

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: City of Woonsocket

**FILE NO.: OCI-WP-17-132
X-ref RIPDES Permit RI0100111
RIPDES Pretreatment Program
Referral #17-01**

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 (“Woonsocket”) has violated certain statutes and/or administrative regulations under the DEM's jurisdiction.

B. Administrative History

On 13 July 2017, the DEM received a report from CH2M, the operator of Woonsocket’s wastewater treatment facility. The report stated that on 27 June 2017 an unknown substance entered the wastewater treatment facility and caused a toxic interference and a discharge of nitrogen to Blackstone River that exceeded Woonsocket’s permit limit [the DEM later calculated that the discharge was approximately 33% over the limit]. In electronic correspondence sent on 19 July 2017, the DEM advised Woonsocket to investigate. On 1 August 2017, the DEM issued a noncompliance letter to Woonsocket. The letter stated that, to the DEM’s knowledge, Woonsocket failed to investigate. On 10 August 2017, the DEM and Woonsocket met. On 1 September 2017, Woonsocket’s legal counsel submitted a letter to the DEM. The letter stated that due to a miscommunication between Woonsocket and CH2M, no investigation was performed. The letter included a new communication protocol that was developed and additional records that the DEM requested. Woonsocket is required by its permit to develop and enforce pretreatment standards for industrial users that discharge wastewater to Woonsocket’s wastewater treatment facility. After review of the records, the DEM determined that Woonsocket failed to enforce violations of its pretreatment standards against Technic, Inc. (“Technic”) for excess discharges of cyanide and ammonia to Woonsocket’s wastewater treatment facility on 1 July 2014 and 26 January 2016, respectively. Woonsocket’s failure to investigate the 27 June 2017 incident and comply with its enforcement response plan and its failure to enforce against Technic is the subject of this Notice of Violation (“NOV”).

C. Facts

- (1) Woonsocket owns a wastewater treatment facility located on Cumberland Hill Road in the City of Woonsocket, Rhode Island (the “Facility”). The Facility treats wastewater generated from, among others, industrial users (“IUs”).

- (2) CH2M operates the Facility on behalf of Woonsocket.
- (3) On 18 September 2008, the DEM issued to Woonsocket Rhode Island Pollutant Discharge Elimination System (“RIPDES”) Permit No. RI0100111 (the “RIPDES Permit”), which became effective on 1 October 2008. The RIPDES Permit authorizes Woonsocket to discharge treated wastewater from the Facility to Blackstone River.
- (4) The RIPDES Permit requires Woonsocket to:
 - (a) Comply with a discharge limit for nitrogen of 3.0 parts per million (“ppm”) as a monthly average between 1 May and 31 October (the “Nitrogen Limit”);
 - (b) Fully and effectively exercise and implement its approved industrial pretreatment program (“IPP”);
 - (c) Implement its approved enforcement response plan (“ERP”);
 - (d) Identify each instance of IU noncompliance with any pretreatment standard and/or requirement and take formal documented action for each instance of noncompliance;
 - (e) Require IUs to comply with applicable categorical pretreatment standards and all applicable pretreatment standards and requirements; and
 - (f) Summarize monitoring results obtained during the previous month and report these results to the DEM in a Discharge Monitoring Report (“DMR”).
- (5) The ERP requires Woonsocket to:
 - (a) Promptly investigate any reports indicating an IU is violating Woonsocket’s pretreatment standards and requirements; and
 - (b) Notify all IUs in writing should spills or slug loads be detected at the Facility that are not reported to Woonsocket.
- (6) Technic is an IU and is authorized to discharge wastewater to Woonsocket’s wastewater treatment facility in accordance with Permit No. 1012 (the “Technic Permit”) that was issued by Woonsocket to Technic.

- (7) On 20 June 2014, Woonsocket and Technic entered into a consent agreement (the “CA”) to resolve violations of the Technic Permit. The CA includes the following terms:
- (a) A requirement for Technic to comply with Woonsocket’s local limit for cyanide of 1.2 ppm as a daily maximum (the “Cyanide Limit”);
 - (b) A requirement for Technic to comply with Woonsocket’s local limit for ammonia of 443 pounds per day (“ppd”) as a daily maximum (the “Ammonia Loading Limit”); and
 - (c) Woonsocket can assess penalties only if a contaminant discharged to the Facility is not generally in concentrations and loads historically present, until such time that Technic has completed the installation and upgrade to its wastewater treatment system.
- (8) On 13 July 2017, James Lauzon (“Lauzon”), the CH2M Project Manager, submitted the DMR for June 2017. The report stated that the monthly average for nitrogen was 4.0 ppm, which exceeded the Nitrogen Limit (the “Nitrogen Exceedance”) and was attributed to a toxic interference on June 27 (the “June 27TH Incident”). The report further stated that:
- (a) Lauzon conducted a Facility tour on the afternoon of June 27 and observed billowing white foam blowing around the aeration basins;
 - (b) The influent ammonia on June 27 was 123 ppm, which was 4 times higher than normal;
 - (c) The effluent nitrogen on June 27 was 17.1 ppm, and the effluent ammonia was 9.0 ppm;
 - (d) The ammonia from the previous effluent sample collected on June 25 was 0 ppm; and
 - (e) He notified Woonsocket’s IPP coordinator of the incident.
- (9) On 23 August 2017, the DEM performed an audit of Woonsocket’s IPP. The audit revealed the following:
- (a) From 1 April 2014 through 20 July 2016, Technic discharged cyanide to Woonsocket’s wastewater treatment facility in violation of the Cyanide Limit on at least 9 days;
 - (b) The concentration for all but one of those days ranged from 1.41 ppm to 2.16 ppm; and

