

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

**IN RE: J. Goodison Company dba
J. Goodison Company, Inc.**

FILE NO.: OCI-AIR-20-96

NOTICE OF VIOLATION

A. Introduction

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (the “Director” of “DEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. Administrative History

On 19 October 2018, DEM issued a Letter of Noncompliance (“LNC”) to Respondent for alleged violations of the air pollution control permit that is the subject of this Notice of Violation (“NOV”). Among other things, the LNC required Respondent to submit documents to DEM. On 13 November 2018 and 28 November 2018, Respondent submitted documents to DEM in response to the LNC. DEM reviewed the documents and on 28 January 2019, DEM issued a Notice of Intent to Enforce (“NIE”) to Respondent by certified mail for the alleged violations that are the subject of the NOV. The NIE required specific actions to correct the violations. On 31 January 2019, the NIE was delivered. As of the date of the NOV, Respondent has failed to comply with the NIE.

C. Facts

- (1) The facility is located at 125-128 Zarbo Avenue, in the Town of North Kingstown, Rhode Island and is engaged in marine repair operations, including surface coating, sandblasting and welding operations (the “Facility”).
- (2) Respondent operates the Facility.
- (3) The Facility is a stationary source of air pollutants subject to regulations titled *Air Pollution Control Permits* (the “Air Permit Rules”).
- (4) On 10 February 2017, DEM issued Minor Source Permit Approval No. 2342 and Approval No. 2343 to Respondent to emit air pollutants to the atmosphere from the Facility (collectively, the “Permit”).

- (5) Approval No. 2343 authorized the installation and operation of a vacuum system and dust collector (the “Dust Collector”) to control particulate matter emissions during sandblasting.
- (6) The Permit requires Respondent, in part, to:
 - (a) Monitor the pressure drop across the Dust Collector during sandblasting;
 - (b) Limit the total quantity of emissions discharged to the atmosphere from the Facility for any listed toxic air contaminant (“TAC”) to no more than the minimum quantity for that contaminant as specified in Appendix A of the Air Permit Rules based on a 12-month rolling average, except that emissions from certain activities are exempt; and
 - (c) On a monthly basis, determine the total quantity of each listed TAC in the Air Permit Rules discharged to the atmosphere from all operations at the Facility, including welding operations, and keep records of this determination for 5 years.
- (7) Manganese and hexavalent chromium are listed TACs in the Air Permit Rules.
- (8) The minimum quantity for manganese and hexavalent chromium identified in the Air Permit Rules is 0.2 pounds per year and 0.009 pounds per year, respectively.
- (9) On 29 August 2018, DEM inspected the Facility (the “Inspection”).
- (10) The Inspection revealed the following:
 - (a) The Dust Collector was not equipped with a device to monitor the pressure drop; and
 - (b) No determination of the total quantity of the listed TACs in the Air Permit Rules discharged to the atmosphere from the welding operations at the Facility (the “Welding Activity”) was being made on a monthly basis.
- (11) On 13 November 2018 and 28 November 2018, DEM received letters from Respondent that included the following information:
 - (a) A Dust Collector is rented on an as needed basis when sandblasting is scheduled;
 - (b) The Dust Collector will be equipped with a differential pressure gauge (the “Gauge”);
 - (c) New written logs were established to record the pressure drop across the Gauge that will be maintained at the Facility; and

- (d) A report titled *Air Pollution Inventory* (“API”) for the Facility for calendar year 2017 (the “2017 API Report”). The report included the Welding Activity.
- (12) On or about 3 April 2019, DEM received from Respondent an API report for calendar year 2018 (the “2018 API Report”). The report included the Welding Activity.
- (13) On 25 March 2020, DEM received from Respondent an API report for calendar year 2019 (the “2019 API Report”). The report included the Welding Activity.
- (14) DEM’s review of the 2017 API Report, 2018 API Report, and 2019 API Report revealed the following:
 - (a) The total quantity of emissions from the Facility for hexavalent chromium for calendar years 2017, 2018, and 2019 were 0.02 pounds, 0.07 pounds, and 0.11 pounds, respectively; and
 - (b) The total quantity of emissions from the Facility for manganese for calendar years 2017, 2018, and 2019 were 5.5 pounds, 1.84 pounds, and 2.92 pounds, respectively.
- (15) The Welding Activity is not exempt from the limitation of the Permit described in subsection C(6)(b) above.
- (16) As of the date of the NOV, Respondent has failed to apply to DEM to modify the Permit to address manganese and hexavalent chromium emissions from the Facility.

