

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

Date of Notice: October 1, 2009

Public Notice Number: PN2009-0023

Comment Period: October 2, 2009 - November 2, 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, up to a maximum of \$157,500; 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 Respondents: Draper Energy Co., Inc. (owner), 148 Forest Road, Wilton, NH and Energy North Incorporated (operator), 1700 Shawsheen Street, Tewksbury, MA.

Name and Address of Facility or Site Addressed by Complaint: Snack Corner Mobile Station, 38 Elm Street, Milford, NH.

Description of Business or Activity Conducted by the Respondent: Above ground oil storage and distribution facility.

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

Proposed penalty: Up to the statutory maximum of \$11,000 per day of violation before January 13, 2009 and \$16,000 per day of violation on or after January 13, 2009, up to a maximum of \$177,500 for violation of Section 311 of the Clean Water Act.

Name of case: In the Matter of Draper Energy Company, Incorporated and Energy North Incorporated

Docket number: CWA-01-2009-0083

Date Filed with Regional Hearing Clerk: September 30, 2009

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk: Judy Lao-Ruiz, U.S. EPA, Region 1, One Congress Street, Suite 1100 (RCA), 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.