

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

Date of Notice: November 15, 2010

Public Notice Number: PN2010-0010

Comment Period: November 16, 2010 - December 15, 2010

Action: Notice of Proposed Assessment of Class II Clean Water Act Sections 309(g)(2)(B) and 311(b)(6) 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), EPA is authorized to assess a civil penalty, after providing the person subject to the penalty with 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 \$10,000 per violation per day for each day during which the violation continues, up to a maximum of \$125,000. Pursuant to 40 C.F.R. Part 19 (“Adjustments of Civil Penalties for Inflation”), promulgated pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, the maximum civil penalties that may be administratively assessed have been increased as follows: for violations occurring from March 15, 2004 through January 12, 2009, up to \$11,000 per violation per day for each day during which the violation continues; and for violations occurring on or after January 13, 2009, up to \$16,000 per violation per day for each day during which the violation continues, up to a maximum total penalty of \$177,500. 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,” at 40 C.F.R. Part 22 (“Part 22”).

Part 22 sets forth the procedures by which the public may submit written comments on a proposed penalty order or participate in a penalty proceeding. The deadline for submitting public comment on a proposed penalty order is thirty (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 and Mailing Address of Respondent:

Rose’s Oil Service, Inc.
375 Main Street
Gloucester, MA 01930

Name and Address of Facility or Site Addressed by Consent Agreement and Final Order:

Rose’s Oil Service, Inc.
375 Main Street
Gloucester, MA 01930

Description of Business or Activity Conducted by the Respondent:

Boatyard and fuel oil distribution facility

Description of Violations Alleged in Consent Agreement and Final Order:

Respondent violated Sections 301 and 308 of the Clean Water Act by discharging stormwater and process water from its facility without authorization, as well as by failing to apply for coverage under EPA’s Multi-Sector General Permit for the facility’s stormwater discharges.

Respondent also violated Section 311(j) of the Clean Water Act by failing to fully implement its Spill Prevention Control and Countermeasure Plan and by failing to prepare and implement an EPA-approved Facility Response Plan.

Proposed Penalty: \$130,000

Name of Case: In the Matter of: Rose's Oil Service, Inc.

Docket Number: CWA-01-2010-0080

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. EPA, Region 1
5 Post Office Sq., Suite 100 (Mail Code: ORA18-1)
Boston, Massachusetts 02109-3912
(617) 918-1113

FOR FURTHER INFORMATION: Persons wishing to receive a copy of Part 22, review the Consent Agreement and Final Order 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 Five Post Office Square, 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 30 days after issuance of this notice.