

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

Date of Notice: 9/27/2011

Public Notice Number: PN2011-0022

Comment Period: September 28, 2011 – October 28, 2011

Action: Notice of Proposed Assessment of Class II Clean Water Act Section 309(g)(2)(B) Administrative Penalties and Opportunity to Comment

Under Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g), 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. In Class II proceedings under Section 309(g)(2)(B), any person who violates certain provisions of the Clean Water Act may be administratively assessed a civil penalty of up to \$10,000 per violation per day for each day during which the violation continues, up to a maximum of \$125,000. 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, the maximum civil penalties that may be administratively assessed have been increased to up to \$16,000 per violation per day for each day during which the violation continues, up to a maximum total penalty of \$177,500, for violations that occur on or after January 13, 2009. 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”).

Part 22 sets forth the procedures by which the public may submit written comments on a proposed penalty order or participate in a penalty proceeding. The deadline for submitting

public comment on a proposed penalty order is thirty (30) days after issuance of the public notice.

Pursuant to Section 309(g), EPA is providing public notice of the following proposed amended Class II administrative penalty assessment:

In the Matter of: the City of Easthampton, Massachusetts

Name and Mailing Address of Respondent:

Town of Topsfield
8 West Common Street
Topsfield, MA 01983

Name and Address of Facility Addressed by Action:

Town of Topsfield
8 West Common Street
Topsfield, MA 01983

Description of Business or Activity Conducted by the Respondent: Municipality

Description of Violation(s): Failure to submit or timely submit Annual Report(s) required by the National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges from Small Municipal Separate Sewer Systems issued under Section 402 of the Clean Water Act, 33 U.S.C. § 1342.

Proposed penalty: \$3,000

Name of case: In the Matter of: the Town of Topsfield, Massachusetts

Docket number: CWA-01-2011-0092

Date Filed with Regional Hearing Clerk: TBD

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square, Suite 100 (ORA18-1)
Boston, MA 02109-3912
(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 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 309(g)(2)(B) proceeding which 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 10 days after the close of the public comment period in accordance with 40 C.F.R. § 22.45(b).