

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

**Date of Notice:** July 19, 2018

**Public Notice Number:** PN2018 - 0004

**Comment Period:** July 20, 2018 – August 20, 2018

**Action:** Notice of Proposed Assessment of Class II Civil Penalty and Notice of Opportunity for a Hearing under Sections 309(g)(2)(B) and 311(b)(6)(B)(ii) of the Clean Water Act (CWA)

Under Sections 309(g) and 311(b)(6) of the CWA, 33 U.S.C. §§ 1319(g), and 1321(b)(6) the United States Environmental Protection Agency (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 CWA may be administratively assessed a civil penalty of up to \$21,393 per day per violation for each day during which the violation continued, up to a maximum of \$267,415. In Class II proceedings under Section 311(b)(6)(B)(ii), any person who violates certain provisions of the CWA may be administratively assessed a civil penalty of up to \$18,477 per day per violation for each day during which the violation continued, up to a maximum of \$230,958. 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 30 days after issuance of the public notice.

Pursuant to Sections 309(g) and 311(b)(6), EPA is providing public notice of the following proposed administrative penalty assessment:

**Name of Case:** In the Matter of J.G. MacLellan Concrete Co., Inc.

**Name and Mailing Address of Respondent:**

J.G. MacLellan Concrete Co., Inc.  
180 Phoenix Ave.  
Lowell, MA 01852

**Name and Address of Facilities or Sites Addressed by Agreement:**

J.G. MacLellan Concrete Co., Inc.  
180 Phoenix Ave.  
Lowell, MA 01852

Granite State Concrete Co., Inc.  
408 Elm St.  
Milford, NH 03055

**Description of Business or Activity Conducted by Respondent:**

Portland cement is manufactured at both facilities described above. In addition, sand, gravel and stone is crushed, screened, and washed to produce construction aggregate at the Milford facility.

**Description of Violation(s) Alleged in Agreement:**

EPA alleges that Respondent: (1) discharged stormwater not in compliance with the terms and conditions of its National Pollutant Discharge Elimination System (“NPDES”) permit, 2) discharged process water containing pollutants without authorization, and 3) failed to fully implement a Spill Prevention Control and Countermeasure (“SPCC”) Plan in accordance with the Oil Pollution Prevention regulations set forth at 40 C.F.R. Part 112.

**Proposed Settlement Penalty:** EPA proposes a cash penalty of \$50,000. In addition, Respondent will perform a Supplemental Environmental Project estimated to cost \$94,500 involving the elimination of a stormdrain from a public road and conduct additional paving and grading to reduce stormwater runoff from the site.

**Docket Number:** CWA-01-2018-0001

**Date Filed with Regional Hearing Clerk:** N/A

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:**

Wanda I. Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square - Suite 100  
Mail Code: ORC 04-6  
Boston, Massachusetts 02109-3912  
(617) 918-1113

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of Part 22, review the proposed agreement 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 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).