



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
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Harold D. Ward, Cabinet Secretary
dep.wv.gov

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

TO: Brooke County PSD
Attn.: Terry Bonaventura, Chairman
PO Box 150
Wellsburg, WV 26070

DATE: April 29, 2025

ORDER NO.: 10291

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 State Code Chapter 22-11-1 et seq. to Brooke County PSD.

FINDINGS OF FACT

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

1. Brooke County PSD operates two wastewater treatment plants located in Beech Bottom and Franklin Manor, Brooke County, West Virginia. Brooke County PSD was reissued WV/NPDES Water Pollution Control Permit No. WV0084182 on June 30, 2020.
2. On July 8, 2021, West Virginia Department of Environmental Protection (WVDEP) and Brooke County PSD entered into Order No. 9865. The Order was issued in response to Brooke County PSD’s exceedances of discharge limitations; failure to conduct core sampling of the sludge blanket; failure to properly operate and maintain the facility; failure to use the correct EPA Method to analyze metals; failure to properly submit Discharge Monitoring Reports (DMRs); and failure to maintain inspection logs. Brooke County PSD’s Plan of Corrective Action (POCA), which was incorporated into the terms and conditions of the Order, outlined measures for achieving compliance at the facility.

Promoting a healthy environment.

3. On April 10, 2024, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the permit were observed and documented:
 - a. Section A – Brooke County PSD exceeded discharge limitations.
 - b. Appendix A.II.1 – Brooke County PSD failed to properly operate and maintain all facilities and systems of treatment and control. Specifically:
 - i. The lagoon at Beech Bottom was covered with duckweed.
 - ii. The sand filter beds at Franklin Manor were covered with vegetation.
 - c. Section C.05 – Brooke County PSD failed to properly submit Discharge Monitoring Reports (DMRs) indicating in terms of concentration and/or quantities the values of the constituents listed in Section A analytically determined to be in the plant effluent. Specifically:
 - i. Between April 2022 and March 2023, lead results in ug/L were reported as mg/L.
 - ii. Multiple average monthly values were reported for the max daily.
 - d. Section C.13 – Brooke County PSD failed to use EPA Method 200.8 or an EPA Approved Test Method with a listed lower method detection level. Brooke County PSD was using EPA Method 200.7 for total recoverable copper.
 - e. Section C.17 – Brooke County PSD failed to submit quarterly Infiltration and Inflow (I&I) reports.
 - f. Appendix A.III.2.c – On multiple occasions, Brooke County PSD incorrectly marked the number of exceedances in the “N.E.” columns.
 - g. Section C.24.a – Brooke County PSD failed to electronically submit core sampling results at least once every two (2) years. The Brooke County PSD operator stated that core sampling was conducted, but an attachment could not be located in the eDMR system.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W24-05-022-CTD was issued to Brooke County PSD.

4. On December 10, 2024, WVDEP personnel and representatives of Brooke County PSD met to discuss the terms and conditions of this Order.
5. On January 14, 2025, Brooke County PSD submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Brooke County PSD’s ability to pay a civil administrative penalty.
6. On January 17, 2025, WVDEP personnel conducted a review of facility records from the time period of May 1, 2022 through April 30, 2024. This Discharge Monitoring Report (DMR) review was conducted based on corrected sample results that were submitted by Brooke County PSD after the December 10, 2024 meeting. During this review, the following violations of the terms and conditions of Brooke County PSD’s WV/NPDES permit were observed:
 - a. Sections A.001 and A.002 – One hundred twenty-three (123) exceedances of Brooke County PSD’s permit parameters were observed and documented (Table 1). These exceedances can be further defined as:

- i. Minor violations – Forty-nine (49)
 - ii. Moderate violations – Fifty-six (56)
 - iii. Major violations – Eighteen (18)
- b. Section A.IU03 – Twenty-three (23) exceedances of Brooke County PSD’s permit parameters were observed and documented. These exceedances can be further defined as:
 - i. Minor Violations – Seven (7)
 - ii. Moderate Violations – Eleven (11)
 - iii. Major Violations – Five (5)
- c. Section E.4 – Brooke County PSD failed to attach to its DMRs a written summary of the aforementioned industrial user exceedances, including the cause of the violations and the steps taken to prevent recurrence.
- d. Section C.17 – Brooke County PSD failed to submit Infiltration and Inflow (I&I) reports for any of the eight (8) quarters.

