

October 29, 2013

MEMORANDUM

TO: Craig MacDonald
SBNMS Superintendent

FROM: Alice Stratton
Ecologist

SUBJECT: Considerations for Designation of a No Discharge Area in Stellwagen Bank National Marine Sanctuary (SBNMS)

At the SBNMS Sanctuary Advisory Council (SAC) Meeting on June 12, 2013, the SAC requested that the SBNMS Superintendent prepare a background paper to consider the possibility of creating a No Discharge Area within SBNMS. The purpose of this memorandum is to provide that background by evaluating information gained during the early working group processes (2004) leading to development of the Final SBNMS Management Plan and Environmental Assessment (June 2010) and relevant regulatory and policy changes since then (i.e., 2004).

SBNMS Management Plan:

During development of the SBNMS Management Plan, the SBNMS Water Quality Working Group (Action Plan Part B, September 2004) looked at the appropriateness of vessel waste water discharge inside the Sanctuary. Questions included whether increasing numbers of whalewatch and cruise ships might lead to increased threats to water quality, and whether it might be possible to prevent additional types of discharges within sanctuary waters.

* The SBNMS Water Quality Working Group Action Plan stated that in 2004, the Port of Boston reported over 208,000 cruise ship passengers and 94 ship calls.

-- Over the past decade, there has been a steady increase in these numbers: in 2012 there were 117 cruise ship calls in Boston, with an estimated 374,304 passengers.¹ This represents a significant increase in the potential risk of pollution and increased load of treated wastewater being discharged into or near sanctuary waters.

* The SBNMS Water Quality Working Group considered possibility of developing regulations related to discharges from cruise ships, but deferred any action in anticipation of recommendations from a then newly developed National Marine Sanctuary Program (NMSP) Work Group looking at the same issues system-wide.

-- After considering several options for regulating discharges from cruise ships in sanctuary waters system-wide, ONMS determined that it would be best to pursue regulations on a site-by-site basis. The resources at risk, the visitation rates and need for conservation measures vary widely among sanctuaries, and ONMS decided that individual site needs could best be met through local regulations.

-- In March 2009, new prohibitions on discharges from cruise ships were finalized for Monterey Bay, Cordell Bank and Gulf of the Farallones National Marine Sanctuaries; these regulations

¹ <http://www.massport.com/port-of-boston/about-port-of-boston/port-statistics/>

prohibit the discharge of anything other than clean engine or generator cooling water, clean bilge water and anchor wash.

-- In December 2010, the Florida Keys National Marine Sanctuary (FKNMS) prohibited discharge of any treated or untreated sewage from any type of vessel throughout the entire Sanctuary. In addition, FKNMS regulations prohibit the discharge of any matter except cooling water and engine exhaust in their Ecological Reserves and Sanctuary Preservation Areas.

-- In November 2011, Olympic Coast National Marine Sanctuary published cruise ship discharge regulations with similar prohibitions, with the addition of no engine exhaust.

No Discharge Zones

The majority of Massachusetts coastal waters have been designated as No Discharge Zones (NDZ). NDZ's are designated upon request from a state and concurrence by EPA that the identified state waters require additional protections and that is ecologically and recreationally important enough to merit protection above and beyond that provided by existing laws. Designation of NDZs requires that adequate pump-out facilities are locally available.

* Are adequate local pump-out facilities available in ports nearby SBNMS?

-- Due to the state NDZs, there are adequate pump-out facilities available for smaller recreational and commercial vessels in the communities surrounding SBNMS.

-- The MassPort Black Falcon Terminal has suitable pump-out capabilities for cruise ships. This pump-out is used regularly by a small number of cruise ships; it is tied into the municipal sewer system and the dock is large enough to be able to accommodate more than one vessel at a time.

* Could SBNMS be designated as an NDZ?

-- NDZs are designated either by a state coastal zone management program or by the EPA under the Clean Water Act Section 312. However, Section 312 does not apply outside the three-mile limit of US territorial waters, and therefore, an NDZ for SBNMS cannot be designated under CWA.

-- Under the National Marine Sanctuaries Act, Sanctuaries may prohibit certain types of discharges within their boundaries. Specifically, the first activities subject to regulation under the SBNMS Designation Document are:

a. Discharging or depositing, from within the boundary of the Sanctuary, any material or other matter.

b. Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter.

And further,

h. Operation of a vessel [sic] in the Sanctuary

Any of these provisions within the sanctuary designation document or a combination thereof, could be the basis for creation of regulations to establish a NDZ within SBNMS. This is the course of action that was taken by FKNMS and the West Coast sanctuaries in development of their no discharge prohibitions.