

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION I**

**Date of Notice:** December 5, 2007

**Public Notice Number:** PN2007-0029

**Comment Period:** December 6, 2007 – January 4, 2008

**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 \$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: McManus Excavating Co., Inc.**

**Name and Mailing Address of Respondent:**

McManus Excavating Company, Inc.  
361 Main Street  
Northborough, Massachusetts 01532

**Name and Address of Facility or Site Addressed by Complaint:**

Alden Woods Subdivision  
Wachusett Street  
Holden, Massachusetts

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

Construction

**Description of Violations Alleged in Complaint:** Discharge of storm water without a permit in violation of the Clean Water Act and failure to apply for permit coverage in violation of the Clean Water Act.

**Proposed Penalty:** Up to \$11,000 per violation per day, up to a maximum penalty of \$157,500.

**Name of Case:** In the Matter of: McManus Excavating Co., Inc.

**Docket Number:** CWA-01-2008-0013

**Date Filed with Regional Hearing Clerk:** December 3, 2007

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:**  
Wanda Rivera, Regional Hearing Clerk, U.S. EPA, Region I, 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.