ORDER FOR COMPLIANCE

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

1. Brooke County PSD 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, Brooke County PSD shall submit for approval a proposed plan of corrective action (POCA) and schedule, outlining action items and completion dates for how and when Brooke County PSD will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. In addition, the POCA must include a schedule/completion date for when Brooke County PSD will complete all necessary DMR data corrections, in WVDEP’s Electronic Submission System (ESS), of several incorrect DMR entries that were previously provided by Brooke County PSD. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0084182 and Order No. 10291. The plan of corrective action 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. Because of Brooke County PSD’s violations, Brooke County PSD shall be assessed a civil administrative penalty of twelve thousand seven hundred fifteen dollars (\$12,715) 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: One thousand fifty-nine dollars and fifty-eight cents (\$1,059.58) shall be submitted within thirty (30) days after the effective date of this Order and by the first day of each month thereafter for the next ten (10) months. One thousand fifty-nine dollars and sixty-two cents (\$1,059.62) shall be submitted by the first day of the final month. 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:**

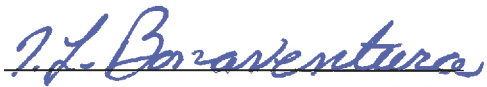
**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

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


Terry Bonaventura, Chairman of the Board
Brooke County PSD

5/12/25
Date

Public Notice begin:

Date

Public Notice end:

Date

Jeremy W. Bandy, Director
Division of Water and Waste Management

Date

DMR Exceedance Summary

Responsible Party: Brooke County PSD

Date Range:	From:	5/1/2022	To:	4/30/2024
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AVG. MONTHLY							Degree of non-compliance		
Date	Outlet	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
Jan-24	001	BOD	lbs/day	37.5	39.8	6%	X	-	-
Dec-23	001	BOD	mg/l	30	40.1	34%	X	-	-
Feb-24	001	BOD	mg/l	30	46.86	56%	-	X	-
Dec-23	001	TSS	lbs/day	37.5	77.6	107%	-	X	-
Jan-24	001	TSS	lbs/day	37.5	40.2	7%	X	-	-
Nov-23	001	TSS	mg/l	30	32	7%	X	-	-
Dec-23	001	TSS	mg/l	30	133	343%	-	-	X
Feb-24	001	TSS	mg/l	30	35	17%	X	-	-
Jan-24	001	Ammonia	lbs/day	18.8	57.5	206%	-	X	-
Dec-23	001	Ammonia	mg/l	15	26.1	74%	-	X	-
Jan-24	001	Ammonia	mg/l	15	30	100%	-	X	-
Feb-24	001	Ammonia	mg/l	15	30.1	101%	-	X	-
Oct-23	001	Copper	mg/l	0.019	0.027	42%	-	X	-
Nov-23	001	Copper	mg/l	0.019	0.0432	127%	-	X	-
Dec-23	001	Copper	mg/l	0.019	0.119	526%	-	-	X
Jan-24	001	Copper	mg/l	0.019	0.0401	111%	-	X	-
Nov-23	001	Fecal	Cnts/100ml	200	321	61%	-	X	-
Jan-24	001	Fecal	Cnts/100ml	200	2419	1110%	-	-	X
Feb-24	001	Fecal	Cnts/100ml	200	2419	1110%	-	-	X
Jul-22	002	BOD	lbs/day	1.04	1.95	88%	-	X	-
May-22	002	BOD	mg/l	5	6.55	31%	X	-	-
Jul-22	002	BOD	mg/l	5	23.4	368%	-	-	X
Jun-23	002	BOD	lbs/day	1.04	2.67	157%	-	X	-
Jul-23	002	BOD	lbs/day	1.04	4.16	300%	-	X	-
Jan-24	002	BOD	lbs/day	1.04	1.39	34%	X	-	-
Jan-23	002	BOD	mg/l	5	7.21	44%	-	X	-
Apr-23	002	BOD	mg/l	5	9.96	99%	-	X	-
May-23	002	BOD	mg/l	5	10.95	119%	-	X	-
Jun-23	002	BOD	mg/l	5	22.9	358%	-	-	X
Jul-23	002	BOD	mg/l	5	45.4	808%	-	-	X
Sep-23	002	BOD	mg/l	5	8.15	63%	-	X	-
Dec-23	002	BOD	mg/l	5	6.5	30%	X	-	-
Jan-24	002	BOD	mg/l	5	9.26	85%	-	X	-

