

US EPA ARCHIVE DOCUMENT

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

**Date of Notice:** June 22, 2010

**Public Notice Number:** PN2010-0004

**Comment Period:** June 23, 2010 - July 22, 2010

**Action:** Notice of Proposed Assessment of Class II Clean Water Act Sections 309(g) and 311(b)(6) Administrative Penalty and Opportunity to Comment

Under sections 309(g)(2)(B) and 311(b)(6)(B)(ii) of the Clean Water Act (CWA), 33 U.S.C. §§ 1319(g)(2)(B) and 1321(b)(6)(B)(ii), 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) and 311(b)(6)(B)(ii), the maximum civil penalties that may be administratively assessed have been increased as follows: 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 on or 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 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 sections 309(g)(2)(B) and 311(b)(6)(B)(ii), EPA is providing public notice of the following proposed Class II administrative penalty assessment:

**Name and Mailing Address of Respondents:** Munce's Superior, Inc., 620 Main Street, Gorham, New Hampshire 03581; and Munce's Superior Petroleum Products, Inc., 620 Main Street, Gorham, New Hampshire 03581.

**Name and Address of Facilities or Sites Addressed by Complaint:** 443 Main Street, Gorham, New Hampshire 03846; 615 Main Street, Gorham, New Hampshire 03581; 619 Main Street, Gorham, New Hampshire 03581; and 620 and 624 Main Street, Gorham, New Hampshire 03581.

**Description of Business or Activity Conducted by the Respondent:** Oil storage and distribution.

**Description of Violations alleged in Complaint subject to public comment:** Failure to respond to EPA information request in violation of section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a) and failure to comply with Oil Pollution Prevention regulations in violation of Sections 311(j) of the Clean Water Act, 33 U.S.C. § 1321.

**Proposed penalty:** Up to the statutory maximum of \$11,000 per day of violation from March 15, 2004 through January 12, 2009, up to a maximum of \$157,500 and \$16,000 per day of violation on or after January 12, 2009, up to a maximum of \$177,500.

**Name of case:** In re: Munce's Superior Petroleum Products, Inc. and Munce's Superior, Inc.

**Docket numbers:** CWA-01-2010-0040

**Date Filed with Regional Hearing Clerk:** June 21, 2010

**Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:** Wanda Santiago, EPA Region 1, 5 Post Office Square Suite 100, Boston, MA 02109-3912

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 Five 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.