



Region 7

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In accordance with Section 309(g)(4)(A) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319 (g)(4)(A), and 40 C.F.R. § 22.45 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules"), the Environmental Protection Agency ("EPA") is providing notice of a proposed Administrative Penalty Assessment against Union Pacific Railroad Company ("UPRR"), for alleged violations of an industrial stormwater permit issued by the Missouri Department of Natural Resources ("MDNR") ((Missouri Permit No. MO-0116653) for its railcar maintenance facility located in DeSoto, Missouri ("Site").

Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), the EPA is authorized to issue orders assessing civil penalties for various violations of the Clean Water Act. The EPA may issue such orders after commencing either a Class I or Class II penalty proceeding. This action is a Class II penalty proceeding that is being simultaneously commenced and concluded in a Consent Agreement and Final Order (CA/FO) pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2). The EPA provides notice of the proposed assessment of a Class II civil penalty pursuant to 33 U.S.C. § 1319(g)(4)(A). Class II proceedings are conducted under the EPA's Consolidated Rules, 40 C.F.R. Part 22.

In this case, based on findings during an inspection by the EPA in 2014, the EPA alleges that the UPRR violated the requirements of its industrial permit through October 2014, in violation of Sections 301(a) and 402 of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342. The alleged violations include violations of numeric limits between for total recoverable petroleum, lead (Pb), zinc (Zn), pH, Chemical Oxygen Demand (COD), and Total Suspended Solids (TSS). Respondent UPRR has reached agreement with the EPA on the terms of a proposed CA/FO which would resolve this matter. Under the proposed CA/FO, Respondent will pay a civil penalty of \$58,800. Final approval of the proposed CA/FO is subject to the requirements of 40 C.F.R. § 22.45.

The EPA will receive written comments on the proposed Administrative Penalty Assessment for a period of thirty (30) days from the date of publication of this notice. All such comments shall be submitted to the Regional Hearing Clerk at the address provided below. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. Persons wishing to obtain additional information on the proceeding, receive a copy of the EPA's Consolidated Rules, review the [proposed CA/FO \(PDF\)](#) (10 pp., 297K, [About PDF](#)), comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact Kathy Robinson, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas, 66219. Please reference Docket No. CWA-07-2015-

0043. In order to provide opportunity for public comment, the EPA will issue no final order assessing a penalty in this proceeding prior to forty (40) days from the date of this notice.

6/1/15
Date

/s/
Karen A. Flournoy
Director
Water, Wetlands and Pesticides Division
U.S. EPA, Region 7