



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0470
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Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
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**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Greater Harrison County PSD
Billy Childers, Interim General Manager
PO Box 190
West Milford, WV 26451

DATE: August 4, 2015

ORDER NO.: 8227

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Greater Harrison County PSD (hereinafter "Greater Harrison").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Greater Harrison operates a wastewater collection and treatment system located in West Milford, Harrison County, West Virginia. Greater Harrison was reissued WV/NPDES Water Pollution Control Permit No. WV0084301 on July 9, 2009 and January 16, 2015.
2. S & S Landfill is a solid waste landfill located in Harrison County, West Virginia. The Landfill discharges leachate directly to Greater Harrison's sanitary sewer collection system, and it is identified as an industrial user (IUO1) in Greater Harrison's WV/NPDES permit. As such, there are flow limits for discharge from S & S Landfill to Greater Harrison.
3. On June 22, 2009, MSES Consultants made comment on Greater Harrison's draft WV/NPDES permit on behalf of S & S Landfill. MSES requested that S & S Landfill's flow limit be increased from 35,000 to 45,000 gallons per day, Biochemical Oxygen Demand (BOD) limit be increased from 41 to 110 pounds per day, and Total Kjeldahl Nitrogen (TKN) limit be increased from 20 to 54 pounds per day. West Virginia

Promoting a healthy environment.

Department of Environmental Protection (WVDEP) granted the requested higher limits for BOD and flow, but the TKN request was denied due to ammonia exceedances at Greater Harrison during the previous WV/NPDES permit period.

4. On July 9, 2009, Administrative Order No. 6717 was issued to Greater Harrison in response to numerous violations of effluent limitations for fecal coliform and ammonia nitrogen at Outlet 001. Order For Compliance No. Two (2) of the Order required that a detailed plan of action and correctional report be submitted by September 30, 2009 outlining the existing wastewater treatment plant situation and the operational changes that were to be implemented in order to bring the system into compliance with its final permit effluent limitations. Upon review, WVDEP personnel determined that the required plan and report were never submitted.
5. On July 9, 2009, WVDEP reissued Greater Harrison's WV/NPDES Permit No. WV0084301. The WV/NPDES permit required Greater Harrison to submit an Inflow and Infiltration (I&I) removal plan to WVDEP for approval by October 9, 2009 (Section C.8). Upon review, WVDEP personnel determined that the required plan was never submitted.
6. On September 4, 2009, WVDEP issued WV/NPDES Permit Modification No. WV0084301-A allowing Greater Harrison to extend sanitary sewer service to the Clarksburg Country Club and Laurel Park areas, adding 371 new customers.
7. On February 26, 2014, WVDEP personnel conducted an inspection of Greater Harrison. During the inspection, violations of the following sections of the terms and conditions of Greater Harrison's WV/NPDES permit were observed and documented:
 - a. A.001-A grab sample was collected by WVDEP personnel at Outlet 001 and analyzed for total residual chlorine. The analysis resulted in 970 ug/l, which exceeds the permitted Maximum Daily limit of 57 ug/l.
 - b. A.001-Discharge Monitoring Reports (DMRs) were reviewed for one (1) year prior to the inspection. WVDEP personnel documented twenty-one (21) exceedances of the Average Monthly limit for ammonia nitrogen, BOD % removal and Total Suspended Solids (TSS) % removal. In addition, WVDEP personnel documented five (5) exceedances of the Maximum Daily limit for ammonia nitrogen.
 - c. Appendix A.II.1-The permittee failed to properly operate and maintain the facility. Specifically, the gate valve for the standby chlorine basin was left partially open, resulting in a total residual chlorine exceedance of Section A.001.

As a result of the aforementioned violations, Notice of Violation (NOV) No. CM-022714-001 was issued to Greater Harrison. In Greater Harrison's written response to the NOV, Greater Harrison acknowledged the difficulty with meeting the ammonia limit and outlined its attempts to address ammonia exceedances using a number of different strategies over the last several years.

8. On April 28, 2015, WVDEP personnel and representatives of Greater Harrison met to discuss the terms and conditions of this Order.

