

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

Date of Notice: November 7, 2014

Public Notice Number: PN2014-0008

Comment Period: November 10, 2014 – December 9, 2014

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 \$187,500. 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: Erickson Fuel Company, Inc., 600 Boston Avenue, Medford, MA 02155.

Name and Address of Facility or Site Addressed by Agreement: Erickson Fuel Company, Inc.'s facility located at 600 Boston Avenue, in Medford, Massachusetts.

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

Description of Violations alleged in Agreement 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 Spill Prevention Control and Countermeasure ("SPCC") Plan requirements, and discharge of oil into a navigable water body in harmful quantities in violation of Section 311(b)(3) of the Clean Water Act, 33 U.S.C. § 1321(b)(3), and 40 C.F.R. Part 110.

Proposed settlement penalty: \$14,500.

Name of case: In the Matter of: Erickson Fuel Company, Inc.

Docket number: CWA-01-2014-0056

Date Filed with Regional Hearing Clerk: N/A

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.

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).