



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
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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: City of Pennsboro
Honorable Robert Riggs, Mayor
422 Main Street
Pennsboro, WV 26415

DATE: February 22, 2016
ORDER NO.: 8142

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 City of Pennsboro (hereinafter "Pennsboro").

FINDINGS OF FACT

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

1. Pennsboro operates a 0.250 MGD sewage treatment plant and collection system located in Pennsboro, Ritchie County, West Virginia. Pennsboro was reissued WV/NPDES Water Pollution Control Permit No. WV0025739 on May 27, 2009 and June 30, 2014.
2. On May 28, 2009, West Virginia Department of Environmental Protection (WVDEP) and Pennsboro entered into Consent Order No. 6213. This Order addressed Inflow and Infiltration (I/I) and Sanitary Sewer Overflows located in the collection system.
3. On January 25-26, 2012, WVDEP personnel conducted an inspection of the facility. Numerous violations of the terms and conditions of Pennsboro's WV/NPDES permit and Order No. 6213 were documented. Notice of Violation (NOV) No. CM-TJA-012612-001 was issued to Pennsboro as a result of this inspection.
4. On December 18 and 19, 2013, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV State Code, Legislative Rule, and Pennsboro's permit were observed and documented:

- a. Section C.20 - Pennsboro failed to submit a Plan of Action and quarterly progress reports for compliance with copper and zinc permit limits at Outfall 001.
- b. Section C.21 and Paragraph No. 5.B of of the Order for Compliance section of Consent Order No. 6213 - Pennsboro failed to submit written progress reports for the removal of Inflow and Infiltration (I/I).
- c. Appendix A.III.6 - Pennsboro failed to retain records of all monitoring information. Specifically, there were no records for lift station checks.
- d. 22-11-8.b.1 - Without authorization pursuant to a WV/NPDES permit, Pennsboro allowed sewage or the effluent therefrom to flow into waters of the State. The Sanitary Sewer Overflow (SSO) located at the treatment facility that diverts excessive flows away from the treatment basins to prevent the hydraulic overloading of the units is an unpermitted outfall. Consent Order No. 6213 permitted this outfall as a Temporary SSO until January 31, 2011. However, the SSO remained active during this inspection.
- e. Appendix A.IV.2.a and 47CSR11 Section 2.2.a - Pennsboro failed to provide immediate notification of a spill to waters of the State to the Office of Water Resources' Emergency Notification Number. The operator did not report the spill until after WVDEP personnel pointed out the unpermitted discharge from the SSO.
- f. 47CSR2 Section 3.2.a - Pennsboro created conditions not allowable in waters of the State by discharging from the aforementioned SSO, causing a distinctly visible plume of suspended solids in the receiving stream.
- g. Appendix A.II.1 - Pennsboro failed to properly operate and maintain the facility. Specifically, the ultraviolet (UV) bulbs of the disinfection unit were not being cleaned. Clumps of solids were collecting in the UV channel.
- h. Section A.001- Pennsboro failed to flow proportion the effluent composite sample.

As a result of the aforementioned violations, Notice of Violation (NOV) No. CM-DAK-12-19-13-NOV1 was issued to Pennsboro.

5. On June 30, 2014, WVDEP personnel conducted a review of facility records from the time period of January 2012 through May 2014. During this review, the following violations of the terms and conditions of Pennsboro's WV/NPDES permit were observed:
 - a. Section A.001 - Forty-seven (47) exceedances of Pennsboro's permit parameters observed and documented (Table One). These exceedances can be further defined as:
 - i. Minor violations-twenty (20)
 - ii. Moderate violations-sixteen (16)
 - iii. Major violations-eleven (11)
6. On December 9, 2014 and February 23, 2015, WVDEP personnel and representatives of Pennsboro met to discuss the terms and conditions of this Order.
7. On July 28, 2015, Pennsboro submitted to WVDEP a proposed compliance schedule regarding the upgrade of its existing wastewater treatment plant.
8. On September 22, 2015, WVDEP determined, by performing an Environmental Review, that significant environmental impacts would not result from the proposed Pennsboro wastewater treatment plant upgrade.

