

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

Date of Notice: July 12, 2016

Public Notice Number: PN2016 - 0004

Comment Period: July 13, 2016 – August 11, 2016

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 Section 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: Foster Materials, Inc. CWA-01-2016-0032

Name and Mailing Address of Respondent:

Foster Materials, Inc.
1778 Old Concord Road, Henniker, New Hampshire.

Name and Address of Facility or Site Addressed by Complaint:

Foster Materials, Inc.
1778 Old Concord Road, Henniker, New Hampshire.

Description of Business or Activity Conducted by the Respondent:

The Respondent operates a sand and gravel mine and production facility.

Description of Violations Alleged in Consent Agreement and Final Order:

Respondent discharged process water containing sediment into the Contocook River on at least two occasions between November 2014 and July 2015 in violation of the federal Clean Water Act.

Proposed Penalty: Penalty of \$20,000 based, among other factors, on “ability to pay” of Respondent.

Name of Case: Foster Materials, Inc.

Docket Number: CWA-01-2016-0032

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. 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 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.