



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
ONE CONGRESS STREET SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

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OCT 04 2010

EPA ORC
Office of Regional Hearing Clerk

October 4, 2010

BY HAND

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 1
5 Post Office Square, Suite 100
Mail Code : ORA-18-1
Boston, MA 02109-3912

Re: In the Matter of: American science & Engineering, Inc.
Docket No. CWA 01-2010-0060

Dear Ms. Santiago:


On September 30, 2010, I filed with you a copy of a proposed Consent Agreement and Final Order for the case referenced above.

The public notice for this action will run from October 4, 2010 through November 2, 2010. Enclosed with this letter is a copy of the public notice which is to be included with the record for this case.

A copy of the public notice is also available at:
<http://www.epa.gov/Region1/enforcement/water/public-notices.html>.

Thank you for your attention to this matter.

Sincerely,


Gregory Dain
Senior Enforcement Counsel
EPA Region 1

Enclosure (public notice)

cc: Mark Kalpin, Esq. (legal counsel for AS&E)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

Date of Notice: October 1, 2010

Public Notice Number: PN2010-0008

Comment Period: October 4, 2010 - November 2, 2010

Action: Notice of Proposed Assessment of Class II Clean Water Act Section 309(g) Administrative Penalty and Opportunity to Comment

Under Section 309(g) of the Clean Water Act (CWA), 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. 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, in a Class II proceeding under 309(g)(2)(B), the maximum civil penalties that may be administratively assessed have been increased as follows: For violations occurring between January 31, 1997 and March 14, 2004, up to \$11,000 per violation per day for each day during which the violation continues, up to a maximum of \$137,500; and, for violations occurring between March 15, 2004 and January 12, 2009, up to \$11,000 per violation per day for each day during which the violation continues, up to a maximum of \$157,500; and, for violations occurring after January 12, 2009, up to \$16,000 per violation per day for each day during which the violation continues, up to a maximum of \$177,500. Class II proceedings are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil

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Penalties, and the Revocation, Termination 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 Class II penalty order or participate in a Class II penalty proceeding are set forth in Part 22. The deadline for submitting public comment on a proposed Class II 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 Class II administrative penalty assessment:

Name and Mailing Address of Respondent:

American Science & Engineering, Inc.
829 Middlesex Turnpike
Billerica, Massachusetts 01821

Name and Address of Facilities or Sites Addressed by Consent Agreement and Final Order:

American Science & Engineering, Inc.
829 Middlesex Turnpike
Billerica, Massachusetts 01821

Description of Business or Activity Conducted by the Respondent:

X-ray and associated apparatus manufacturing

Description of Violations Alleged in Complaint:

- discharge of stormwater associated with industrial activity without authorization in violation of Section 301(a) of the CWA; and
- failure to file for coverage under the Multi-Sector General Permit for the stormwater discharges, in violation of Section 308 of the CWA.

Proposed Penalty: \$40,000

Name of Case: In the Matter of: American Science & Engineering, Inc.

Docket Number: CWA-01-2010-0060

Date Filed with Regional Hearing Clerk: TBD

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

Wanda Santiago
U.S. EPA, Region 1
Five Post Office Square, Suite 100
Mail Code: ORA-18-1
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.

Because this matter involves a CWA Section 309(g) proceeding which 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 10 days after the close of the public comment period in accordance with 40 C.F.R. § 22.45(b).

In the Matter of: American Science & Engineering, Inc.
Docket No. CWA 01-2010-0060

CERTIFICATE OF SERVICE

I certify that the foregoing Public Notice was sent to the following persons, in the manner specified on the date below:

Original and 1 copy
hand delivered:

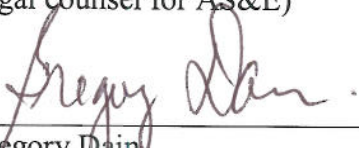
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square, Suite 100
Mail Code: ORA-18-1
Boston, MA 02109-3912

Copy via first class mail
return receipt requested

Mark Kalpin, Esq.
WilmerHale
60 State Street
Boston, MA 02109
(legal counsel for AS&E)

Date: _____

10/4/10



Gregory Dain
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912
tel: (617) 918-1884