Feb-24	002	BOD	mg/l	5	7.07	41%	-	X	-
Apr-24	002	BOD	mg/l	5	9.75	95%	-	X	-
Jun-23	002	TSS	mg/l	30	39	30%	X	-	-
Jul-23	002	TSS	mg/l	30	38	27%	X	-	-
Jul-22	002	Ammonia	lbs/day	0.63	1.7	170%	-	X	-
May-23	002	Ammonia	lbs/day	0.63	0.81	29%	X	-	-
Jun-23	002	Ammonia	lbs/day	0.63	2.44	287%	-	X	-
Jul-23	002	Ammonia	lbs/day	0.63	1.52	141%	-	X	-
Aug-23	002	Ammonia	lbs/day	0.63	0.67	6%	X	-	-
Sep-23	002	Ammonia	lbs/day	0.63	0.72	14%	X	-	-
Jun-22	002	Ammonia	mg/l	3	10.8	260%	-	X	-
Jul-22	002	Ammonia	mg/l	3	20.41	580%	-	-	X
Feb-23	002	Ammonia	mg/l	3	6.195	107%	-	X	-
Apr-23	002	Ammonia	mg/l	3	4.7	57%	-	X	-
May-23	002	Ammonia	mg/l	3	12.2	307%	-	-	X
Jun-23	002	Ammonia	mg/l	3	20.9	597%	-	-	X
Jul-23	002	Ammonia	mg/l	3	16.6	453%	-	-	X
Aug-23	002	Ammonia	mg/l	3	5.4	80%	-	X	-
Sep-23	002	Ammonia	mg/l	3	8.65	188%	-	X	-
Oct-23	002	Ammonia	mg/l	3	6.38	113%	-	X	-
Dec-23	002	Ammonia	mg/l	3	4.665	56%	-	X	-
Apr-24	002	Ammonia	mg/l	3	3.1	3%	X	-	-
Apr-23	002	Fecal	Cnts/100ml	200	2419	1110%	-	-	X
Jul-23	002	Fecal	Cnts/100ml	200	744	272%	-	X	-
Jan-24	002	Fecal	Cnts/100ml	200	1732	766%	-	-	X

MAX. DAILY							Degree of non-compliance		
Date	Outlet	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Dec-23	001	TSS	lbs/day	75	77.6	3%	X	-	-
Dec-23	001	TSS	mg/l	60	133	122%	-	X	-
Jan-24	001	Ammonia	lbs/day	37.5	57.5	53%	X	-	-
Nov-23	001	Copper	mg/l	0.038	0.0432	14%	X	-	-
Dec-23	001	Copper	mg/l	0.038	0.119	213%	-	X	-

Jan-24	001	Copper	mg/l	0.038	0.0401	6%	X	-	-
Jul-22	001	Fecal	Cnts/100ml	400	2419	505%	-	X	-
Jan-23	001	Fecal	Cnts/100ml	400	2419	505%	-	X	-
May-23	001	Fecal	Cnts/100ml	400	579	45%	X	-	-
Nov-23	001	Fecal	Cnts/100ml	400	2419	505%	-	X	-
Dec-23	001	Fecal	Cnts/100ml	400	2419	505%	-	X	-
Jan-24	001	Fecal	Cnts/100ml	400	2419	505%	-	X	-
Feb-24	001	Fecal	Cnts/100ml	400	2419	505%	-	X	-
Apr-24	001	Fecal	Cnts/100ml	400	2419	505%	-	X	-
Jul-22	002	BOD	lbs/day	2.08	3.06	47%	X	-	-
Jul-22	002	BOD	mg/l	10	36.8	268%	-	X	-
Jun-23	002	BOD	lbs/day	2.08	2.65	27%	X	-	-
Jul-23	002	BOD	lbs/day	2.08	4.86	134%	-	X	-
Jan-23	002	BOD	mg/l	10	12.2	22%	X	-	-
Apr-23	002	BOD	mg/l	10	18.1	81%	X	-	-
May-23	002	BOD	mg/l	10	20.9	109%	-	X	-
Jun-23	002	BOD	mg/l	10	22.7	127%	-	X	-
Jul-23	002	BOD	mg/l	10	53	430%	-	X	-
Sep-23	002	BOD	mg/l	10	10.9	9%	X	-	-
Feb-24	002	BOD	mg/l	10	10.4	4%	X	-	-
Jul-22	002	Ammonia	lbs/day	1.26	3	138%	-	X	-
Jun-23	002	Ammonia	lbs/day	1.26	2.84	125%	-	X	-
Jul-23	002	Ammonia	lbs/day	1.26	1.76	40%	X	-	-
May-22	002	Ammonia	mg/l	6	12	100%	X	-	-
Jun-22	002	Ammonia	mg/l	6	15.6	160%	-	X	-
Jul-22	002	Ammonia	mg/l	6	37	517%	-	X	-
Feb-23	002	Ammonia	mg/l	6	12.2	103%	-	X	-
May-23	002	Ammonia	mg/l	6	17.4	190%	-	X	-
Jun-23	002	Ammonia	mg/l	6	24.4	307%	-	X	-
Jul-23	002	Ammonia	mg/l	6	19.2	220%	-	X	-
Aug-23	002	Ammonia	mg/l	6	8.96	49%	X	-	-
Oct-23	002	Ammonia	mg/l	6	11.6	93%	X	-	-
Dec-23	002	Ammonia	mg/l	6	7.78	30%	X	-	-
Apr-24	002	Ammonia	mg/l	6	6.15	3%	X	-	-
Apr-23	002	Fecal	Cnts/100ml	400	2419	505%	-	X	-
Jul-23	002	Fecal	Cnts/100ml	400	1203	201%	-	X	-
Jan-24	002	Fecal	Cnts/100ml	400	1732	333%	-	X	-

