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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: (304) 926-0495  
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Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11  
AND THE  
GROUNDWATER PROTECTION ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 12**

TO: Stone Energy Corporation  
Attn: Roger Cutright  
1300 Fort Pierpont, Suite 201  
Morgantown, WV 26508

DATE: January 5, 2015  
ORDER NO.: 8112

**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. and Chapter 22, Article 12, Section 1 et seq. to Stone Energy Corporation (hereinafter “Stone Energy”).

**FINDINGS OF FACT**

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

1. Stone Energy is an independent oil and natural gas exploration, development and production company located in Morgantown, Monongalia County, West Virginia. Stone Energy owns and operates various well pads, gas processing facilities, pipelines, tank pads and construction projects related to the oil and gas industry in West Virginia.
2. On May 1, 2013, West Virginia Department of Environmental Protection (WVDEP) personnel conducted a site visit of Stone Energy’s Winters Well Pad to Lemons Well Pad pipeline construction project. During the investigation, WVDEP observed an inadvertent return from a horizontal directional drilling (HDD) operation and advised Stone Energy to report the incident to the WV Emergency Spill Line. Controls had not been installed to contain the drilling material. Drilling material impacted Camp Run at N39° 39.069'

Promoting a healthy environment.

W80° 48.052'. Violations of the following sections of WV Legislative Rules were observed and documented:

- a. 47CSR2 Section 3.2.b-Stone Energy created conditions not allowable in waters of the State. Specifically, drill material from an inadvertent return left deposits in Camp Run.
- b. 47CSR11 Section 2.2.a-Stone Energy failed to give immediate notification to the Office of Water Resources' Emergency Notification spill line.
- c. 47CSR11 Section 2.5.a-Stone Energy failed to immediately take any and all measures necessary to contain a spill or discharge.

As a result of the aforementioned violations, three (3) warnings were issued to Stone Energy.

3. On May 2, 2013, WVDEP personnel met with Stone Energy and Littman Excavating personnel to provide compliance assistance.
4. On May 2, 2013, WVDEP received a written remediation plan for the inadvertent return which occurred on May 1, 2014.
5. On June 17, 2013, WVDEP personnel conducted an inspection of the Winters Well Pad to Lemons Well Pad pipeline construction project. Stone Energy continued to have inadvertent returns from HDD activities on Camp Run. Impact to Camp Run increased further upstream than the original incident on May 1, 2013. WVDEP personnel advised Stone Energy personnel to report the incident to the WV Emergency Spill Line. During the inspection, violations of the following sections of WV Legislative Rules were observed and documented:

- a. 47CSR2 Section 3.2.b-Stone Energy created conditions not allowable in waters of the State. Specifically, drilling material entered Camp Run at N39° 39.069' W80° 48.052', creating sediment deposits. In addition, Stone Energy personnel placed Best Management Practices (BMPs) in Camp Run to contain sediment leaving the right of way.
- b. 47CSR11 Section 2.5.a-Specifically, Stone Energy failed to take any and all measures necessary to clean up and remove drilling material in Camp Run from an inadvertent return which occurred on June 15, 2013.
- c. 47CSR11 Section 2.2.a-Stone Energy failed to give immediate notification to the Office of Water Resources Emergency Notification spill line.

As a result of the aforementioned violations, warnings and Notice of Violation (NOV) No. W-NW-TAM-061713-001 were issued to Stone Energy.

6. On June 17, 2013, WVDEP personnel received an emergency spill notification regarding an inadvertent return on the Winters Well Pad to Lemons Well Pad pipeline construction project in Camp Run.
7. On January 14, 2014, WVDEP personnel conducted a site visit of a Williams Ohio Valley Midstream construction project adjoining Stone Energy's Stillwagoner Tank Pad

construction site. During the inspection, violations of the following sections of WV Legislative Rules were observed and documented:

- a. 47CSR2 Section 3.2.a-Stone Energy created conditions not allowable in waters of the State. Specifically, sediment laden water was leaving a slip area originating from the Stone Energy Stillwagoner Tank Pad construction site, allowing suspended solids to enter into Turkey Run at N 39°35'39.9" W 80°47'18.5".
- b. 47CSR2 Section 3.2.a-Stone Energy created conditions not allowable in waters of the State. Specifically, sediment laden water was leaving a slip area originating from the Stone Energy Stillwagoner Tank Pad construction site, allowing suspended solids to enter into Turkey Run at N 39°35'50.8" W 80°47'25.2".