9. On December 2, 2015, WVDEP approved the plans and specifications for Phase IIB of Pennsboro's wastewater treatment plant improvements.
10. On December 4, 2015, Pennsboro submitted to WVDEP a Supplemental Environmental Project (SEP) proposal which consisted of a service extension to fifteen (15) unsewered homes and businesses. The SEP is an environmentally beneficial plan undertaken by Pennsboro to mitigate a portion of the penalty assessed in this Order.

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. Pennsboro 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 twenty (20) days of the effective date of this Order, Pennsboro shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Pennsboro 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. WV0025739 and Order No. 8142. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
Compliance Monitoring
PO Box 662
Teays, WV 25569**

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. Upon the effective date of this Order, Pennsboro shall be placed on the following alternate interim limits until the expiration date of January 31, 2018. All other parameter limits contained within its WV/NPDES permits shall remain in full force and effect. Beginning February 1, 2018, Pennsboro shall achieve compliance with all limits as detailed within the WV/NPDES permits.

Parameter	Interim Avg Monthly Limit	Interim Max Daily Limit
Ammonia Nitrogen Lbs/Day (Summer)	Report Only	Report Only
Ammonia Nitrogen Lbs/Day (Winter)	Report Only	Report Only
Ammonia Nitrogen mg/L (Summer)	4	8
Ammonia Nitrogen mg/L (Winter)	4	8
BOD % Removal (wet weather)	Report Only	N/A
TSS % Removal (wet weather)	Report Only	N/A

4. Pennsboro shall upgrade its existing sewage treatment plant in accordance with its July 28, 2015 compliance schedule (attached). The compliance schedule has been incorporated into and become part of this Order. Failure to adhere to the approved compliance schedule is a violation of this Order.
5. Upon the effective date of this Order, Pennsboro shall begin submitting a compliance report regarding compliance with the attached compliance schedule. Reports shall be submitted once every six (6) months until such time when all tasks in the schedule have been properly completed. All reports shall be mailed to the addresses contained within Order for Compliance No. Two (2).
6. Until January 31, 2018, Pennsboro shall be permitted to operate the secondary treatment bypass during wet weather events whenever the hydraulic capacity of the existing secondary treatment unit is exceeded. Flows through the secondary treatment bypass shall receive preliminary treatment (bar screen and grit removal), primary treatment, and disinfection prior to discharge through a separate outfall. Use of the secondary treatment bypass shall be prohibited during dry weather.
7. Within two (2) years of the effective date of this Order, Pennsboro shall complete the SEP according to the plan and schedule proposed in its December 4, 2015 correspondence (attached). The approved SEP proposal shall be incorporated into and become part of this Order. The SEP shall be completed in accordance with Section C.12 of Pennsboro's WV/NPDES permit, which requires that any collection system extensions be approved by WVDEP. This approval may require modification of the existing WV/NPDES permit.
8. Within sixty (60) days after completion of the SEP, Pennsboro shall submit an SEP Completion Report, listing expenditures and detailing all actions performed in regard to the SEP. The Report shall be mailed to the addresses contained within Order for Compliance No. Two (2). Failure to complete the SEP in accordance with the approved plan and schedule is a violation of this Order, and Pennsboro shall be required to pay the penalties stipulated in Order for Compliance No. Nine (9).
9. Because of Pennsboro's West Virginia Code, Legislative Rule and permit violations, Pennsboro shall be assessed a civil administrative penalty of fifty-two thousand nine hundred ten dollars (\$52,910) to be paid as follows:
 - a. Five thousand dollars (\$5,000) shall 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 \$416.66 due on or before April 1, 2016.
Payment 2 in the amount of \$416.66 due on or before May 1, 2016.
Payment 3 in the amount of \$416.66 due on or before June 1, 2016.
Payment 4 in the amount of \$416.66 due on or before July 1, 2016.
Payment 5 in the amount of \$416.66 due on or before August 1, 2016.
Payment 6 in the amount of \$416.66 due on or before September 1, 2016.
Payment 7 in the amount of \$416.66 due on or before October 1, 2016.
Payment 8 in the amount of \$416.66 due on or before November 1, 2016.
Payment 9 in the amount of \$416.66 due on or before December 1, 2016.
Payment 10 in the amount of \$416.66 due on or before January 1, 2017.
Payment 11 in the amount of \$416.66 due on or before February 1, 2017.
Payment 12 in the amount of \$416.74 due on or before March 1, 2017.

