

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I**

**Date of Notice:** August 12, 2011

**Public Notice Number:** PN2011-0010

**Comment Period:** August 15, 2011 - September 13, 2011

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

Under Section 309(g) of the Clean Water Act (CWA), 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. 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 309(g)(2)(B), 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 between March 15, 2004 and January 12, 2009, up to \$11,000 per violation per day for each day during which the violation continues, up to a maximum of \$157,500; and, for violations occurring after January 12, 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 309(g), EPA is providing public notice of the following proposed Class II administrative penalty assessment:

**Name and Mailing Address of Respondent:**

Jay Peak Resort, Inc.  
4850 VT Route 242  
Jay, Vermont 05859-9404

**Name and Address of Facilities or Sites Addressed by Consent Agreement and Final Order:**

Golf Course (off of Jay Peak Access Road)  
Jay, Vermont

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

**Description of Violations Alleged in Complaint:**

discharge of dredged and fill material into waters of U.S. without authorization from U.S. Army Corps of Engineers.

**Proposed Penalty:** \$80,000

**Name of Case:** In the Matter of: Jay Peak Resort, Inc.

**Docket Number:** CWA-01-2011-0046

**Date Filed with Regional Hearing Clerk:** TBD

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:**

Wanda Santiago, EPA Region 1, 5 Post Office Square, Suite 100, Boston, MA  
02109-3912  
Tel: 617-918-1113

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of Part 22,

review the consent agreement and final order 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 5 Post Office Square, Suite 100, Boston, Massachusetts, and the file will be open for public inspection during normal business hours.

Because this matter involves a CWA Section 309(g) proceeding which is proposed to be simultaneously commenced and settled under 40 C.F.R. § 22.13(b), this matter will not be resolved or settled until 10 days after the close of the public comment period in accordance with 40 C.F.R. § 22.45(b).