

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

**Date of Notice:** June 30, 2011

**Public Notice Number:** PN2011-0008

**Comment Period:** July 1, 2011 – August 1, 2011

**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), the U.S. Environmental Protection Agency (“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 Section 311(b)(6)(B)(ii) of the CWA, 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 12, 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) of the CWA, EPA is providing public notice of the following proposed Class II administrative penalty assessment:

**Name and Mailing Address of Respondent:** Fabian Oil, Inc., 15 Oak Street, Oakland, Maine, 04963.

**Name and Address of Facility or Site Addressed by Complaint:** Three separate facilities, all located in Maine, at 14 Oak Street in Oakland, Route 23/Libby Hill Road in Oakland, and Jerry Street in Jay.

**Description of Business or Activity Conducted by the Respondent:** Oil storage and distribution.

**Description of Violations alleged in Complaint subject to public comment:** Failure to comply with the CWA's Oil Pollution Prevention regulations at 40 C.F.R. Part 112, in violation of Section 311(j) of the CWA, 33 U.S.C. § 1321, by failing to maintain and fully implement Spill Prevention Control and Countermeasure ("SPCC") Plans at the three facilities listed above.

**Proposed penalty:** The proposed settlement penalty is \$50,000 to be made in three payments, with an additional \$180 of calculated interest on the last two payments.

**Name of case:** In the Matter of Fabian Oil, Inc.

**Docket numbers:** CWA-01-2011-0048

**Date Filed with Regional Hearing Clerk:** June 29, 2011

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:** Wanda Santiago, EPA Region 1, 5 Post Office Square Suite 100, Mail code ORA18-1, Boston, MA 02109-3912

FOR FURTHER INFORMATION: Persons wishing to receive a copy of Part 22, review the proposed consent agreement and final order 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 5 Post Office Square, Boston, Massachusetts, and the file will be open for public inspection during normal business hours.

Because this matter involves a CWA Section 311(b)(6)(B)(ii) proceeding that is proposed to be simultaneously commenced and settled under 40 C.F.R. § 22.13(b), this matter will not be resolved or settled until ten (10) days after the close of the public comment period in accordance with 40 C.F.R. §§ 22.45(b) and (c).