D. Violation

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **Air Permit Rules [effective 31 January 2011 to 5 April 2018]**
 - (a) **9.3.1(f)** – requiring a minor source permit for the construction, installation or modification of a stationary source which has the potential to increase emissions of a listed TAC more than the minimum quantity for that contaminant as specified in Appendix A of this rule.
 - (b) **9.6.8** – requiring any person who receives a permit to comply with all conditions in the permit.
 - (c) **9.6.9** – failure to comply with all conditions in the permit is a violation of this rule.

- (2) ***Air Pollution Control Permits (250-RICR-120-05-9) [effective 5 April 2018 to Current]***
- (a) **Part 9.7.1(A)(6)** – requiring a minor source permit for the construction, installation or modification of a stationary source which has the potential to increase emissions of a listed TAC more than the minimum quantity for that contaminant as specified in Part 9.17 of this rule.
 - (b) **Part 9.10(H)** – requiring any person who receives a permit to comply with all conditions in the permit.
 - (c) **Part 9.10(I)** – failure to comply with all conditions in the permit is a violation of this rule.
- (3) ***Record Keeping and Reporting (250-RICR-120-05-14) [effective 19 July 2007 to Current]***
- (a) **Part 14.5.1** – requiring the operator of any facility that emits air contaminants to compile and maintain records of data requested by DEM at the facility for 5 years.
 - (b) **Part 14.5.2** – requiring any information required in Part 14.5.1 above be summarized and submitted to DEM at least annually.

E. Order

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **Within 45 days of receipt of the NOV**, apply to DEM’s Office of Air Resources (“OAR”) to modify the Permit to address manganese and hexavalent chromium emissions from the Facility that complies with regulations titled *Air Pollution Control Permits (250-RICR-120-05-9)* or demonstrate to OAR’s satisfaction that said emissions compliance with the existing Permit will be met through modeling or other means.
- (2) The application and other documents described in subsection E (1) above shall be subject to OAR’s review and approval. Upon review, OAR shall provide written notification to you either granting formal approval or stating the deficiencies therein. Within 30 days (unless a longer time is specified) of receiving a notification of deficiencies, Respondent must submit to OAR a modified application or additional information necessary to correct the deficiencies.

F. Penalty

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

\$25,500

- (2) The proposed administrative penalty is calculated pursuant to the *Rules and Regulations for Assessment of Administrative Penalties (250-RICR-130-00-1)* [effective 31 December 2001 to Current] (the “Penalty Regulations”) and must be paid to DEM within 30 days of your receipt of the NOV. Payment shall be in the form of a certified check, cashier’s check or money order made payable to the “General Treasury - Water & Air Protection Program” and shall be forwarded to DEM’s Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against Respondent in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if the Director determines that reasonable efforts have been made to comply promptly with the NOV.

G. Right to Administrative Hearing

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before DEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F above. All requests for hearing MUST:
- (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b);
- (b) Be **RECEIVED** by DEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk
DEM - Administrative Adjudication Division
235 Promenade Street, Room 350
Providence, RI 02908-5767

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b); **AND**
 - (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Part 1.7(B) of the *Rules and Regulations for the Administrative Adjudication Division (250-RICR-10-00-1)* [effective 27 November 2014 to Current]
- (2) A copy of each request for hearing must also be forwarded to:

Susan Forcier, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767

- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner regarding any violation set forth herein, then the NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).
- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) The NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Susan Forcier of DEM's Office of Legal Services at (401) 222-6607 or at susan.forcier@dem.ri.gov. All other inquiries should be directed to David E. Chopy of DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 77400 or at david.chopy@dem.ri.gov.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

By: _____
David E. Chopy, Administrator
DEM Office of Compliance and Inspection

Dated: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Notice of Violation was forwarded to:

J. Goodison Company dba J. Goodison Company, Inc.
c/o Richard J. Land, Esq., Registered Agent
One Park Row, Suite 300
Providence, RI 02903

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, AIR
 File No.: OCI-AIR-20-96
 Respondent: J. Goodison Company dba J. Goodison Company, Inc.

