

US EPA ARCHIVE DOCUMENT

**NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND
OPPORTUNITY TO COMMENT**

AGENCY: United States Environmental Protection Agency (EPA), Region 2

Clean Water Division

290 Broadway

New York, NY 10007-1866

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

SUMMARY: The U.S. Environmental Protection Agency (EPA) is authorized under Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. §1319(g), to assess a civil penalty after providing the person subject to the penalty with notice of the proposed penalty and the opportunity for a hearing, and after providing interested members of the public with notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under Section 309(g) of the CWA, any person who violates Section 301 of the CWA, may be assessed a assessed a Class II civil penalty by EPA of up to \$177,500 for discharges occurring January 12, 2009 through December 6, 2013, \$187,500 for discharges occurring December 6, 2013 through November 2, 2015, and \$257,848 for discharges occurring after November 2, 2015, and assessed on or after August 1, 2016. Class II proceedings for Section 309(g) of the CWA are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits" (CROP), which have been codified in the Code of Federal Regulations as Title 40, Part 22. The Code of Federal Regulations and the Federal Register are available at most libraries and the EPA internet site www.epa.gov.

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

Pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), EPA is hereby providing notice to the public of the following proposed Class II administrative penalty assessment: In the Matter of Puerto Rico Land Authority, P.O. Box 9745, Santurce, Puerto Rico 00908; Docket Number CWA-02-2016-3601; with a proposed penalty of \$87,000.00; for discharges of pollutants, consisting of dredged and fill material, into a water of the United States, in 2013 and 2014, in violation of Section 301(a) of the Act, 33 U.S.C. §1311(a), without prior authorization from the U.S. Army Corps of Engineers as required by Section 404 of the Act, 33 U.S.C. §1344. The location of the discharges is a wetland, centered at 18.000169° N, 66.932811° W, adjacent to Lajas Canal, on properties named Finca María Antonia, S.A., and Finca Límon, both located in Cienaga Ward, Municipality of Guánica, Puerto Rico.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of the proposed consent agreement and final order, or review the public record for this proceeding or other documents related to this proceeding, should contact the enforcement case manager, David Pohle, at U.S. EPA, Region 2, 290 Broadway, 24th Floor, New York, NY 10007-1866, telephone (212) 637-

3824, e-mail pohle.david@epa.gov. The public record for this proceeding is at the address given above, and is available for public inspection during business hours.

Persons wishing to comment upon the proposed penalty assessment should direct comments to Ms. Karen Maples, Regional Hearing Clerk, U.S. EPA, Region 2, 290 Broadway, 16th Floor, New York, NY 10007-1866, with a copy of such correspondence to Mr. David Pohle at the address given above.

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.

Dated: September 13, 2016

Jeffrey Gratz, Acting Director

Clean Water Division