- b. The remaining forty-seven thousand nine hundred ten dollars (\$47,910) shall be applied to the WVDEP approved Supplemental Environmental Project (SEP) proposed by Pennsboro on December 4, 2015. In the event that the SEP is not completed as proposed, the entire value placed upon the SEP shall become due and payable upon demand by WVDEP.

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. Pennsboro 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, Pennsboro 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, Pennsboro 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 Pennsboro 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, Pennsboro 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 Pennsboro becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Pennsboro 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 Pennsboro 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 Pennsboro (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 Pennsboro 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 Pennsboro 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 Pennsboro, its successors and assigns.
7. This Order shall terminate upon Pennsboro's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

Robert Riggs
Honorable Robert Riggs, Mayor
City of Pennsboro

March 8, 2016
Date

Public Notice begin:

RECEIVED

_____ Date

MAR 14 2016

Public Notice end:

**ENVIRONMENTAL
ENFORCEMENT**

_____ Date

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

_____ Date

Photo Attachment



12/18/2013 – View of SSO discharging from the opposite bank.



12/18/2013 – View of SSO discharge from outlet marker.



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richard.lewis@step-toe-johnson.com
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December 4, 2015

Scott Mandirola, Director
West Virginia Department of
Environmental Protection
Division of Water & Waste Management
601 57th Street, Southeast
Charleston, West Virginia 25304

Re: City of Pennsboro – Proposed Supplemental Environmental Project

Dear Director Mandirola,

The City of Pennsboro and the West Virginia DEP have been negotiating towards resolution of an enforcement action brought by the DEP. As part of those negotiations, Pennsboro has proposed that, in lieu of a significant civil penalty, it be permitted to construct a supplemental environmental project (SEP) that will extend service to currently underserved areas of the community, and ultimately allow service to be extended to a mobile home park that currently has failing septic sewers.

The original SEP proposal included a commitment on the part of Pennsboro to spend at least \$75,000 of the project cost, with the remainder being contributed by Frontier Drilling, a local Oil and Gas drilling company that occupied much of the mobile home park. Since the time of the original proposal, Frontier Drilling has seen a reduction in drilling activity, and as a result, has been unwilling to make a final commitment for their contribution. However, Frontier Drilling is the owner of the mobile home park, and the local health department is requesting that they complete their portion of the project. Accordingly, Pennsboro cannot commit at this time to completion of the project all the way to the mobile home park, but can commit to completing its portion of the project. Upon completion of its portion of the project, Pennsboro will have provided service to approximately 15 unsewered homes and businesses along Lamberton Road, and will continue to pressure Frontier to complete its portion of the project to the mobile home park.

Pennsboro would like to proceed with its portion of the SEP. Pennsboro does not believe it will need a Certificate of Convenience and Necessity from the Public Service Commission, but will need to confirm that with the PSC. In order to move forward with the project, Pennsboro will need a Health Department permit, Public Lands permit for a stream crossing, and will comply with the appropriate 404 Nationwide permit.

Scott Mandirola, Director
December 4, 2015
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In the meantime, Pennsboro has worked diligently to come into compliance. For example:

1. Pennsboro has continued with the process of next phase of its plant upgrade project. On December 2, 2015, the DEP approved the proposed plans and specifications for the project. It is anticipated that Pennsboro will now proceed with its final funding package and ultimate construction.
2. Pennsboro has continued its efforts to reduce I&I . Out of approximately 111 manholes, Pennsboro has rehabilitated approximately 17 manholes in addition to the 21 manholes replaced or newly installed as part of Phase I of the project.
3. Pennsboro has continued its efforts to remove I&I. To that end, working with the Rural Water association, it performed camera inspection of approximately 1000 feet of its collection system on April 2, 2015, May 6, 2015, and June 15, 2015. As a result of those inspections, Pennsboro has identified areas where further rehab work is necessary and is diligently cleaning and repairing it collection system lines.

Pennsboro would like to proceed with its portion of the project as a SEP. For Pennsboro's portion of the project, Pennsboro estimates new flow to the plant will be approximately 4500 gallons per day. When the project is complete to the mobile home park, the total new flow would be about 10000 gallons per day. Finally, Pennsboro anticipates that the SEP project connection will be at the treatment plant so there are no collection system overflows between the project and the plant. Finally, I have attached an update to the anticipated schedule for the currently proposed wastewater treatment plant project.

