

US EPA ARCHIVE DOCUMENT

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

Date of Notice: September 11, 2015

Public Notice Number: PN2015 - 0008

Comment Period: September 14, 2015 – October 13, 2015

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 occurring after January 12, 2009, any person who violates certain provisions of the Clean Water Act may be administratively assessed a civil penalty up to \$16,000 per violation per day for each day during which the violation continues, up to a maximum of \$187,500. 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 Whipple Construction Company

Name and Mailing Address of Respondent:

Whipple Construction Company
446 Main Street, 7th Floor
Worcester, MA 01608

Name and Address of Facility or Site Addressed by Complaint:

162 and 168 Ashby Road
Ashburnham, MA

Description of Business or Activity Conducted by the Respondents:

Residential Development

Description of Violations Alleged in Complaint: Discharge of storm water associated with small construction industrial activity without having obtained a National Pollution Discharge Elimination System (“NPDES”) Permit and failure to apply for coverage under and individual NPDES permit or the 2012 Construction General Permit.

Proposed Settlement Penalty: Up to a maximum of \$187,500.

Name of Case: In the Matter Whipple Construction Company

Docket Number: CWA-01-2015-0032

Date Filed with Regional Hearing Clerk: September 10, 2015

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.