D.O. INSTANTANEOUS. MIN.							Degree of non-compliance		
Date	Outlet	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Min	Mod	Maj
May-22	001	D.O.	mg/l	6.0	5.65	5.8%	X	-	-
Jun-22	001	D.O.	mg/l	6.0	5.79	3.5%	X	-	-
Jul-22	001	D.O.	mg/l	6.0	4.93	17.8%	X	-	-
Oct-22	001	D.O.	mg/l	6.0	5.35	10.8%	X	-	-
Dec-22	001	D.O.	mg/l	6.0	5.9	1.7%	X	-	-
Feb-23	001	D.O.	mg/l	6.0	5.6	6.7%	X	-	-
Apr-23	001	D.O.	mg/l	6.0	4.5	25.0%	X	-	-
May-23	001	D.O.	mg/l	6.0	5.98	0.3%	X	-	-
Jun-23	001	D.O.	mg/l	6.0	4.45	25.8%	X	-	-
Jul-23	001	D.O.	mg/l	6.0	5.87	2.2%	X	-	-
Aug-23	001	D.O.	mg/l	6.0	5.45	9.2%	X	-	-
Sep-23	001	D.O.	mg/l	6.0	5.89	1.8%	X	-	-
Apr-24	001	D.O.	mg/l	6.0	5.79	3.5%	X	-	-

Minimum 85% Removal - AVG. MONTHLY							Degree of non-compliance		
Date	Outlet	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
Jan-24	001	BOD	%	85.0	1.0	98.8%	-	-	X
Feb-24	001	BOD	%	85.0	8	90.6%	-	-	X
Mar-24	001	BOD	%	85.0	78	8.2%	X	-	-
Jan-23	001	SS	%	85.0	82	3.5%	X	-	-
Apr-23	001	SS	%	85.0	73	14.1%	X	-	-
Nov-23	001	SS	%	85.0	60	29.4%	X	-	-
Dec-23	001	SS	%	85.0	58	31.8%	X	-	-
Jan-24	001	SS	%	85.0	1	98.8%	-	-	X
Feb-24	001	SS	%	85.0	1	98.8%	-	-	X
Apr-24	001	SS	%	85.0	1	98.8%	-	-	X

