

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

Date of Notice: October 25, 2007

Public Notice Number: PN2007-0024

Comment Period: October 26, 2007 – November 26, 2007

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:

Name and Mailing Address of Respondent:

Frank Donaldson
1015 Hortonville Road
Swansea, MA

Name and Address of Facility or Site Addressed by CAFO:

Raymond Allard Road Extension

Swansea, MA

Description of Business or Activity Conducted by the Respondent:
Site Developer

Description of Violations Alleged in CAFO: Failure to have adequate storm water pollution prevention plan ("SWPPP"); failure to conduct and/or document storm water inspections; and failure to implement and/or maintain storm water controls.

Proposed Settlement Penalty: \$6,050

Name of Case: In the Matter of: Frank Donaldson

Docket Number: CWA-01-2007-0098

Date Filed with Regional Hearing Clerk: N/A

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk: Wanda Rivera, Regional Hearing Clerk, U.S. EPA, Region 1, One Congress Street, Suite 1100, Mail Code 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.

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 ten (10) days after the close of the public comment period in accordance with 40 C.F.R. §22.45(b) and (c).