- (c) The concentration on 1 July 2014 was 4.8 ppm (the “July 1ST Exceedance”), which was approximately 2½ times higher than the other days and 4 times higher than the Cyanide Limit.
- (10) On 1 September 2017, the DEM received a letter from Woonsocket’s legal counsel. The letter stated that Woonsocket did not investigate the June 27TH Incident due to a miscommunication between Woonsocket and CH2M. The letter included a protocol that was developed for CH2M and Woonsocket’s IPP (the “Communication Protocol”) for future incidents.
- (11) On 18 October 2017, Woonsocket submitted electronic correspondence to the DEM, which included analytical results for ammonia of Technic’s discharge to Woonsocket’s wastewater treatment facility in calendar year 2016. The DEM’s review of the correspondence revealed the following:
 - (a) The average daily concentration for 2016 was 1,579 ppm (the “2016 Average”);
 - (b) The concentration on 26 January 2016 was 14,800 ppm (the “January 26TH Concentration”);
 - (c) The loading on 26 January 2016 was 8,935 ppd (the “January 26TH Exceedance”);
 - (d) The January 26TH Exceedance was approximately 20 times over the Ammonia Loading Limit; and
 - (e) The January 26TH Concentration was approximately 9 times over the 2016 Average.
- (12) The DEM has determined that the July 1ST Exceedance and the January 26TH Exceedance were not generally in concentrations and loads historically present.
- (13) Woonsocket failed to investigate the June 27TH Incident as required by the ERP.
- (14) Woonsocket failed to notify all IUs of the June 27TH Incident as required by the ERP.
- (15) Woonsocket failed to take any enforcement action against Technic for the July 1ST Exceedance and January 26TH Exceedance as allowed under the CA and required under its IPP and ERP.

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) **R.I. Gen. Laws Section 46-12-5(b)** – requiring the discharge of any pollutant into waters of the State comply with the terms and conditions of a permit and applicable regulations.
- (2) **DEM’s *Water Quality Regulations***
 - (a) **Rule 11(B)** – requiring the discharge of pollutants into the waters of the State comply with the terms and conditions of a permit issued by the DEM.
 - (b) **Rule 13(A)** – prohibiting the discharge of any pollutant into or conducting any activity which will likely cause or contribute pollution to the waters of the State.
 - (c) **Rule 16(A)** – mandating compliance with all terms, conditions, management practices and operation and maintenance requirements set forth in a permit.
- (3) **DEM’s *Regulations for the Rhode Island Pollutant Discharge Elimination System***
 - (a) **Rule 14.02(a)** – requiring the permittee to comply with all conditions of the permit.
 - (b) **Rule 14.05** – requiring the permittee to take all reasonable steps to minimize or prevent a discharge in violation of the permit.

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 30 days of receipt of the NOV**, submit to the DEM a revised Communication Protocol that addresses the following deficiencies:
 - (a) Reference the pertinent section/s of the ERP (for example, Sections 1.05.01 and 1.05.02);
 - (b) Provide additional details regarding the methods or procedures or both that will be used to ensure that the investigation requirements of the ERP will be met for future spills or slug loads to the Facility (for example, sampling IU discharges, Facility influent and key collection system locations, opening manholes for visual observation, etc.); and

- (c) Provide additional details regarding the methods or procedures or both that will be used to ensure that the communication requirements of the ERP will be met for future spills or slug loads to the Facility (for example, notification of Facility staff, the DEM, IUs, etc.).
- (2) The document required in Section E (1) above shall be subject to the DEM's review and approval. Upon review, the DEM shall provide written notification to Woonsocket either granting formal approval or stating the deficiencies therein. Within 14 days (unless a longer time is specified) of receiving a notification of deficiencies, Woonsocket must submit to the DEM 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:

\$43,750

- (2) The proposed administrative penalty is calculated pursuant to the DEM's *Rules and Regulations for Assessment of Administrative Penalties*, as amended, and must be paid to the DEM within 30 days of your receipt of the NOV. Payment shall be in the form of a certified check, cashiers check or money order made payable to the "General Treasury - Water & Air Protection Program Account" and shall be forwarded to the DEM Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, Rhode Island 02908-5767.
- (3) Penalties assessed against Woonsocket 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.