As a result of the aforementioned violations, NOV Nos. W-NW-TAM-011414-001 and W-NW-TAM-011414-002 were issued to Stone Energy.

8. On April 1, 2014, WVDEP personnel met with Stone Energy personnel to provide compliance assistance. An inspection of the Stillwagoner Tank Pad was conducted.

9. On April 22, 2014, WVDEP personnel responded to a complaint regarding Doolin Run being muddy. During the investigation, violations of the following sections of WV Legislative Rules were observed and documented:

- a. 47CSR2 Section 3.2.a and b- Stone Energy created conditions not allowable in waters of the State. Specifically, Stone Energy failed to provide adequate controls to protect the Unnamed Tributary (UT) of Doolin Run. Stone Energy dewatered an excavated pipeline trench, and discharged the contents into a UT of Doolin Run, causing muddy conditions in the UT and Doolin Run for more than one (1) mile downstream. A dewatering device (filter bag) was placed in the UT, which allowed sediment deposits in the UT of Doolin Run.
- b. 47CSR58 Section 4.12-Stone Energy failed to provide an established Ground Water Protection Plan (GPP).
- c. 47CSR58 Section 4.7.c- Stone Energy failed to install pumps and ancillary equipment in a manner that prevents or contains a spill or leak. Specifically, Stone Energy placed and was operating a pump in a UT of Doolin Run. A second pump was observed on the stream bank, both installed without spill containment.
- d. 47CSR10 Section 3.1-Stone Energy discharged pollutants from a point source into State waters without a WV/NPDES permit. Specifically, on April 16, 2014, Stone Energy began a natural gas pipeline and a condensate pipeline construction project greater than three (3) acres without a WV/NPDES permit for "Stormwater Associated with Oil and Gas related Construction Activities."

As a result of the aforementioned violations, NOV Nos. W-NW-TAM-042214-001, GW-NW-TAM-042214-002, GW-NW-TAM-042214-003, and W-NW-TAM-042214-004 were issued to Stone Energy.

**ORDER FOR COMPLIANCE**

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. and Chapter 22, Article 12, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Stone Energy shall immediately take all measures to initiate compliance with all pertinent laws and rules of Chapter 22, Article 11, Section 1 et seq. and Chapter 22, Article 12, Section 1 et seq. of the West Virginia Code.
2. Within twenty (20) days of the effective date of this Order, Stone Energy shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Stone Energy will achieve compliance with all pertinent laws and rules. The plan of corrective action shall make reference to Order No. 8112. 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 57<sup>th</sup> 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 twenty (20) days of the effective date of this Order, Stone Energy shall electronically submit an administratively complete application for a General Water Pollution Control Permit for Stormwater Associated with Oil and Gas related Construction Activities for any land disturbance which requires this permit, but does not currently maintain such permit. Any questions regarding the application process shall be directed to WVDEP DWWM-Permitting Section at (304) 926-0495.
4. Within twenty (20) days of the effective date of this Order, Stone Energy shall submit an inventory of all recorded slips originating from Stone Energy's activities which are or would be subject to regulation under the General Water Pollution Control Permit for Stormwater Associated with Oil and Gas Related Construction Activities. The inventory shall include slip priority level, GPS coordinates, and an estimated remediation timeline. Slip inventory shall be prioritized in accordance with the attached guidance document.

Stone Energy shall submit the cumulative slip inventory to WVDEP on or before the first Monday of each month for a period of eighteen (18) months. The slip inventory shall be submitted to:

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

5. Within twenty (20) days of the effective date of this Order, Stone Energy shall submit geo-referenced line work and placemark data in either SHP or KMZ format for all actively permitted projects and all current and future sites with activities greater than three (3) acres which are required to obtain a Water Pollution Control Stormwater Permit Associated with Oil and Gas Construction Activities. Geo-referenced line work and placemark data shall be submitted electronically to:

