

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

DATE OF NOTICE: [04-27-06]

PUBLIC NOTICE NUMBER: [06-30)

ACTION: NOTICE OF PROPOSED ASSESSMENT OF CLEAN WATER ACT SECTION 309(G) CLASS I ADMINISTRATIVE PENALTY AND OPPORTUNITY TO COMMENT EPA IS AUTHORIZED UNDER SECTION 309(G) OF THE CLEAN WATER ACT, 33 U.S.C. §1319(G), 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. UNDER SECTION 309(G), ANY PERSON WHO WITHOUT AUTHORIZATION DISCHARGES A POLLUTANT TO A NAVIGABLE WATER, AS THOSE TERMS ARE DEFINED IN SECTION 502 OF THE ACT, 33 U.S.C. §1362, MAY BE ADMINISTRATIVELY ASSESSED A CIVIL PENALTY OF UP TO \$11,000 BY EPA. CLASS I PROCEEDINGS FOR SECTION 309(G) OF THE CLEAN WATER ACT ARE CONDUCTED IN ACCORDANCE WITH THE "CONSOLIDATED RULES OF PRACTICE" ("CROP") GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CLASS I CIVIL PENALTIES UNDER THE CLEAN WATER ACT, WHICH HAS BEEN PUBLISHED IN THE FEDERAL REGISTER, AT 64 FED. REG. 40138 (JULY 23, 1999). THE FEDERAL REGISTER IS AVAILABLE AT MOST LIBRARIES.

THE PROCEDURES BY WHICH THE PUBLIC MAY SUBMIT WRITTEN COMMENTS ON A PROPOSED CLASS I PENALTY ORDER OR PARTICIPATES IN A CLASS I PENALTY PROCEEDING ARE SET FORTH IN PART 22, AND REQUIRE THE COMMENTER TO (1) DECLARE HIMSELF TO BE A COMMENTER; (2) SUBMIT COMMENTS OR INDICATES THE SUBJECTS UPON WHICH HE WILL COMMENT; AND, (3) PROVIDE EPA WITH A RETURN ADDRESS. THE DEADLINES FOR SUBMITTING PUBLIC COMMENT ON A PROPOSED CLASS I ORDER IS THIRTY (30) DAYS AFTER ISSUANCE OF PUBLIC NOTICE.

IF THE RESPONDENT FAILS TO FILE A TIMELY RESPONSE TO THE AGENCY'S ADMINISTRATIVE COMPLAINT PURSUANT TO PART 22, THE REGIONAL ADMINISTRATOR MAY ISSUE A DEFAULT ORDER AGAINST THE RESPONDENT.

PURSUANT TO SECTION 309(G)(4) OF THE CLEAN WATER ACT, 33 U.S.C. §1319(G)(4), EPA IS PROVIDING PUBLIC NOTICE OF THE FOLLOWING PROPOSED CLASS I ADMINISTRATIVE PENALTY ASSESSMENTS: \$11,000.00

NAME AND ADDRESS OF RESPONDENT:

Ms. Jean-Ann McGrane
City Manager
City Hall
83 Broadway
Newburgh, New York 12550

LOCATIONS OF ALLEGED VIOLATIONS: City of Newburgh, New York

BUSINESS OR ACTIVITY OF RESPONDENT: SIC:4952

RESPONDENTS' PERMIT NUMBER: NY0026310

NATURE OF ALLEGED VIOLATIONS:

FAILURE TO SUBMIT A COMPLETE DISCHARGE MONITORING REPORT-QUALITY ASSURANCE REPORT TO EPA

PROPOSED PENALTY: \$11,000

DOCKET NUMBER: CWA-02-2006-3314

DATE FILED WITH REGIONAL HEARING CLERK: [04-17-06]

NAME, MAILING ADDRESS, AND TELEPHONE NUMBER OF REGIONAL HEARING

CLERK: KAREN MAPLES, USEPA, REGION II, 290 BROADWAY - 16TH

FLOOR, NEW YORK, NEW YORK 10007-1866 (212) 637-3110.

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 PARTICIPATES 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 SPECIFIED ABOVE, AND FILE WILL BE OPEN FOR PUBLIC INSPECTION DURING BUSINESS HOURS.

EPA HAS PROVIDED EACH RESPONDENT WITH A SETTLEMENT OFFER OF \$1,300 IN AN EFFORT TO PROMPTLY SETTLE THIS MATTER. 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.

DATE: [04-27-06]

Dore LaPosta, DIRECTOR
DIVISION OF ENFORCEMENT AND
COMPLIANCE ASSISTANCE