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 the 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 the 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 DEM's *Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters*.
- (2) A copy of each request for hearing must also be forwarded to:

Joseph J. LoBianco, 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 the 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 this 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) Joseph J. LoBianco of the DEM's Office of Legal Services at (401) 222-6607. All other inquiries should be directed to David E. Chopy of the DEM's Office of Compliance and Inspection at (401) 222-1360 ext. 7400.

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, Chief
Office of Compliance and Inspection

Dated: _____

CERTIFICATION

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

City of Woonsocket
c/o The Honorable Lisa Baldelli-Hunt, Mayor
169 Main Street
Woonsocket, RI 02895

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: OFFICE OF COMPLIANCE AND INSPECTION, Water Pollution
 File Nos.: OCI-WP-17-132 X-ref RIPDES Permit RI0100111
 RIPDES Pretreatment Program Referral #17-01
 Respondent: City of Woonsocket

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), D (2) And D (3)(a) – Permit Limit Exceedance (Nitrogen)	Type I (\$25,000 Max. Penalty) *	Moderate	\$6,250	1 violation	\$6,250
D (1), D (2)(a), D (2)(c) And D (3)(a) – Investigation Of June 27 TH Incident	Type I (\$25,000 Max. Penalty) *	Major	\$12,500	1 violation	\$12,500
D (1), D (2)(a), D (2)(c) And D (3) – Enforcement Against Technic	Type I (\$25,000 Max. Penalty) *	Major	\$25,000	1 violation	\$25,000
<i>SUB-TOTAL</i>					\$43,750

*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 Woonsocket 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 cannot 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 the 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= \$43,750

PENALTY MATRIX WORKSHEET

CITATION: Permit Limit Exceedance (Nitrogen)

VIOLATION NO.: D (1), D (2) And D (3)(a)

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 1.10A.1.b of the DEM's *Rules and Regulations for Assessment of Administrative Penalties*

- (1) **The extent to which the act or failure to act was out of compliance:** Woonsocket failed to comply with its discharge permit limit for nitrogen. Compliance with permit limits is a major objective of the DEM's RIPDES Regulations and the DEM's Water Quality Regulations and is of major importance to the regulatory program.
- (2) **Environmental conditions:** The wastewater discharged to Blackstone River, which is designated as a Class B1 water body of the State. Class B1 waters are designated for fish and wildlife habitat, primary and secondary contact recreational activities, and shall have good aesthetic value.
- (3) **Amount of the pollutant:** Unknown. Woonsocket has a permit limit for nitrogen of 3.0 ppm as a monthly average. Woonsocket reported that for June 2017 it discharged 4.0 ppm as a monthly average (33% over its permit limit).
- (4) **Toxicity or nature of the pollutant:** Nitrogen can cause low dissolved oxygen levels in a water body and high phytoplankton levels, but of which are injurious to fish and wildlife.
- (5) **Duration of the violation:** 1 month – June 2017.
- (6) **Areal extent of the violation:** Unknown.

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- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Considered, but not utilized for this calculation
- (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:** Considered, but not utilized for this calculation.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

MAJOR	<u> X </u> MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500 \$6,250	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Investigation Of June 27TH Incident
 VIOLATION NO.: D (1), D (2)(a), D (2)(c) And D (3)(a)

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

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

FACTORS CONSIDERED:

Taken from Part 1.10A.1.b of the DEM's *Rules and Regulations for Assessment of Administrative Penalties*

