

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION I**

**Date of Notice:** June 2, 2004

**Public Notice Number:** PN2004-0006

**Comment Period:** June 2, 2004 - July 1, 2004

**Action:** Notice of Proposed Assessment of Class II Clean Water Act Section 309(g)(2)(B) Administrative Penalties and Opportunity to Comment

Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), 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. In Class II proceedings under Section 309(g)(2)(B), any person who violates certain provisions of the Clean Water Act may be administratively assessed a civil penalty of up to \$10,000 per violation per day for each day during which the violation continues, up to a maximum of \$125,000. 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, the maximum civil penalties that may be administratively assessed have been increased as follows: For violations occurring between January 31, 1997 and March 14, 2004, up to \$11,000 per violation per day for each day during which the violation continues, up to a maximum of \$137,500; and, for violations occurring on or after March 15, 2004, up to \$11,000 per violation per day for each day during which the violation continues, up to a maximum of \$157,500. Proceedings are conducted in accordance with the

"Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation 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 penalty order or participate in a penalty proceeding are set forth in Part 22. The deadline for submitting public comment on a proposed penalty order is thirty (30) days after issuance of public notice.

Pursuant to Section 309(g), EPA is providing public notice of the following proposed administrative penalty assessment:

***In the Matter of the City of Bangor, Maine***

**City of Bangor  
73 Harlow Street  
Bangor, ME 04401**

**Facility Address:**

**Bangor City Motor Pool  
481 Maine Avenue  
Bangor, ME 04401**

**Description of Business or Activity Conducted by the Respondent:**

The Motor Pool facility was used for the maintenance of City vehicles. Floor drains in the building drained into a detention basin, that then drained into Birch Stream, which flows into Kenduskeag Stream, which then flows into the Penobscott River, all waters of the United States within the meaning of 40 C.F.R. § 122.2 and, hence, navigable waters under Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7).

**Description of Violations Alleged in Complaint:**

The City did not have a National Pollutant Discharge Elimination System (NPDES) permit issued under Section 402 of the Clean Water Act, 33 U.S.C. § 1342 for discharging untreated water containing pollutants from the Motor Pool into Birch Stream.

**Proposed Settlement Penalty:**

Based on the forgoing allegations, and pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), and the Federal Civil Penalties Inflation Adjustment Act of 1990, 28

U.S.C. § 2461 *et seq.*, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.*, and the regulations promulgated thereunder at 40 C.F.R. Part 19, Complainant proposes civil penalties of up to eleven thousand dollars (\$11,000) for each day each violation continued on or after January 31, 1997, up to a maximum of one hundred fifty-seven thousand and five hundred dollars (\$157,500).

**Name of Case:**

*In the Matter of the City of Bangor, Maine*

**Docket Number:**

CWA-01-2004-0055 and RCRA-1-2003-0042

**Date Filed with Regional Hearing Clerk:** June 1, 2004

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:** Wanda Rivera, Regional Hearing Clerk, U.S. EPA, Region I, One Congress Street, Boston, Massachusetts 02203; (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.