

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

**Date of Notice:** May 26, 2009

**Public Notice Number:** PN2009-0010

**Comment Period:** May 27, 2009 - June 25, 2009

**Action:** Notice of Proposed Assessment of Class II Clean Water Act Section 311(b)(6) Administrative Penalty and Opportunity to Comment

Under Section 311(b)(6)(B)(ii) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(6)(B)(ii), EPA is authorized to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Pursuant to 40 C.F.R. Part 19 (Adjustments of Civil Penalties for Inflation) promulgated pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, in a Class II proceeding under 311(b)(6)(B)(ii), the maximum civil penalties that may be administratively assessed have been increased as follows: For violations occurring between March 15, 2004 and January 12, 2009, up to \$11,000 per violation per day for each day during which the violation continues; and, for violations occurring on or after January 13, 2009, up to \$16,000 per violation per day for each day during which the violation continues, up to a maximum of \$177,500. Class II proceedings are conducted in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” at 40 C.F.R. Part 22 (“Part 22”).

The procedures by which the public may submit written comments on a proposed Class II penalty order or participate in a Class II penalty proceeding are set forth in Part 22. The deadline

for submitting public comment on a proposed Class II penalty order is thirty (30) days after issuance of public notice.

Pursuant to Section 311(b)(6)(B)(ii), EPA is providing public notice of the following proposed Class II administrative penalty assessment:

**Name and Mailing Address of Respondent:** Downeast Energy Corp., 18 Spring Street, Brunswick, ME.

**Name and Address of Facilities or Sites Addressed by Complaint:**  
288 River Rd., Springvale, ME  
95 College Ave., Waterville, ME.

**Description of Business or Activity Conducted by the Respondent:** Heating oil, propane, and building supply company.

**Description of Violations alleged in Complaint subject to public comment:** Failure to comply with Oil Pollution Prevention regulations in violation of 311(b)(3) of the Clean Water Act, 33 U.S.C. § 1321.

**Proposed penalty:** \$157,500

**Name of case:** In the Matter of: Downeast Energy Corp.

**Docket numbers:** CWA-01-2009-0054

**Date Filed with Regional Hearing Clerk:** N/A

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:** Wanda Santiago, U.S. EPA, Region 1, One Congress Street, Suite 1100 (RAA), Boston, Massachusetts 02114; (617) 918-1113.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of Part 22, review the complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the public record for the proceeding is located in the EPA Regional Office at One Congress Street, Boston, Massachusetts, and the file will be open for public inspection during normal business hours.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to thirty (30) days after issuance of this notice.