Please do not hesitate to call if you have questions.

Sincerely,



Richard Lewis

RLL/jlm

cc: Laura E. McGee, WVDEP
Mayor Robert Riggs. City of Pennsboro
Mike Davis, Burgess and Niple, Inc.

**CITY OF PENNSBORO, WEST VIRGINIA
WASTEWATER TREATMENT PLANT IMPROVEMENTS, PHASE 2B
UPDATED SCHEDULE**

July 28, 2015

Task	Date
Submitted Design to WVDEP	August 2014
Received Comments from WVDEP	October 2014
Responded to Comments from WVDEP	July 2015
Receive Plans and Specification Approval from WVDEP	October 2015
Receive Binding Commitment for Small Cities Block Grant	February 2016
Receive Binding Commitment for IJDC and SRF	July 2016
Submit to PSC	July 2016
Advertise for Bids	September 2016
Open Bids	November 2016
Receive PSC Certificate of Convenience and Necessity	December 2016
Begin Construction	January 2017
Complete Construction	January 2018

Table One: Pennsboro DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - Jan/12 through May/14						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
Mar/2012	Fecal Coliform	Cnts/100ml	200	340	70%	-	X	-
Apr/2012	Fecal Coliform	Cnts/100ml	200	6000	2900%	-	-	X
May/2012	Nitrogen, Ammonia Total	mg/l	2	2.46	23%	X	-	-
May/2012	Nitrogen, Ammonia Total	Lbs./Day	4.14	7.8	88%	-	X	-
May/2012	Fecal Coliform	Cnts/100ml	200	12000	5900%	-	-	X
June/2012	Nitrogen, Ammonia Total	mg/l	2	2.16	8%	X	-	-
June/2012	Nitrogen, Ammonia Total	Lbs./Day	4.17	5.9	41%	-	X	-
June/2012	Fecal Coliform	Cnts/100ml	200	30000	14900%	-	-	X
July/2012	Fecal Coliform	Cnts/100ml	200	400	100%	-	X	-
Aug/2012	Nitrogen, Ammonia Total	mg/l	2	2.17	9%	X	-	-
Aug/2012	Nitrogen, Ammonia Total	Lbs./Day	4.17	5.9	41%	-	X	-
Aug/2012	Fecal Coliform	Cnts/100ml	200	1000	400%	-	-	X
Sept/2012	Nitrogen, Ammonia Total	mg/l	2	2.6	30%	X	-	-
Sept/2012	Nitrogen, Ammonia Total	Lbs./Day	4.17	5	20%	X	-	-
Sept/2012	Fecal Coliform	Cnts/100ml	200	6000	2900%	-	-	X
Oct/2012	Nitrogen, Ammonia Total	mg/l	2	2.98	49%	-	X	-
Oct/2012	Nitrogen, Ammonia Total	Lbs./Day	4.17	4.9	18%	X	-	-
Oct/2012	Fecal Coliform	Cnts/100ml	200	2400	1100%	-	-	X
Nov/2012	Nitrogen, Ammonia Total	Lbs./Day	8.35	9.5	14%	X	-	-
Dec/2012	Nitrogen, Ammonia Total	Lbs./Day	8.35	9.6	15%	X	-	-
Jan/2013	Copper, Total Recoverab	mg/l	0.007	0.009	29%	X	-	-
May/2013	Copper, Total Recoverab	mg/l	0.007	0.015	114%	-	X	-
May/2013	Nitrogen, Ammonia Total	mg/l	2	2.84	42%	-	X	-
May/2013	Nitrogen, Ammonia Total	Lbs./Day	4.17	6.2	49%	-	X	-
May/2013	Fecal Coliform	Cnts/100ml	200	780	290%	-	X	-
June/2013	Nitrogen, Ammonia Total	mg/l	2	6.7	235%	-	X	-
June/2013	Nitrogen, Ammonia Total	Lbs./Day	4.17	11.4	173%	-	X	-
Aug/2013	Copper, Total Recoverab	mg/l	0.007	0.008	14%	X	-	-
May/2014	Nitrogen, Ammonia Total	Lbs./Day	4.17	6.5	56%	-	X	-
May/2014	Nitrogen, Ammonia Total	mg/l	2	4.02	101%	-	X	-
May/2014	Fecal Coliform	Cnts/100ml	200	220	10%	X	-	-

