

comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to \$137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 24, 2000. All comments will be transferred to the Environmental Appeals Board ("EAB") of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

Dated: October 18, 2000.

David A. Nielsen,

*Director, Multimedia Enforcement Division,
Office of Enforcement and Compliance
Assurance.*

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6890-8]

New York State Prohibition on Marine Discharges of Vessel Sewage; Receipt of Petition and Tentative Determination

AGENCY: Environmental Protection
Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that a petition was received from the State of New York on April 29, 1999 requesting a determination 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 Hudson River and its tributaries including, but not limited to, Rondout Creek, Esopus Creek and Catskill Creek. The southern boundary of the proposed No Discharge Area (NDA) in this application would begin at the Battery in Manhattan, New York and the northern boundary would be the Federal Dam in Troy, New York. This area includes waters up to the New Jersey-New York boundary and does not

include waters in New Jersey. EPA is currently reviewing a petition submitted by the New Jersey Department of Environmental Protection requesting a No Discharge Area for the New Jersey waters of the Hudson River. The area proposed by the State of New York is 153 miles long and encompasses approximately 81,000 acres of tidal waters and wetlands.

Following EPA's review of the petition and discussions with EPA, the State revised the application on certain occasions, most recently on August 24, 2000.

Previously, EPA established on December 13, 1995 two NDAs to protect drinking water intake zones. Zone 1 is bounded by the northern confluence of the Mohawk River on the south and Lock 2 on the north. It is approximately 8 miles long. Zone 2 is bounded on the south by the Village of Roseton on the western shore and bounded on the north by the southern end of Houghtaling Island. Zone 2 is approximately 60 miles long.

This petition was made by the New York State Department of State, in conjunction with the New York State Department of Environmental Conservation. Upon receipt of a final affirmative determination in response to this petition, the State of New York would completely prohibit the discharge of sewage, whether treated or not, from any vessel on the Hudson River in the area north of the Battery in Manhattan, New York and south of Federal Dam in Troy, New York in accordance with section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

According to the State's petition, the vessel population for the waters of the Hudson River is approximately 7300 vessels. This number is based on analyses of aerial photographs taken before and during the Labor Day weekend. Each photo was identified by the embayment or reach and all boats were counted. Totals were tabulated by embayment. Surveys of the marinas operating on the Hudson River were also used when estimating the size of the fleet operating on the Hudson River. Information regarding commercial vessels indicates that many of the commercial operators have installed pumpout facilities at their docks to service their vessels. These operators include NY Waterway, Circle Line and World Yacht. Other operators make arrangements with local waste haulers to service their vessels while docked at facilities such as the Brooklyn Naval Yard. Marinas which are capable of providing pumpout service to commercial vessels are Liberty Landing Marina and Port Imperial Marina in

New Jersey. Liberty Landing Marina can accommodate essentially any size commercial vessel, while Port Imperial Marina has a draft restriction of 4 feet and a length restriction of 45 feet. In New York, Pancor Marine, Inc., White's Marina and Kingston West Strand provide pumpout service to commercial vessels according to the application submitted by the State of New York.

With 35 pumpout facilities available to vessels, the ratio of boats is approximately 208 vessels per pumpout. Standard guidelines refer to acceptable ratios falling in the range of 300 to 600 vessels per pumpout. The State of New York divided the river into 8 segments and analyzed pumpout availability for each segment. All segments met the more stringent criterion of 300 vessels per pumpout. There are also 21 facilities capable of servicing portable toilets.

The EPA hereby makes a tentative affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Hudson River, New York. A final determination on this matter will be made following the 30-day period for public comment and will result in a New York State prohibition of any sewage discharges from vessels in the Hudson River from the Battery in Manhattan, New York to the Federal Dam at Troy, New York.

Comments and views regarding this petition and EPA's tentative determination may be filed on or before November 24, 2000. Comments or requests for information or copies of the applicant's petition should be addressed to Walter E. Andrews, U.S. Environmental Protection Agency, Region II, Water Programs Branch, 290 Broadway, 24th Floor, New York, New York, 10007-1866. Telephone: (212) 637-3880.

Dated: September 28, 2000.

Jeanne M. Fox,

Regional Administrator, Region II.

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FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-00-38-A (Auction No. 38);
DA 00-2291]

Auction of Licenses for the 700 MHz Guard Bands Scheduled for February 13, 2001; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues

AGENCY: Federal Communications
Commission.