

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

Date of Notice: April 13, 2015

Public Notice Number: PN2015-0005

Comment Period: April 14, 2015 – May 13, 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: Bacon-Agostini Construction Co., Inc. and K.R. Rezendes, Inc.,
CWA-01-2015-0034**

Name and Mailing Address of Respondents:

Bacon-Agostini Construction Co., Inc.
c/o George L. Agostini, President
Bacon Construction Co., Inc.
241 Narragansett Park Drive
East Providence, RI 02916

Bacon-Agostini Construction Co., Inc.
c/o Steven J. Agostini, President
Agostini Construction Co., Inc.
243 Narragansett Park Drive
East Providence, RI 02916

James Rezendes, President
K.R. Rezendes, Inc.
3 Sammy's Lane
PO Box 879
Assonet, MA 02702

Name and Address of Facility or Site Addressed by Complaint:

Somerset-Berkley Regional High School Construction Site
625 County Street
Somerset, Massachusetts 02726

Description of Business or Activity Conducted by the Respondents:

Construction of a new regional high school at 625 County Street in Somerset, Massachusetts. The estimated area to be disturbed at the Site by the construction activities is approximately 31.6 acres.

Description of Violations Alleged in Complaint: 1) Bacon-Agostini's failure to timely file a Notice of Intent for coverage under EPA's General Permit for Storm Water Discharges from Construction Activities ("CGP") and its discharge of stormwater from the site without a permit; and 2) Bacon-Agostini and K.R. Rezendes' failure to comply with the requirements of the 2012 CGP at the site and their discharge of stormwater from the site without complying with the 2012 CGP.

Proposed Penalty: Penalties of up to \$16,000 per violation for each day during which the violations continued, up to a maximum penalty of \$187,500.

Name of Case: In the Matter of: Bacon-Agostini Construction Co., Inc. and K.R. Rezendes, Inc.

Docket Number: CWA-01-2015-0034

Date Filed with Regional Hearing Clerk: March 31, 2015

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.

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.