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D (1)(b) & (c) and D (2)(b) & (c) – Failure to monitor for pressure drop in dust collector	Type I <i>(\$10,000 Max. Penalty) *</i>	Minor	\$ 1,000	1 violation	\$1,000
D (1) and D (2) – Failure to limit emissions or obtain a minor source permit	Type I <i>(\$10,000 Max. Penalty) *</i>	Major	\$ 7,500	3 years	\$22,500
D (1)(b) & (c) and D (2)(b) & (c) and D (3)– Failure to keep and submit records	Type III <i>(\$2,500 Max. Penalty) *</i>	Major	\$ 1,000	2 years	\$2,000
SUB-TOTAL					\$25,500

*Maximum Penalties represent the maximum penalty amounts per day, per violation.

ECONOMIC BENEFIT FROM NONCOMPLIANCE

COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT COMPLY. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:

- THERE IS NO IDENTIFIABLE BENEFIT FROM NONCOMPLIANCE; OR
- THE AMOUNT OF ECONOMIC BENEFIT CAN NOT BE QUANTIFIED.

A review of the record in this matter has revealed that Respondent has either enjoyed no identifiable benefit from the noncompliance alleged in this enforcement action or that the amount of economic benefit that may have resulted can not be quantified.

ADMINISTRATIVE PENALTY SUMMARY (continued)

COST RECOVERY

ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.

A review of the record in this matter has revealed that DEM has not incurred any additional or extraordinary costs during the investigation, enforcement and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$25,500

PENALTY MATRIX WORKSHEET

CITATION: Failure to monitor for pressure drop in dust collector

VIOLATION NOs.: D (1)(b) and (c) and D (2)(b) and (c)

TYPE		
<p><u> X </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED: Taken from Part 1.10(A)(1)(b) of the Penalty Regulations</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to monitor for pressure drop in the dust collector as required by the Permit. Respondent is a stationary source of air pollutants subject to federal and state air pollution control regulations. Compliance with this requirement is of importance to the regulatory program (2) Environmental conditions: The Facility is in the Quonset Industrial Park adjacent to Narragansett Bay and the Quonset State Airport. There are no residences nearby to the Facility. (3) Amount of the pollutant: Considered, but not utilized for this calculation. (4) Toxicity or nature of the pollutant: Particulate matter contains microscopic solids or liquid droplets that are so small that they can be inhaled and cause serious health problems. Some particles less than 10 micrometers in diameter can get deep into your lungs and some may even get into your bloodstream. Of these, particles less than 2.5 micrometers in diameter, also known as fine particles or PM_{2.5}, pose the greatest risk to health. Fine particles are also the main cause of reduced visibility (haze) in parts of the United States. (5) Duration of the violation: Full duration unknown – DEM believes this has been ongoing since DEM issued the Permit in February 2017. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
(continued)		

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable and appropriate steps to prevent the noncompliance. The requirement is clearly stated in the Permit. Respondent mitigated the noncompliance by agreeing to use a Dust Collector with a Gauge after issuance of the LNC by DEM to Respondent that required it to do so.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the violation since Respondent is the operator of the Facility. The violation was foreseeable by Respondent.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	MODERATE	<u> X </u> MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$10,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$5,000 to \$10,000	\$2,500 to \$5,000	\$1,000 to \$2,500
	MODERATE	\$2,500 to \$5,000	\$1,000 to \$2,500	\$500 to \$1,000
	MINOR	\$1,000 to \$2,500 \$1,000	\$500 to \$1,000	\$100 to \$500

PENALTY MATRIX WORKSHEET

CITATION: Failure to limit emissions or obtain a minor source permit
 VIOLATION NOs.: D (1) and D (2)

TYPE		
<p><u> X </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p><u> </u> TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>

DEVIATION FROM THE STANDARD
 THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED:

Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.