**WVDEP Environmental Inspector Supervisor  
Bradley Swiger  
Bradley.C.Swiger@wv.gov**

6. Upon the effective date of this Order, for all Stone Energy actively permitted projects and all current and future sites with activities greater than three (3) acres which are required to obtain a Water Pollution Control Stormwater Permit Associated with Oil and Gas Construction Activities, Stone Energy shall commence exclusive use of best management practices and sediment and erosion controls as described in either the approved Storm Water Pollution Prevention Plan (SWPPP) or the West Virginia Erosion and Sediment Control Best Management Practice Manual recognized by WVDEP Division of Water and Waste Management.
7. Within thirty (30) days of the effective date of this Order, Stone Energy shall modify existing guidelines and develop a specific written training guideline to address erosion and sediment controls at Stone Energy projects which will address at a minimum:
  - a. Spill and reporting procedures
  - b. BMPs
  - c. Sediment and erosion control installation requirements
  - d. Stormwater Pollution Prevention Plan requirements
  - e. Groundwater Protection Plan (GPP) requirements
8. Stone Energy shall electronically notify the WVDEP Inspector Supervisor at least seven (7) days prior to commencing construction of any stream crossing involving the installation of pipelines and the use of HDD, culverts, or open trench construction methods. This term for compliance shall remain in effect for a period of two years from the effective date of this Order. The notification shall be sent to:

**WVDEP Environmental Inspector Supervisor  
Bradley Swiger  
Bradley.C.Swiger@wv.gov**

9. Within sixty (60) days of the effective date of this Order, Stone Energy shall modify existing internal guidelines and develop a specific written policy and procedure for inadvertent returns. The policy and procedure shall include, but not be limited to, the following:
- a. Preventative measures.
  - b. A method of identifying inadvertent returns which occur off of the right of way.
  - c. Containment/remediation procedures for in-stream and land-based inadvertent returns.
  - d. Provisions for preservation of aquatic life.
  - e. A list of all known constituents used in drilling mud, including any potential additives.
  - f. Provisions for return pit construction and abandonment.
  - g. Methods for proper disposal of inadvertent return materials.

This policy and procedure shall remain onsite at all HDD operations and shall be made available for review by WVDEP personnel upon request. The policy and procedures shall be consistent with all pertinent laws and rules. This term for compliance shall remain in effect for a period of two (2) years from the effective date of this order.

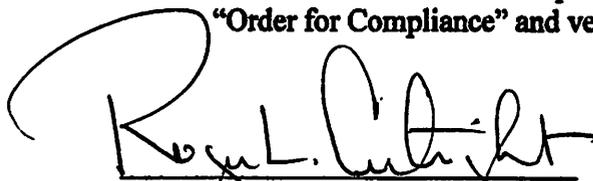
10. Within forty-five (45) days of the effective date of this Order, Stone Energy shall provide to WVDEP a detailed summary of all land disturbance activities directly related to pipeline activity which is either subject to or would be subject to regulation under the General Water Pollution Control Permit for Stormwater Associated with Oil and Gas Related Construction Activities. The summary shall include all projects completed since January 1, 2013 and all projects that were under construction as of October 1, 2014. The summary shall include all activities associated with Stone Energy, in whole or in part inclusive of partnerships, mergers, subsidiaries, affiliates, joint ventures and other corporate structures not herein specified. The summary shall at a minimum include the following information:
- a. The name or identification source for each land disturbance activity, project and/or job that is active, completed, or planned.
  - b. The name and contact information for the various contractors utilized in each project development.
  - c. The current status, schedule and anticipated timeline for each phase of construction for each project.
  - d. Coordinates for each project. If the project is linear in nature, beginning, end and any stream crossing coordinates shall be included.
11. Because of Stone Energy's Legislative Rule violations, Stone Energy shall be assessed a civil administrative penalty of forty-one thousand four hundred thirty dollars (\$41,430) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. 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 57<sup>th</sup> Street SE  
Charleston, WV 25304**

**OTHER PROVISIONS**

1. Stone Energy hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 and/or Chapter 22, Article 12, Section 11 of the Code of West Virginia. Under this Order, Stone Energy 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, Stone Energy 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 Stone Energy 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, Stone Energy 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 Stone Energy becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Stone Energy 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 Stone Energy 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 Stone Energy (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 Stone Energy 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 Stone Energy 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 Stone Energy, its successors and assigns.
7. This Order shall terminate upon Stone Energy's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