9. On March 2 and June 23, 2015, Greater Harrison submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Greater Harrison's ability to pay a civil administrative penalty.
10. On July 29, 2015, WVDEP personnel conducted a review of facility records from the time period of August 1, 2012 through June 30, 2015. During this review, the following violations of the terms and conditions of Greater Harrison's WV/NPDES permit were observed:
 - a. Section A.001 – Eighty-eighty (88) exceedances of Greater Harrison's permit parameters were observed and documented (Table 1). These exceedances can be further defined as:
 - i. Minor violations-fifty-four (54)
 - ii. Moderate violations-thirty-three (33)
 - iii. Major violations-one (1)
 - b. Section A.IU01 –Two hundred ten (210) exceedances of the limits placed on S & S Landfill's discharge to Greater Harrison were observed and documented.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Greater Harrison shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, Greater Harrison shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Greater Harrison will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0084301 and Order No. 8227. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
NW Regional Environmental Enforcement Office
2031 Pleasant Valley Road
Fairmont, WV 26554**

A copy of this plan shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Within thirty (30) days of the effective date of this Order, Greater Harrison shall submit an I & I Removal Plan, as described in Section C.8 of its WV/NPDES permit.
4. Within thirty (30) days of the effective date of this Order, Greater Harrison shall submit a summary of communication with S & S Landfill and actions taken to bring S & S Landfill into compliance with the limits specified in A.IU01, as required by Section D.6 of the WV/NPDES permit.
5. Because of Greater Harrison's permit violations, Greater Harrison shall be assessed a civil administrative penalty of ten thousand dollars (\$10,000) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund in accordance with the following schedule:

Payment 1 in the amount of \$833.33 due on or before October 1, 2015.
Payment 2 in the amount of \$833.33 due on or before November 1, 2015.
Payment 3 in the amount of \$833.33 due on or before December 1, 2015.
Payment 4 in the amount of \$833.33 due on or before January 1, 2016.
Payment 5 in the amount of \$833.33 due on or before February 1, 2016.
Payment 6 in the amount of \$833.33 due on or before March 1, 2016.
Payment 7 in the amount of \$833.33 due on or before April 1, 2016.
Payment 8 in the amount of \$833.33 due on or before May 1, 2016.
Payment 9 in the amount of \$833.33 due on or before June 1, 2016.
Payment 10 in the amount of \$833.33 due on or before July 1, 2016.
Payment 11 in the amount of \$833.33 due on or before August 1, 2016.
Payment 12 in the amount of \$833.37 due on or before September 1, 2016.

Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Greater Harrison hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Greater Harrison agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Greater Harrison does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Greater Harrison other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Greater Harrison shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Greater Harrison becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Greater Harrison shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Greater Harrison intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Greater Harrison (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Greater Harrison of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Greater Harrison to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Greater Harrison, its successors and assigns.

7. This Order shall terminate upon Greater Harrison's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

Wm. C. Hoover
~~Billy Childers~~, Interim General Manager
Greater Harrison County PSD
WM. C. HOOVER

8/11/15
Date

Public Notice begin:

Date

Public Notice end:

