

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION I**

**Date of Notice:** December 18, 2012

**Public Notice Number:** PN2012-0022

**Comment Period:** December 19, 2012 – January 17, 2013

**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, 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 for each violation of up to \$16,000 per violation per day for each day during which the violation continues, up to a maximum of \$177,500. Proceedings are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation 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 penalty order or participate in a penalty proceeding are set forth in Part 22. The deadline for submitting public comment on a proposed penalty order is thirty (30) days after issuance of public notice.

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

**In the Matter of J.H. Lynch & Sons, Inc. and Massachusetts Department of Transportation**

**Name and Mailing Address of Respondents:**

J.H. Lynch & Sons, Inc.  
50 Lynch Place  
Cumberland, RI 02864

Massachusetts Department of Transportation  
Highway Division  
10 Park Plaza, Suite 4160  
Boston, MA 02116

**Name and Address of Facility or Site Addressed by Complaint:**

A road reconstruction and widening project covering approximately 2.3 miles in Bellingham, Massachusetts, primarily involving Pulaski Boulevard but also encompassing small portions of intersecting roadways

**Description of Business or Activity Conducted by the Respondents:**

Road reconstruction and widening

**Description of Violations Alleged in Complaint:** Failure to properly install and maintain measures to ensure erosion control and stabilization and to minimize pollutant discharges, thereby violating the National Pollutant Discharge Elimination System ("NPDES") General Permit for Discharges from Construction Activities ("CGP").

**Proposed Settlement Penalty:** Respondents are subject to civil penalties of up to \$16,000 per day for each day during which the violation continued, up to a maximum of \$177,500.

**Name of Case:** In the Matter of J.H. Lynch & Sons, Inc. and Massachusetts Department of Transportation

**Docket Number:** CWA-01-2013-0007

**Date Filed with Regional Hearing Clerk:** December 10, 2013

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:**  
Wanda Santiago, Regional Hearing Clerk, U.S. Environmental Protection  
Agency, Region I, 5 Post Office Square, Suite 100, Mail Code: 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, Suite 100, 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 thirty (30) days after issuance of this notice.