Outlet 001 DMR Exceedances - MAX. DAILY - Jan/12 through May/14						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Apr/2012	Fecal Coliform	Cnts/100ml	400	6000	1400%	-	-	X
May/2012	Fecal Coliform	Cnts/100ml	400	12000	2900%	-	-	X
June/2012	Fecal Coliform	Cnts/100ml	400	30000	7400%	-	-	X
Aug/2012	Fecal Coliform	Cnts/100ml	400	1000	150%	-	X	-
Sept/2012	Fecal Coliform	Cnts/100ml	400	6000	1400%	-	-	X
Oct/2012	Fecal Coliform	Cnts/100ml	400	2400	500%	-	X	-
May/2013	Fecal Coliform	Cnts/100ml	400	780	95%	X	-	-
June/2013	Nitrogen, Ammonia Total	mg/l	4	6.7	68%	X	-	-
June/2013	Nitrogen, Ammonia Total	Lbs/Day	8.35	11.4	37%	X	-	-
May/2014	Nitrogen, Ammonia Total	mg/l	4	4.02	0.5%	X	-	-

Table One: Pennsboro DMR Exceedance Summary

Outlet 001 Exceedances - Minimum 85% Removal - AVG. MONTHLY - Jan/12 through May/14						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
						May/2012	BOD5, Wet	mg/l
July/2012	TSS, Wet	mg/l	85.0	83	15%	X	-	-
July/2012	TSS, Dry	mg/l	85.0	83	15%	X	-	-
Jan/2013	TSS, Wet	mg/l	85.0	7.93	89%	-	-	X
Aug/2013	BOD5, Wet	mg/l	85.0	77	7%	X	-	-
Aug/2013	BOD5, Dry	mg/l	85.0	77	7%	X	-	-

Outlet 001 Totals	Degree of non-compliance		
	Min	Mod	Maj
	20	16	11

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: City of Pennsboro **Receiving Stream:** Bunnell Run of North Fork of Hughes River

Treatment System Design Maximum Flow: 0.25 MGD

Treatment System Actual Average Flow: MGD (if known)

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

1)	Potential for Harm Factor	Factor Range	FOF#													
			4.a	4.b	4.c	4.d	4.e	4.f	4.g	4.h	5.a.i	5.a.ii	5.a.iii			
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	2	1	1	1	1	1			
b)	Toxicity of Pollutant	0 to 3	0	0	0	1	1	1	1	0	1	1	1			
c)	Sensitivity of the Environment	0 to 3	0	0	0	1	1	1	1	0	1	1	1			
d)	Length of Time	1 to 3	3	3	1	1	1	1	1	1	1	1	1			
e)	Actual Exposure and Effects thereon	0 to 3	0	0	0	1	1	1	1	0	1	1	1			
Average Potential for Harm Factor			0.8	0.8	0.4	1	1	1.2	1	0.4	1	1	1	No	No	
2)	Extent of Deviation Factor	Factor Range														
	Degree of Non-Compliance	1 to 3	2	2	3	3	3	2	1	1	1	2	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
4.a	Minor	Moderate	\$1,400	1	\$1,400
4.b	Minor	Moderate	\$1,400	1	\$1,400
4.c	Minor	Major	\$1,700	1	\$1,700
4.d	Minor	Major	\$2,000	1	\$2,000
4.e	Minor	Major	\$2,000	1	\$2,000
4.f	Moderate	Moderate	\$3,200	1	\$3,200
4.g	Minor	Minor	\$1,000	1	\$1,000
4.h	Minor	Minor	\$400	1	\$400
5.a.i	Minor	Minor	\$1,000	18	\$18,000
5.a.ii	Minor	Moderate	\$1,500	14	\$21,000
5.a.iii	Minor	Major	\$2,000	7	\$14,000
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
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$66,100

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 -			\$0
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		10	(\$6,610)
6.2.b.3 - Cooperation with the Secretary		10	(\$6,610)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			(\$13,190)
Penalty =			\$52,910

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:	