Date

Scott G. Mandirola, Director
Division of Water and Waste Management

Date

revised March 2013

RECEIVED

AUG 17 2015

ENVIRONMENTAL
ENFORCEMENT

Table One: Greater Harrison DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - 8/1/12 through 6/30/15						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
08/2012	Ammonia Nitrogen	mg/l	15.00	17.00	13%	X	-	-
10/2012	Ammonia Nitrogen	mg/l	15.00	30.00	100%	-	X	-
10/2012	Ammonia Nitrogen	Lbs/Day	75.10	190.50	154%	-	X	-
11/2012	Ammonia Nitrogen	mg/l	15.00	35.00	133%	-	X	-
12/2012	Ammonia Nitrogen	mg/l	15.00	31.00	107%	-	X	-
01/2013	Ammonia Nitrogen	mg/l	15.00	25.00	67%	-	X	-
01/2013	Ammonia Nitrogen	Lbs/Day	75.10	131.80	75%	-	X	-
01/2013	BOD5	mg/l	30.00	35.20	17%	X	-	-
01/2013	BOD5	Lbs/Day	150.10	183.80	22%	X	-	-
02/2013	Ammonia Nitrogen	mg/l	15.00	21.00	40%	X	-	-
03/2013	Ammonia Nitrogen	mg/l	15.00	17.00	13%	X	-	-
04/2013	Ammonia Nitrogen	mg/l	15.00	30.00	100%	-	X	-
05/2013	Ammonia Nitrogen	mg/l	15.00	36.50	143%	-	X	-
06/2013	Ammonia Nitrogen	mg/l	15.00	39.80	165%	-	X	-
07/2013	Ammonia Nitrogen	mg/l	15.00	25.70	71%	-	X	-
07/2013	Ammonia Nitrogen	Lbs/Day	75.10	86.20	15%	X	-	-
08/2013	Ammonia Nitrogen	mg/l	15.00	25.40	69%	-	X	-
08/2013	Ammonia Nitrogen	Lbs/Day	75.10	114.50	52%	-	X	-
09/2013	Ammonia Nitrogen	mg/l	15.00	25.80	72%	-	X	-
11/2013	Ammonia Nitrogen	mg/l	15.00	30.95	106%	-	X	-
12/2013	Ammonia Nitrogen	mg/l	15.00	15.70	5%	X	-	-
01/2014	Ammonia Nitrogen	mg/l	15.00	27.90	86%	-	X	-
01/2014	Ammonia Nitrogen	Lbs/Day	75.10	79.60	6%	X	-	-
03/2014	Ammonia Nitrogen	mg/l	15.00	30.40	103%	-	X	-
03/2014	Ammonia Nitrogen	Lbs/Day	75.10	82.20	9%	X	-	-
04/2014	Ammonia Nitrogen	mg/l	15.00	42.40	183%	-	X	-
04/2014	Ammonia Nitrogen	Lbs/Day	75.10	82.70	10%	X	-	-
05/2014	Ammonia Nitrogen	mg/l	15.00	28.75	92%	-	X	-
05/2014	Ammonia Nitrogen	Lbs/Day	75.10	97.70	30%	X	-	-
05/2014	BOD5	mg/l	30.00	35.00	17%	X	-	-
06/2014	Ammonia Nitrogen	mg/l	15.00	41.20	175%	-	X	-
06/2014	Ammonia Nitrogen	Lbs/Day	75.10	82.60	10%	X	-	-
07/2014	Ammonia Nitrogen	mg/l	15.00	42.30	182%	-	X	-
08/2014	Ammonia Nitrogen	mg/l	15.00	25.35	69%	-	X	-
09/2014	Ammonia Nitrogen	mg/l	15.00	15.95	6%	X	-	-
09/2014	Ammonia Nitrogen	Lbs/Day	75.10	79.00	5%	X	-	-
1/2015	BOD5	mg/l	30.00	34.00	13%	X	-	-
3/2015	BOD5	Lbs/Day	150.10	153.90	3%	X	-	-
11/2014	Ammonia Nitrogen	mg/l	15.00	26.80	79%	-	X	-
12/2014	Ammonia Nitrogen	Lbs/Day	75.10	107.30	43%	-	X	-
12/2014	Ammonia Nitrogen	mg/l	15.00	32.80	119%	-	X	-
1/2015	Ammonia Nitrogen	Lbs/Day	75.10	78.10	4%	X	-	-
1/2015	Ammonia Nitrogen	mg/l	15.00	30.75	105%	-	X	-
2/2015	Ammonia Nitrogen	mg/l	15.00	31.00	107%	-	X	-
6/2015	Total Kjeldahl Nitrogen	Lbs/Day	90.10	91.90	2%	X	-	-
5/2015	Total Kjeldahl Nitrogen	mg/l	18.00	33.50	86%	-	X	-
6/2015	Total Kjeldahl Nitrogen	mg/l	18.00	61.55	242%	-	X	-
6/2015	Fecal Coliform	Cnts/100m	200.00	845.00	323%	-	-	X