  
~~Timothy McGregor~~ ROGER L. CUTRIGHT  
Stone Energy Corporation

3/4/2015  
Date

Public Notice begin:

\_\_\_\_\_  
Date

Public Notice end:

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

*revised March 2013*

**RECEIVED**

MAR 09 2015

ENVIRONMENTAL  
ENFORCEMENT



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west virginia department of environmental protection

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Environmental Enforcement  
Water and Waste  
2031 Pleasant Valley Road, Suite #1  
Fairmont, WV 26554  
Telephone: (304) 368-3960 Fax: (304) 368-3953

Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
www.wvdep.org

### Slip Priority Categorization

#### Priority 1 Slip:

Definition: A slip which has caused an immediate danger to human health and/or the environment. This type of slip requires an emergency response.

#### Criteria:

- Compromises or threatens other utilities.
- Active and/or functional pipeline is broken or detached.
- A public roadway which may be used for emergency vehicles is blocked.
- A fish kill has been observed and/or confirmed in the receiving waters.
- Release of aqueous phase hydrocarbons (i.e. condensate).
- Slip has completely blocked the flow of a stream, and the resulting impoundment is large enough to constitute an immediate danger to human health and/or the environment.

If any one of these criteria exists, it is a Priority 1 Slip.

#### Possible actions:

- Contact West Virginia 811.
- Contact local office of emergency services.
- Contact WVDOH.
- Contact WVDNR.
- Notify WVDEP Emergency Spill Line (1-800-642-3074), pursuant to 47CSR11-2. (Special Rules) of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.
- Contact made with responsible party.
- Any other necessary contact made to outside agencies for emergency purposes, to include possible referral to USACE/USEPA.

**Priority 2 Slip:**

Definition: A slip, slide, or associated migration of sediment and/or a mass movement of soil which has reached a waterway causing Conditions Not Allowable in State Waters.

Criteria:

- Slip material or sediment laden water has entered waters of the state.
- A pipeline is exposed but not broken.

If any one of these criteria exists, it is a Priority 2 Slip.

Possible Actions:

- Referral to EPA.
- Referral to USACE.
- Contact made with responsible party
- Notify WVDEP Emergency Spill Line (1-800-642-3074), pursuant to 47CSR11-2. (Special Rules) of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

**Priority 3 Slip:**

Definition: A slip, slide or associated migration of sediment and/or debris that has not yet reached state waters.

Criteria:

- Impact to the water body is imminent.

Possible Actions:

- Notify responsible party.
- Notify WVDEP county inspector.

**Priority 4 Slip:**

Definition: A slip that poses little or no environmental threat.

Criteria:

- No water body in the immediate area.
- Low/no probability of Conditions Not Allowable.
- Pipeline is not in danger of exposure, severing, detaching or rupture.

Possible Actions:

- Notify responsible party.

**WV Department of Environmental Protection  
Environmental Enforcement  
Photo Log**

Company Name: Stone Energy Corporation  
 Facility Name: Wetzel County  
 Location: Unnamed tributary of Doolin Run, Turkey Run, Camp Run  
 Stream:

Photo #	Date	Time	Description	Notice Of Violation
IMGP2058	5/1/13	14:36	HDD material in Camp Run. No controls.	Warning issued for violating 47-2-3.2.b.
IMGP2063	5/1/13	14:32	HDD material in Camp Run.	
IMGP2064	5/1/13	15:01	Upstream of HDD and right of way.	
IMGP2165	6/17/13	11:05	Containment for sediment runoff from right of way and HDD material in Camp Run.	W-NW-TAM-061713-001
IMGP2167	6/17/13	11:07	Upstream of photo IMG2165. Sediment containment for right of way sediment.	
P1140101	1/14/14	14:19	Slip originating from Stone Energy Stillwagener Tank Pad Construction site.	
P1140093	1/14/14	13:35	Sediment laden water, originating from photo P1140101, entering into Turkey Run.	W-NW-TAM-011414-001
P1140089	1/14/14	13:27	Slip Originating from Stone Energy's Stillwagener Tank Pad construction site and running below the Williams Stillwagener Compressor Station site.	
P1140090	1/14/14	13:27	Slip continued. Originating from Stone Energy's Stillwagener site and running below the Williams Stillwagener Compressor Station Site.	
P1140097	1/14/14	14:00	Sediment laden water, originating from Stone Energy's Stillwagener site photo P1140089 and P1140090, entering into Turkey Run.	W-NW-TAM-011414-002
DSCN1065	4/22/14	9:33	UT of Doolin Run.	W-NW-TAM-042214-001
DSCN1066	4/22/14	9:39	Trench dewatering device in stream on the downstream side of the right of way.	
DSCN1068	4/22/14	9:40	Taken downstream just before the right of way. Pump in stream without containment unit.	GW-NW-TAM-042214-003



Photographer Tonya Mather



IMG2058: May 1, 2013. HDD material in Camp Run. No controls.



