



RECEIVED APR 12 2012

---

west virginia department of environmental protection

---

Environmental Enforcement  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Telephone: (304) 926-0470 Fax: (304) 926-0488

Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

June 10, 2011

**CERTIFIED RETURN RECEIPT REQUESTED**

Mr. Rick Amoruso, President  
Quality Suppliers, Inc.  
P.O. Box 807  
Keyser, WV 26726

**RE: Violation of Chapter 22, Article 11  
of the WV State Code**

Dear Mr. Amoruso:

Enclosed is DRAFT CONSENT ORDER NUMBER 7354 dated the 10th day of June, 2011. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection's (WVDEP) Environmental Enforcement unit in response to Quality Suppliers, Inc., violating Chapter 22, Article 11 of the WV State Code at its facility located near Keyser, Mineral County, West Virginia.

This Draft Consent Order is being offered pursuant to Chapter 22, Article 11, Section 22(b) of the West Virginia Code and Legislative Rule, Title 47, Series 1 (47CSR1).

Please review the terms and conditions of this Draft Consent Order and respond within ten (10) days of your receipt. You may accept these terms and conditions by signing and returning the original Consent Order to me at WVDEP, EE, 601 57<sup>th</sup> Street SE, Charleston, WV 25304. If you wish to discuss this administrative proceeding, respond to David C. Simmons, Enforcement Hearing Officer, at the above address or call (304) 926-0470.

Upon conclusion of this proceeding and your reaching agreement with the WVDEP on a resolution of the violation(s) contained in the Consent Order, the Consent Order will be subject to the public notice and comment requirements set forth in 47CSR1-7.1. This notice will identify the responsible party, the specific enforcement action to be taken, and the name and address where information on the proposed settlement can be obtained. The WVDEP will consider all comments received during the thirty (30) day comment period and the Consent Order may be subject to change. Should the proposed settlement be modified after the comment period, you have the option of choosing not to enter into the Consent Order.

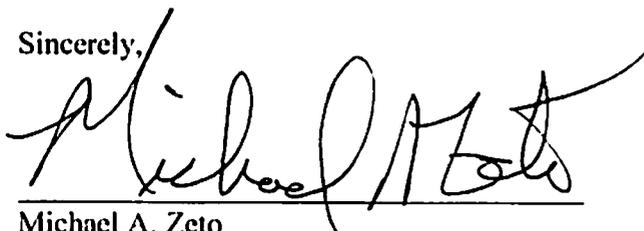
Pursuant to 47CSR1-6.2, there are provisions to reduce the proposed civil penalty assessment for good faith, cooperation with the Secretary, ability to pay a civil penalty and other

Promoting a healthy environment.

factors deemed relevant. Should you desire to pursue these provisions, you should be prepared to present all necessary supportive information and/or documentation. The WVDEP may request additional information related to any of the factors considered in the penalty determination whether related to increasing or decreasing the penalty. Also, 47CSR1-6.2 requires the recovery of economic benefit derived from non-compliance. Therefore, you should be prepared to provide all necessary information and/or documentation to address this matter.

Failure to respond to this correspondence as required shall be considered as your refusal to participate in this process. Should you decline to participate, fail to reply, or fail to resolve the matter by consent, this offer will be withdrawn and alternative enforcement action will be pursued.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Zeto", written over a horizontal line.

Michael A. Zeto  
Chief Inspector

Enclosure

cc: Scott G. Mandirola, Director, DWWM (via e-mail)  
Yogesh Patel, Assistant Director, DWWM/Permits  
Joseph M. Hickman, Assistant Chief Inspector, EE/WW (via e-mail)  
David C. Simmons, Enforcement Hearing Officer, EE (via e-mail)  
Robin C. Dolly, Environmental Inspector Supervisor, EE/WW (via e-mail)  
Rhod Mills, Environmental Inspector, EE/WW (via e-mail)  
Shyrel Moellendick, MSSS, EE (via e-mail)  
Lisa Trakis, US EPA, Region III (via Waterscape)

*revised January 2011*



---

west virginia department of environmental protection

---

Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: (304) 926-0495  
Fax: (304) 926-0463

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**

TO: Mr. Rick Amoruso, President  
Quality Suppliers Inc.  
P.O. Box 807  
Keyser, WV 26726

DATE: June 10, 2011

ORDER NO.: 7354

**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 Quality Suppliers, Inc., (hereinafter "Quality Suppliers").

**FINDINGS OF FACT**

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

1. Quality Suppliers operates a warehouse storage and recycling processing facility located near Keyser, Mineral County, West Virginia. Quality Suppliers was issued WV/NPDES Water Pollution Control Permit No. WV0111457, Registration No. WVG610698 on April 21, 1999. Said registration expired on September 30, 2009.
2. Establishments with discharges composed entirely of stormwater associated with industrial activities must obtain a permit from the West Virginia Department of Environmental Protection (WVDEP) pursuant to §22-11-8 of the State Code of West Virginia and as described in Legislative Rule Title 47, Series 10.
3. WVDEP advised Quality Suppliers in mid-2009, early -2010, and January 2011 to reapply for permit registration coverage under the Multi-Sector General WV/NPDES Water Pollution Control Permit for Stormwater Discharges Associated with Industrial Activity.
4. Quality Suppliers failed to renew its WV/NPDES permit registration.

Promoting a healthy environment.

**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. Quality Suppliers shall immediately take all measures to initiate compliance with all pertinent laws and rules.
2. Within forty-five (45) days of entry of this Order, Quality Suppliers shall submit an administratively complete application for permit coverage for the regulated activity. This application shall be submitted to:

**Permitting Section  
DWWM  
ATTN: Patrick D. Burch  
601 57th Street  
Charleston, WV 25304**

3. Because of Quality Suppliers' West Virginia Code violations, Quality Suppliers shall be assessed a civil administrative penalty of five thousand three hundred ten dollars (\$5,310) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of entry of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. Payment 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. Quality Suppliers 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, Quality Suppliers 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, Quality Suppliers 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 Quality Suppliers 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.

RECEIVED

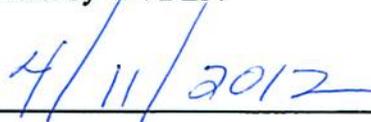
APR 13 2012

ENVIRONMENTAL  
ENFORCEMENT

3. If any event occurs which causes delay in the achievement of the requirements of this Order, Quality Suppliers 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 Quality Suppliers becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and 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 Quality Suppliers 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 Quality Suppliers (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 Quality Suppliers 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 Quality Suppliers 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 Quality Suppliers, its successors and assigns.
7. This Order shall terminate upon Quality Suppliers' notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Rick Amoruso, President  
Quality Suppliers, Inc.



Date

Public Notice begin: \_\_\_\_\_  
Date

Public Notice end: \_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

## Base Penalty Calculation

(pursuant to 47CSRI-6.1)

Responsible Party: Quality Suppliers, Inc. Receiving Stream: North Branch of Potomac River

Treatment System Design Maximum Flow: \_\_\_\_\_ 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)	Amount of Pollutant Released	1 to 3	1											
b)	Toxicity of Pollutant	0 to 3	1											
c)	Sensitivity of the Environment	0 to 3	1											
d)	Length of Time	1 to 3	3											
e)	Actual Exposure and Effects thereon	0 to 3	1											
<b>Average Potential for Harm Factor</b>			1.4	No										
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 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.





## 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 -	20		\$880
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			\$0
6.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>\$910</b>
<b>Penalty =</b>			<b>\$5,310</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>	