

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

Date of Notice: August 13, 2015

Public Notice Number: PN2015-0007

Comment Period: August 14, 2015 – September 14, 2015

Action: Notice of Proposed Assessment of Class II Civil Penalty and Notice of Opportunity for Hearing under Section 309(g) of the Clean Water Act

Under Sections 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), 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). 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 Section 309(g), EPA is providing public notice of the following proposed administrative penalty assessment:

In the Matter of: Nexamp, Inc., CWA-01-2015-0033

Name and Mailing Address of Respondent:

Nexamp, Inc.
4 Liberty Square, Floor 3
Boston, MA 02109

Name and Address of Facility or Site Addressed by Complaint:

Nexamp, Inc. (former sand and gravel mine)
Pitcherville Road
Hubbardston, Massachusetts 01452

Description of Business or Activity Conducted by the Respondents:

The Site was developed for the purpose of creating a solar photovoltaic facility. Total area at the Site is approximately 20 acres.

Description of Violation Alleged in Complaint: Nexamp, Inc.'s failed to comply with the 2012 General Permit for Storm Water Discharges from Construction Activities ("CGP") from March 29-31, 2014 by: (1) failing to design, install and maintain adequate erosion and sediment controls to minimize the discharge of pollutants from earth-disturbing activities at the Site; (2) failing to install adequate sediment controls along perimeter areas of the Site that received stormwater from earth-disturbing activities; (3) failing to prevent erosion of the sediment basin at the Site using stabilization controls, and the inlet and outlet of the basin using erosion controls and velocity dissipation devices; and (4) improperly discharging stormwater from the Site.

Proposed Penalty: \$16,000

Name of Case: In the Matter of: Nexamp, Inc.

Docket Number: CWA-01-2015-0033

Date Filed with Regional Hearing Clerk: N/A

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.

Because this matter involves a CWA Section 309(g) 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).