

Public Notice No. 06-62

Notice of Proposed Administrative Penalty Assessments and Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of Proposed Administrative Penalty Assessments and Opportunity to Comment

SUMMARY: EPA is providing notice of proposed administrative penalty assessments for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed penalty assessments.

Under 33 U.S.C. §1319(g), EPA is authorized to issue an order assessing civil penalty for various violations of the Act. EPA may issue such order after the commencement of a Class I and/or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. §1319(g)(4)(a).

Class I proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties or the Revocation and Suspension of Permits (CROP), pursuant to 40 CFR Part 22. Section 22.13(b) of the CROP sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings where the parties agree to settlement of one or more causes of action. This is accomplished through issuance of a consent agreement and final order pursuant to Sections 22.18(b)(2) and 22.18(b)(3) of the CROP. The subject penalty assessment noticed herein follows the procedures set forth in Section 22.13(b).

The procedures by which the public may submit written comments on a Class I penalty assessment or participate in a Class I penalty proceeding are set forth in Section 22.45(c) of the CROP. The deadline for submitting comments on a proposed Class I penalty assessment is thirty (30) days after issuance of the public notice.

On, August 16, 2006, EPA commenced the proceedings for the assessment of penalties:

In the matter of CMS Enterprises Corp. – Vista Verde Residential Development located at State Road 996, Km.2.8, Florencio and Naranjo Ward, Fajardo, Puerto Rico; Docket No. CWA-02-2006-3332; Filed on August 18, 2006 with Regional Hearing Clerk Karen Maples, EPA Region 2, 290 Broadway, 16th Floor, New York, New York 10007 (212) 637-3110;

for a proposed penalty of **\$8,500.00**, for operating without a NPDES permit in violation of Section 301(a) of the Act, 33 U.S.C. §1311 from September, 2004 until March, 2006, and failure to comply with its National Pollutant Discharge Elimination System (“NPDES”) storm water permit authorized under Section 402 of the Act, 33 U.S.C. § 1342.

FOR FURTHER INFORMATION: persons wishing to receive a copy of the CROP, 40 CFR Part 22, review the Complaints or other documents filed in the proceedings, comment upon a proposed assessment, or otherwise participate in any of the proceedings, should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the administrative records for the proceedings are located in the EPA Regional Office identified above, and the files will be open for public inspection during normal business hours. All information submitted by the Respondents are available as part of the administrative records, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comments, EPA will issue no final orders assessing penalties in these proceedings prior to 30 days from the date specified below.

Dated: August 21, 2006
Carl-Axel P. Soderberg, Director
Caribbean Environmental Protection Division