnson Boat Yard (dba) – Pierce Cleveland, Inc.</b>  42.452369/- 76.510231	607-272-5191	April 1 – November 1  9:00 a.m. – 5:00 p.m.	6’	\$0.00
8	<b>Seneca Lake</b>	<b>Montour Falls-V Municipal Marina</b>  42.354167/- 76.853333	607-210-4124	May 2 – October 15  7:00 a.m. – 7:00 p.m.	4.5’	\$5.00
9	<b>Cayuga Seneca – Lock CS1-4</b>	<b>Oak Island Marine Facility</b>  42.900983/- 76.866894	315-539-9131	April 1 – October 1  24 hours	8’	\$0.00
10	<b>Cayuga Lake</b>	<b>Hibiscus Harbor</b>  42.856781/- 76.706081	315-889-5086	April 1 – November 1  24 hours	12’	\$5.00
11	<b>Seneca Lake</b>	<b>Frog Hollow Marina</b>  42.370636/- 76.859106	607-535-2671	April 15 – November 15  9:00 a.m. – 5:00 p.m.	5’	\$5.00

12	<b>Seneca Lake</b>	<b>Seneca Falls-V</b> 42.909675/- 76.795868	315-568-2316	May 1 – November 1  24 hours	20'	\$2.00
13	<b>Cayuga-Seneca – Lock CS1-4</b>	<b>Waterloo Harbor</b> 42.540172/- 76.524237	315-539-8848	May 1 – September 30  24 hours	10'	\$5.00
14	<b>Seneca Lake</b>	<b>Glen Harbor Marina</b> 42.383099/- 76.861575	607-535-2751	April 15 - October 15  10:00 a.m. - 5:00 p.m.	6'	\$0.00
15	<b>Cayuga Lake</b>	<b>Eagles Landing Marina</b> 42.072211/- 76.548915	315-834-6829	April 15 – October 15	Unknown	\$0.00
16	<b>Cayuga Lake</b>	<b>Taughannock Falls State Park</b> 42.547636/- 76.595714	607-387-6739	March 1 - October 15	6'	\$0.00
17	<b>Seneca Lake</b>	<b>Sampson State Park Marina</b> 42.4247/-76.9119	315-585-6392	April 15 - October 20	Unknown	\$0.00

**\*Please note that the actual days of operation depend on the weather.**

### **Ratio of Pumpouts Facilities to Vessels Operating in the Proposed NDZ**

<b>Total Boat Registrations</b>	<b>Total Pumpout Facilities</b>	<b>Boat : Pumpout Ratio</b>
4,090	17	241:1

Based on a total vessel population of 4,090 and 17 currently available pumpout facilities, the ratio of boats to pumpouts is 241:1, which means there are significantly more pumpouts than the recommended range of 300-600:1. Also, the pumpouts are evenly distributed between the lakes (7 in Cayuga Lake and 10 in Seneca Lake). Therefore, EPA proposes to issue a determination that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage for all vessels are reasonably available for the waters of Seneca Lake, Cayuga Lake and the Seneca River.

A 30-day period for public comment has been opened on this matter and EPA invites any comments relevant to its proposed determination. If, after the public comment period ends, 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 waters of Seneca Lake, Cayuga Lake and the Seneca River, the State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters.

Judith A. Enck,

Regional Administrator, Region 2.

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