

Protection Agency Region 2, 290 Broadway, New York, New York, 10007-1866.

Public Hearings are scheduled at the following locations:

1. On August 9, 1995 at the offices of the New York State Department of Environmental Conservation at 21 South Putt Corners Road, New Paltz, NY from 6:30 p.m. to 8:30 p.m.

2. On August 10, 1995 at the Town of Waterford Civic Center, 35 Third Street, Waterford, NY from 6:30 p.m. to 8:30 p.m.

FOR FURTHER INFORMATION CONTACT: Philip Sweeney, 212-637-3765.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In July 1992 the New York State Department of Environmental Conservation (NYSDEC) submitted an application for two reaches of the Hudson River to be designated by EPA as Drinking Water Intake Zones. Section 312(f)(4)(B) of Public Law 92-500, as amended by Public Law 95-217 and Public Law 100-4, (the "Clean Water Act"), states, "Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone." Region II requested that authority for taking action in response to this application be delegated from the Administrator to the Regional Administrator. That authority was delegated on November 16, 1992.

Proposed Zone 1 is in the Hudson River/Champlain Canal and is bounded by the Mohawk River on the south and Lock 2 on the north. It is approximately 8 miles long. This zone is classified in the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 941.6, Item Number 1, as one Class A segment. This classification was assigned in February 1967. Class A is the standard given to waters of New York for the protection of a source of water supply for drinking, culinary, or food processing purposes. There is one drinking water intake located in Zone 1, authorized for 2.0 million gallons per day, which serves the Town and Village of Waterford, Saratoga County, New York. This portion of the Hudson River adjoins Saratoga County on the west and Rensselaer County on the east.

Zone 2 is also in the Hudson River and is bounded on the south by the Village of Roseton on the western shore and on the north by the southern end of Houghtaling Island. This zone is classified in 6 NYCRR as two segments,

both Class A. The northern segment, which stretches from the southern end of Houghtaling Island (at light #72) to the southern end of Esopus Island (at light #28), was classified as Class B in 1966 and reclassified by the State of New York as Class A in 1969. The southern segment of Zone 2 stretches from the southern end of Esopus Island (at light #28) to the line formed by Roseton on the west shore and Low Point on the east shore in the general area of Chelsea, New York. This southern segment of Zone 2 was classified on October 15, 1966 as Class A. There are six authorized drinking water intakes in Zone 2. They are listed below:

Community served	Authorized taking in million gallons per day
Rhinebeck Village and Hamlet of Rhinecliff .....	1.0
Hyde Park Fire and Water District, Town of Hyde Park .....	6.0
City and Town of Poughkeepsie ....	16.0
New York City, Chelsea Emergency Pump Station .....	100.0
Port Ewan Water District, Town of Esopus .....	1.0
Highland Water District .....	3.0

Authority to enforce the prohibition of vessel sewage discharges lies with the U.S. Coast Guard, which may by agreement utilize enforcement officers of the U.S. Environmental Protection Agency, other Federal agencies, or States, in accordance with § 312(k) of the Clean Water Act. Both the Federal and New York State governments will take a role in implementation and enforcement of the proposed prohibition in the two drinking water intake zones. The prohibition will take effect sixty (60) days after notice of the final regulation. This regulation will be issued after consideration of all public comments received as a result of this notice. At the time of final rulemaking, EPA will publish a notice on the implementation plan for this prohibition. A major focus of the implementation plan for this prohibition will be public education, specifically boater education. For the purposes of boater understanding and compliance, it is worthwhile to note landmarks which approximate the boundaries of the drinking water intake zones, which are in view of the Hudson River boater. For Zone 1, the Mohawk River and Lock #2 are visible landmarks. For Zone 2, the northern border is at the southern end of Houghtaling Island. The Newburgh-Beacon Bridge, which is

south of the southern zone border, is an obvious landmark for the southern end of Zone 2. All of Zone 2 lies between Houghtaling Island and the Newburgh-Beacon Bridge, and these landmarks are therefore useful markers for boaters.

##### II. Compliance with Other Acts and Orders

###### A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is significant and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact or entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

###### B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 6501 *et seq.*, whenever an agency is developing regulations, it must prepare and make available for public comment the impact of the regulations on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required if the head of the agency certifies that the rule will not have significant economic effect on a substantial number of small entities. EPA policy dictates that an Initial Regulatory Flexibility Analysis (IRFA) be prepared if the proposed action will have any effect on any small entity. An abbreviated IRFA can be prepared depending on the severity of the economic impact and the relevant statute's allowance of alternatives.

The Agency has prepared an IRFA for this proposed rule. In summary, the