

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I**

**Date of Notice:** February 2, 2015

**Public Notice Number:** PN2015-0001

**Comment Period:** February 3, 2015 – March 4, 2015

**Action:** Notice of Proposed Assessment of Class II Clean Water Act Section 309(g)(2)(B) and 311(b)(6)(B)(ii) Administrative Penalties and Opportunity to Comment

Under Sections 309(g) and 311(b)(6) of the Clean Water Act, 33 U.S.C. §§ 1319(g) and 1321(b)(6), 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 Sections 309(g)(2)(B) and 311(b)(6)(B)(ii), any person who violates certain provisions of the Clean Water Act may be administratively assessed a civil penalty of up to sixteen thousand dollars (\$16,000) per day per violation for each day during which the violation continued, up to a maximum of one hundred eighty-seven thousand five hundred dollars (\$187,500) for each Count in the Complaint. 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,” found 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 Sections 309(g) and 311(b)(6), EPA is providing public notice of the following proposed administrative penalty assessment:

**In the Matter of Pan Am Railways, Inc. and Boston and Maine Corporation**

**Name and Mailing Address of Respondents:**

Pan Am Railways, Inc.  
Boston and Maine Corporation  
1700 Iron Horse Park  
N. Billerica, MA 01862

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

East Deerfield Railyard  
38 Railroad Yard Road  
East Deerfield, Massachusetts 01342

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

Railroad terminal where locomotives are fueled and locomotives and boxcars are serviced, repaired, maintained, and cleaned.

**Description of Violations Alleged in Complaint:** 1) failure to comply with the terms and conditions of a National Pollutant Discharge and Elimination System Permit and stormwater discharges not in compliance with NPDES Permit, and 2) failure to fully implement a Spill Prevention Control and Countermeasure ("SPCC") Plan in accordance with the Oil Pollution Prevention regulations found at 40 C.F.R. Part 112.

**Proposed Penalty:** Penalties of up to \$16,000 per violation for each day during which the violations continued, up to a maximum of \$187,500 for each Count in the Complaint.

**Name of Case:** In the Matter of Pan Am Railways, Inc. and Boston and Maine Corporation

**Docket Number:** CWA-01-2015-0005

**Date Filed with Regional Hearing Clerk:** January 30, 2015

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:** Wanda Santiago, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 1, 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.