

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

Date of Notice: December 17, 2012

Public Notice Number: PN2012-0021

Comment Period: December 18, 2012 - January 16, 2013

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), EPA is authorized 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 persons with 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 311(b)(6)(B)(ii) the maximum civil penalties that may be administratively assessed have been increased as follows: For violations occurring 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 30 days after issuance of public notice.

Pursuant to Section 311(b)(6)(B)(ii), EPA is providing public notice of the following proposed Class II administrative penalty assessment:

Name and Mailing Address of Respondent: Harbor Fuel Oil Corporation, 10 Airport Road, P. O. Box 1400, Nantucket, Massachusetts 02554.

Name and Address of Facility or Site Addressed by Complaint: Harbor Fuel Oil Corporation's facility located at the southwest corner of Salem Street and New Whale Street in Nantucket, Massachusetts.

Description of Business or Activity Conducted by the Respondent: Operation of fuel storage and distribution facility.

Description of Violations alleged in Complaint subject to public comment: Failure to comply with Oil Pollution Prevention regulations at 40 C.F.R. Part 112 in violation of Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321, specifically, the Facility Response Plan regulatory requirements.

Proposed penalty: Up to the statutory maximum for violations occurring after January 12, 2009 of \$16,000 per day of violation, up to a maximum of \$177,500.

Name of case: In the Matter of: Harbor Fuel Oil Corporation

Docket number: CWA-01-2012-0081

Date Filed with Regional Hearing Clerk: November 29, 2012

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk: Wanda Santiago, U.S. EPA, Region 1, 5 Post Office Square, Suite 100 (ORA18-1), Boston, Massachusetts 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.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to 30 days after issuance of this notice.