Totals:	Degree of non-compliance		
	Min	Mod	Maj
	49	56	18

DMR Exceedance Summary

Responsible Party: Brooke County PSD

Date Range:	From:	5/1/2022	To:	4/30/2024
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AVG. MONTHLY							Degree of non-compliance		
Date	Outlet	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
Jul-22	IU03	Flow	gpd	4000	6814	70%	-	X	-
Nov-22	IU03	Flow	gpd	4000	5375	34%	X	-	-
Jan-23	IU03	Flow	gpd	4000	4576	14%	X	-	-
Mar-23	IU03	Flow	gpd	4000	4576	14%	X	-	-
Jan-24	IU03	Flow	gpd	4000	8147	104%	-	X	-
Feb-24	IU03	Flow	gpd	4000	7240	81%	-	X	-
Mar-24	IU03	Flow	gpd	4000	8500	113%	-	X	-
Apr-24	IU03	Flow	gpd	4000	7966	99%	-	X	-
Jan-23	IU03	TSS	mg/l	400	1150	188%	-	X	-
May-22	IU03	Chromium	lbs/day	0.00159	0.00268	69%	-	X	-
Jun-22	IU03	Chromium	lbs/day	0.00159	0.143	8894%	-	-	X
Jan-23	IU03	Chromium	lbs/day	0.00159	0.00466	193%	-	X	-
Mar-23	IU03	Chromium	lbs/day	0.00159	0.00863	443%	-	-	X
Jun-22	IU03	Zinc	lbs/day	0.00436	0.005	15%	X	-	-
Aug-22	IU03	Zinc	lbs/day	0.00436	0.006	38%	X	-	-
Nov-22	IU03	Zinc	lbs/day	0.00436	0.008	83%	-	X	-
Jan-23	IU03	Zinc	lbs/day	0.00436	0.018	313%	-	-	X
Mar-23	IU03	Zinc	lbs/day	0.00436	0.025	473%	-	-	X

MAX. DAILY							Degree of non-compliance		
Date	Outlet	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
Jun-22	IU03	Chromium	lbs/day	0.00393	0.148	3666%	-	-	X
Jan-23	IU03	Chromium	lbs/day	0.00393	0.00466	19%	X	-	-
Mar-23	IU03	Chromium	lbs/day	0.00393	0.00863	120%	-	X	-
Jan-23	IU03	Zinc	lbs/day	0.01062	0.018	69%	X	-	-
Mar-23	IU03	Zinc	lbs/day	0.01062	0.025	135%	-	X	-

Totals:	Degree of non-compliance		
	Min	Mod	Maj
	7	11	5

Photo Log



4/10/2024 - IMG_3888 The lagoon was covered in duckweed at Beech Bottom.



4/10/2024 - IMG_3914 The sand filter beds were covered in vegetation at Franklin Manor.

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party:

Brooke County PSD

Receiving Stream:

UNT of Pierce Run

Treatment System Design Maximum Flow: 0.175 MGD

Treatment System Actual Average Flow: 0.0640833 MGD (if known)

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

1)	Potential for Harm Factor	Factor Range	FOF#												
			3b	3c, 3f	3d	3g	6ai	6aii	6aiii	6c	6d				
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1				
b)	Toxicity of Pollutant	0 to 3	1	0	0	0	1	1	1	0	0				
c)	Sensitivity of the Environment	0 to 3	1	0	0	0	1	1	1	0	0				
d)	Length of Time	1 to 3	1	1	1	1	1	1	1	3	3				
e)	Actual Exposure and Effects thereon	0 to 3	1	0	0	0	1	1	1	0	0				
	Average Potential for Harm Factor		1	0.4	0.4	0.4	1	1	1	0.8	0.8	No	No	No	No
2)	Extent of Deviation Factor	Factor Range													
	Degree of Non-Compliance	1 to 3	3	1	1	3	1	2	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 $\leq 40\%$ for Avg. Monthly or $\leq 100\%$ for Daily Max., exceed numeric WQ standard by $\leq 100\%$, or report doesn't contain some minor information.

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

Major = exceedance of permit limit by $\geq 301\%$ for Avg. Monthly, $\geq 601\%$ for Daily Max., exceed numeric WQ standard by $\geq 601\%$, 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
3b	Minor	Major	\$2,000	1	\$2,000
3c, 3f	Minor	Minor	\$400	1	\$400
3d	Minor	Minor	\$400	1	\$400
3g	Minor	Major	\$1,700	1	\$1,700
6ai	Minor	Minor	\$1,000	44	\$44,000
6aii	Minor	Moderate	\$1,500	56	\$84,000
6aiii	Minor	Major	\$2,000	13	\$26,000
6c	Minor	Major	\$1,900	1	\$1,900
6d	Minor	Major	\$1,900	1	\$1,900
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
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					\$162,300

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		\$16,230
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)		5	(\$8,115)
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	(\$16,230)
6.2.b.3 - Cooperation with the Secretary		10	(\$16,230)
6.2.b.5 - Ability to Pay		77.184	(\$125,270)
Penalty Adjustments			(\$149,585)
Penalty =			\$12,715

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: Economic benefit not warranted.	