Table One: Greater Harrison DMR Exceedance Summary

Outlet 001 DMR Exceedances - MAX. DAILY - 8/1/12 through 6/30/15						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
10/2012	Ammonia Nitrogen	mg/l	30	32	7%	X	-	-
10/2012	Ammonia Nitrogen	Lbs/Day	150.1	304.3	103%	-	X	-
11/2012	Ammonia Nitrogen	mg/l	30	42	40%	X	-	-
12/2012	Ammonia Nitrogen	mg/l	30	48	60%	X	-	-
04/2013	Ammonia Nitrogen	mg/l	30	36	20%	X	-	-
05/2013	Ammonia Nitrogen	mg/l	30	36.5	22%	X	-	-
06/2013	Ammonia Nitrogen	mg/l	30	40.5	35%	X	-	-
07/2013	Ammonia Nitrogen	mg/l	30	33	10%	X	-	-
11/2013	Ammonia Nitrogen	mg/l	30	33.5	12%	X	-	-
03/2014	Fecal Coliform	Cts/100ml	400	2420	505%	-	X	-
04/2014	Ammonia Nitrogen	mg/l	30	43.8	46%	X	-	-
05/2014	Ammonia Nitrogen	mg/l	30	31.2	4%	X	-	-
05/2014	Ammonia Nitrogen	Lbs/Day	150.1	155.1	3%	X	-	-
06/2014	Ammonia Nitrogen	mg/l	30	44.3	48%	X	-	-
07/2014	Ammonia Nitrogen	mg/l	30	46.9	56%	X	-	-
09/2014	Ammonia Nitrogen	Lbs/Day	150.1	150.9	1%	X	-	-
11/2014	Ammonia Nitrogen	mg/l	30	31.8	6%	X	-	-
12/2014	Ammonia Nitrogen	mg/l	30	41.2	37%	X	-	-
1/15/2015	Ammonia Nitrogen	mg/l	30	31.3	4%	X	-	-
1/20/2015	Ammonia Nitrogen	mg/l	30	30.2	1%	X	-	-
2/2015	Ammonia Nitrogen	mg/l	30	35.9	20%	X	-	-
5/2015	Total Kjeldahl Nitrogen	mg/l	36	36.9	3%	X	-	-
6/3/2015	Total Kjeldahl Nitrogen	mg/l	36	62	72%	X	-	-
6/10/2015	Total Kjeldahl Nitrogen	mg/l	36	61.1	70%	X	-	-
12/2014	Fecal Coliform	Cts/100ml	400	1120	180%	-	X	-
6/3/2015	Fecal Coliform	Cts/100ml	400	461	15%	X	-	-
6/10/2015	Fecal Coliform	Cts/100ml	400	1550	288%	-	X	-

Outlet 001 Exceedances - Minimum 85% Removal - AVG. MONTHLY - 8/1/12 through 6/30/15						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
09/2012	TSS %Removal	%	85.0	62.0	27.1%	X	-	-
01/2013	TSS %Removal	%	85.0	78	8.2%	X	-	-
01/2013	BOD % Removal	%	85.0	38	55.3%	-	X	-
12/2013	TSS %Removal	%	85.0	84	1.2%	X	-	-
12/2013	BOD % Removal	%	85.0	82	3.5%	X	-	-
1/2014	BOD % Removal	%	85.0	73	14.1%	X	-	-
3/2014	BOD % Removal	%	85.0	80	5.9%	X	-	-
05/2014	BOD % Removal	%	85.0	81	4.7%	X	-	-
10/2014	BOD % Removal	%	85.0	73	14.1%	X	-	-
1/2015	BOD % Removal	%	85.0	67	21.2%	X	-	-
3/2015	BOD % Removal	%	85.0	73	14.1%	X	-	-
4/2015	BOD % Removal	%	85.0	80	5.9%	X	-	-
1/2015	TSS %Removal	%	85.0	82	3.5%	X	-	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	54	33	1