- (1) **The extent to which the act or failure to act was out of compliance:** Respondent failed to limit its emissions from the Facility below the minimum quantity for listed TACs in the Air Permit Rules or obtain a minor source permit from DEM, as required by the Permit. Respondent is a stationary source of air pollutants subject to federal and state air pollution control regulations. Compliance with this requirement is of major importance to the regulatory program.
- (2) **Environmental conditions:** The Facility is in the Quonset Industrial Park adjacent to Narragansett Bay and the Quonset State Airport. There are no residences nearby to the Facility.
- (3) **Amount of the pollutant:** The total quantity of emissions from the Facility for hexavalent chromium for calendar years 2017, 2018 and 2019 were 0.02 pounds, 0.07 pounds, and .11 pounds, respectively, which is approximately 2.2 times, 7.8 times, and 12.2 times, respectively, the minimum quantity in the Air Permit Rules. The total quantity of emissions from the Facility for manganese for calendar years 2017, 2018 and 2019 were 5.5 pounds, 1.84 pounds, and 2.92 pounds, respectively, which is approximately 27.5 times, 9.2 times, and 14.6 times, respectively, the minimum quantity in the Air Permit Rules.
- (4) **Toxicity or nature of the pollutant:** TACs are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects. Manganese toxicity varies with exposure route. When ingested, manganese may be among the least toxic of the trace elements. Inhaled manganese bypasses the gut and can enter the brain in two ways: by olfactory (nasal airway) neural pathways that provide a direct path to brain tissue, and by lung uptake and long residence time that could provide a source of continuing exposure. The respiratory tract is the major target organ for hexavalent chromium toxicity, for acute (short-term) and chronic (long-term) inhalation exposures. Shortness of breath, coughing, and wheezing were reported from a case of acute exposure, while perforations and ulcerations of the septum, bronchitis, decreased pulmonary function, pneumonia, and other respiratory effects have been noted from chronic exposure. Human studies have clearly established that inhaled chromium is a human carcinogen, resulting in an increased risk of lung cancer. Animal studies have shown hexavalent chromium to cause lung tumors via inhalation exposure.

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- (5) **Duration of the violation:** Full duration unknown – at least 3 years (calendar years 2017, 2018 and 2019).
- (6) **Areal extent of the violation:** Considered, but not utilized for this calculation.
- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable and appropriate steps to prevent the noncompliance. The requirement is clearly stated in the Permit. DEM issued the NIE to Respondent that required corrective actions, but we have received no response, so DEM is not aware of any steps Respondent has taken to mitigate the noncompliance.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the violation since Respondent is the operator of the Facility. The violation was foreseeable by Respondent.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<u>X</u> MAJOR	MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$10,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$5,000 to \$10,000 \$7,500	\$2,500 to \$5,000	\$1,000 to \$2,500
	MODERATE	\$2,500 to \$5,000	\$1,000 to \$2,500	\$500 to \$1,000
	MINOR	\$1,000 to \$2,500	\$500 to \$1,000	\$100 to \$500

PENALTY MATRIX WORKSHEET

CITATION: Failure to keep and submit records

VIOLATION NOs.: D (1)(b) and (c), D (2)(b) and (c) and D (3)

TYPE		
<p style="text-align: center;">___ TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.</p>	<p style="text-align: center;">___ X TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare or environment.</p>
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p><u>FACTORS CONSIDERED:</u></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Respondent failed to keep records on a monthly basis of its determination of the total quantity of each listed TAC in the Air Permit Rules discharged to the atmosphere from all operations at the Facility, including welding operations, and submit a summary of this information annually to DEM, as required by the Permit. Respondent is a stationary source of air pollutants subject to federal and state air pollution control regulations. Compliance with this requirement is of importance to the regulatory program. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: Considered, but not utilized for this calculation. (4) Toxicity or nature of the pollutant: TACs are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects. (5) Duration of the violation: Full duration unknown – at least 2 years (calendar years 2017 and 2018). (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to take reasonable and appropriate steps to prevent the noncompliance. The requirement is clearly stated in the Permit. Respondent mitigated the noncompliance by submitting the information to DEM after issuance of the LNC by DEM to Respondent, which required it to do so.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Respondent had complete control over the violation since Respondent is the operator of the Facility. The violation was foreseeable by Respondent.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<u>X</u> MAJOR	MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$10,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$5,000 to \$10,000	\$2,500 to \$5,000	\$1,000 to \$2,500 \$1,000
	MODERATE	\$2,500 to \$5,000	\$1,000 to \$2,500	\$500 to \$1,000
	MINOR	\$1,000 to \$2,500	\$500 to \$1,000	\$100 to \$500