IMG2063: May 1, 2013. HDD material in Camp Run.



IMGP2064: May1, 2013. Upstream of HDD and right of way.



IMGP2165: June 17, 2013. Containment for sediment runoff from right of way and HDD material in Camp Run.



IMGP2167: June 17, 2013. Upstream of photo IMGP2165. Sediment containment for right of way sediment.



P1140101: January 14, 2014. Slip originating from Stone Energy Stillwagoner Tank Pad Construction site.



P1140093: January 14, 2014. Sediment laden water, originating from photo P1140101, entering into Turkey Run.



P1140089: January 14, 2014. Slip Originating from Stone Energy's Stillwagner Tank Pad construction site and running below the Williams Stillwagner Compressor Station site.



P1140090: January 14, 2014. Slip continued. Originating from Stone Energy’s Stillwagoner site and running below the Williams Stillwagoner Compressor Station Site.



P1140097: January 14 2014. Sediment laden water, originating from Stone Energy’s Stillwagoner site photo P1140089 and P1140090, entering into Turkey Run.



DSCN1065: April 22, 2014. UT of Doolin Run.



DSCN1066: April 22, 2014. Trench dewatering device in stream on the downstream side of the right of way.



DSCN1068: April 22, 2014. Taken downstream just before the right of way. Pump in stream without containment unit.

## Base Penalty Calculation

(pursuant to 47CSR1-6.1)

**Responsible Party:** Stone Energy Corporation      **Receiving Stream:** Camp Run, Turkey Run, Doolin Run, UT of Doolin Run

**Treatment System Design Maximum Flow:** N/A MGD

**Treatment System Actual Average Flow:** N/A MGD (if known)

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

1)	Potential for Harm Factor	Factor Range	FOF#												
			2.a	2.b	2.c	5.a	5.b	5.c	7.a	7.b	9.a	9.d			
a)	Amount of Pollutant Released	1 to 3	3	1	1	3	1	1	2	2	3	1			
b)	Toxicity of Pollutant	0 to 3	1	0	1	1	1	0	1	1	1	1			
c)	Sensitivity of the Environment	0 to 3	1	0	1	1	1	0	1	1	1	1			
d)	Length of Time	1 to 3	1	1	1	1	2	2	1	1	1	1			
e)	Actual Exposure and Effects thereon	0 to 3	2	0	1	2	1	0	2	2	3	1			
<b>Average Potential for Harm Factor</b>			1.6	0.4	1	1.6	1.2	0.6	1.4	1.4	1.8	1	No	No	No
2)	Extent of Deviation Factor	Factor Range													
	Degree of Non-Compliance	1 to 3	3	3	3	3	3	3	3	3	3	3			

**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.



		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
2.a	Moderate	Major	\$4,600	1	\$4,600
2.b	Minor	Major	\$1,700	1	\$1,700
2.c	Minor	Major	\$2,000	1	\$2,000
5.a	Moderate	Major	\$4,600	1	\$4,600
5.b	Moderate	Major	\$4,200	1	\$4,200
5.c	Minor	Major	\$1,800	1	\$1,800
7.a	Moderate	Major	\$4,400	1	\$4,400
7.b	Moderate	Major	\$4,400	1	\$4,400
9.a	Moderate	Major	\$4,800	1	\$4,800
9.d	Minor	Major	\$2,000	1	\$2,000
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
<b>Total Base Penalty</b>					<b>\$34,500</b>

## 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 -	30		\$10,350
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	(\$3,450)
6.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>\$6,930</b>
<b>Penalty =</b>			<b>\$41,430</b>

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	
<b>Estimated Economic Benefit</b>	<b>\$0</b>
<b>Comments:</b>	