Table Two: Greater Harrison PSD DMR Exceedance Summary

Outlet IU01 DMR Exceedances - MAX. DAILY - 8/1/12 through 6/30/15			
Date	Parameter	Units	Number of Exceedances
August 2012	TSS	lbs/day	1
August 2012	TKN	lbs/day	5
Sept 2012	TSS	lbs/day	1
Sept 2012	TKN	lbs/day	5
Oct 2012	TSS	lbs/day	1
Oct 2012	TKN	lbs/day	6
Nov 2012	TKN	lbs/day	3
Dec 2012	TSS	lbs/day	1
Dec 2012	TKN	lbs/day	4
Dec 2012	Nickel	lbs/day	1
Jan 2013	TKN	lbs/day	5
Feb 2013	TKN	lbs/day	5
March 2013	TKN	lbs/day	5
April 2013	TKN	lbs/day	6
April 2013	Copper	lbs/day	1
May 2013	TKN	lbs/day	5
June 2013	TKN	lbs/day	5
July 2013	TKN	lbs/day	6
July 2013	TSS	lbs/day	1
August 2013	TKN	lbs/day	4
August 2013	BOD5	lbs/day	1
August 2013	TSS	lbs/day	1
Sept 2013	TKN	lbs/day	5
Oct 2013	TKN	lbs/day	6
Oct 2013	Nickel	lbs/day	1
Oct 2013	Mercury	lbs/day	1
Oct 2013	TSS	lbs/day	1
Nov 2013	TKN	lbs/day	5
Nov 2013	BOD5	lbs/day	1
Nov 2013	TSS	lbs/day	1
Nov 2013	Arsenic	lbs/day	1
Nov 2013	Zinc	lbs/day	1
Nov 2013	Nickel	lbs/day	1
Dec 2013	TKN	lbs/day	6
Dec 2013	TSS	lbs/day	1
Dec 2013	Nickel	lbs/day	1
Jan 2014	TKN	lbs/day	5
Feb 2014	TKN	lbs/day	4
March 2014	TKN	lbs/day	5
April 2014	TKN	lbs/day	6
May 2014	TKN	lbs/day	5
June 2014	TKN	lbs/day	5
June 2014	TSS	lbs/day	1
July 2014	TKN	lbs/day	6
Aug 2014	TSS	lbs/day	1
Aug 2014	TKN	lbs/day	5
Sept 2014	TSS	lbs/day	1
Sept 2014	TKN	lbs/day	3
Sept 2014	Cyanide	lbs/day	1
Oct 2014	TKN	lbs/day	6

Table Two: Greater Harrison PSD DMR Exceedance Summary

June 2015	BOD5	lbs/day	1
Nov 2014	TSS	lbs/day	1
Jan 2015	TSS	lbs/day	1
Feb 2015	TSS	lbs/day	1
March 2015	TSS	lbs/day	1
April 2015	TSS	lbs/day	1
June 2015	TSS	lbs/day	1
Nov 2014	TKN	lbs/day	5
Dec 2014	TKN	lbs/day	6
Jan 2015	TKN	lbs/day	5
Feb 2015	TKN	lbs/day	5
March 2015	TKN	lbs/day	3
April 2015	TKN	lbs/day	4
May 2015	TKN	lbs/day	5
June 2015	TKN	lbs/day	5
May 2015	Cyanide	lbs/day	1
June 2015	Cyanide	lbs/day	1
Feb 2015	Mercury	lbs/day	1
March 2015	Mercury	lbs/day	1
June 2015	Mercury	lbs/day	1

Total Exceedances = 210

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Greater Harrison County PSD Receiving Stream: _____

Treatment System Design Maximum Flow: 0.6 MGD

Treatment System Actual Average Flow: 0.3 MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#											
			7a	7c	10ai	10aii								
a)	Amount of Pollutant Released	1 to 3	1	1	1	1								
b)	Toxicity of Pollutant	0 to 3	1	1	1	1								
c)	Sensitivity of the Environment	0 to 3	1	1	1	1								
d)	Length of Time	1 to 3	1	1	1	1								
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1								
Average Potential for Harm Factor			1	1	1	1	No							
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	3	3	1	2								

Potential for Harm Factors:

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly , >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

- 6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase
- 6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum
- 6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)
- 6.2.b.7 - Public Interest (increase to be determined)
- 6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)
- 6.2.b.9 - Staff investigative costs (increase to be determined)
- 6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

- Public Notice Costs (cost for newspaper advertisement)
- 6.2.b.2 - Good Faith - 10% decrease to 10% increase
- 6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease
- 6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$6,950
6.2.b.4 - Compliance/noncompliance history			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease			\$0
6.2.b.3 - Cooperation with the Secretary		10	(\$6,950)
6.2.b.5 - Ability to Pay		85.655	(\$59,530)
Penalty Adjustments			(\$59,500)
Penalty =			\$10,000

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments:	