- (1) **The extent to which the act or failure to act was out of compliance:** Woonsocket failed to investigate the source of an unknown substance that was discharged to the wastewater treatment facility and caused a toxic interference and a violation of its discharge permit limit for nitrogen. Woonsocket also failed to notify its IUs in writing of the incident. Woonsocket's ERP and its permit require it to promptly investigate any reports indicating an IU is violating Woonsocket's pretreatment standards and requirements and to notify its IUs in writing of a spill or slug load that is not reported to Woonsocket. Compliance with the pretreatment requirements of the permit is a major objective of the DEM's RIPDES Regulations and the DEM's Water Quality Regulations and is of major importance to the regulatory program.
- (2) **Environmental conditions:** The discharge of the unknown substance caused billowing white foam blowing around the aeration basins on 27 June 2017. The influent ammonia on June 27 was 123 ppm, which was 4 times higher than normal. The effluent nitrogen on June 27 was 17.1 ppm, and the effluent ammonia was 9.0 ppm. The ammonia from the previous effluent sample collected on June 25 was 0 ppm. Woonsocket has a permit limit for nitrogen of 3.0 ppm as a monthly average – for June 2017 it discharged 4.0 ppm as a monthly average (33% over its permit limit).
- (3) **Amount of the pollutant:** Unknown.
- (4) **Toxicity or nature of the pollutant:** Unknown.
- (5) **Duration of the violation:** Woonsocket failed to investigate the source of the unknown substance and failed to notify the IUs in writing of the spill or slug load.
- (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:** Woonsocket failed to take reasonable and appropriate steps to prevent the noncompliance. CH2M was aware of the discharge on 27 June 2017, but failed to notify the Woonsocket IPP coordinator until on or about the week of 10 July 2017 (due to a miscommunication between the CH2M operator and the Woonsocket IPP coordinator), and the Woonsocket IPP coordinator failed to perform any investigation at that time. Woonsocket also failed to notify all IUs in writing of the spill or slug load. After receipt of a letter of noncompliance the DEM issued to Woonsocket on 1 August 2017, Woonsocket took steps to mitigate the noncompliance by meeting with the DEM on 10 August 2017 and submitting to the DEM on 1 September 2017 a letter from Woonsocket’s legal counsel that included a communication protocol for CH2M to notify Woonsocket’s IPP coordinator of future incidents.
- (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:** Woonsocket had complete control over the occurrence of the violation. Under the terms of its permit and approved pretreatment program, Woonsocket is required to promptly investigate any reports indicating an IU is violating Woonsocket’s pretreatment standards and requirements and to notify all IUs in writing of a spill or slug load that is not reported to Woonsocket.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** This was a major discharge of an unknown substance to the wastewater treatment facility that caused levels of ammonia 4 times above normal at the influent to the facility and billowing white foam on the aeration tanks on June 27 and a violation of Woonsocket’s monthly permit limit for nitrogen.

<u> </u> MAJOR	MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000 \$12,500	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250

PENALTY MATRIX WORKSHEET

CITATION: Enforcement Against Technic
 VIOLATION NO.: D (1), D (2)(a), D (2)(c) And D (3)

TYPE		
<u> X </u> TYPE I DIRECTLY related to protecting health, safety, welfare or environment.	<u> </u> TYPE II INDIRECTLY related to protecting health, safety, welfare or environment.	<u> </u> TYPE III INCIDENTAL to protecting health, safety, welfare or environment.
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10A.1.b of the DEM's <i>Rules and Regulations for Assessment of Administrative Penalties</i></p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Woonsocket failed to take formal documented action against Technic for Technic's failure to comply with its pretreatment permit limits. Woonsocket is required under its permit to properly enforce its pretreatment program and to take formal documented action against an IU for each instance of noncompliance. Compliance with the pretreatment requirements of the permit is a major objective of the DEM's RIPDES Regulations and the DEM's Water Quality Regulations and is of major importance to the regulatory program. (2) Environmental conditions: Considered, but not utilized for this calculation. (3) Amount of the pollutant: Unknown. The concentration of cyanide from Technic's discharge to Woonsocket's wastewater treatment facility on 1 July 2014 was 4.8 ppm, which was approximately 2½ times higher than the other 8 days from 1 April 2014 through 20 July 2016 that Technic violated its permit limit and 4 times higher than its permit limit. The concentration of ammonia from Technic's discharge to Woonsocket's wastewater treatment facility on 26 January 2016 was 14,800 ppm, and the loading was 8,935 ppd, which were approximately 20 times over the permitted loading limit and approximately 9 times over the average concentration of 1,579 ppm for 2016. (4) Toxicity or nature of the pollutant: Excess levels of ammonia and cyanide can cause toxic interference at the wastewater treatment facility and cause the facility to violate its permit limits. (5) Duration of the violation: 2 separate dates. 1 July 2014 and 26 January 2016. (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:** Woonsocket failed to take reasonable and appropriate steps to prevent 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:** Woonsocket had complete control over the occurrence of the violation. Under the terms of its permit and approved pretreatment program, Woonsocket is required to take formal documented action against an IU for each instance of noncompliance. The CA entered into between Woonsocket and Technic has clear language that states Woonsocket shall not issue any penalties to Technic for permit limit exceedances that are discharged *generally in concentrations and loads historically present in such wastewater discharge*, until Technic has completed the installation and upgrades to its wastewater treatment systems. The 1 July 2014 and 26 January 2016 exceedances were well above historic norms. The DEM's review of Woonsocket's files as part of the DEM audit of Woonsocket's IPP did not identify any documented actions taken against Technic for the 1 July 2014 and 26 January 2016 permit exceedances.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** The Woonsocket IPP coordinator informed the DEM in a 19 July 2017 electronic correspondence that Woonsocket did not have the authority to act against Technic as it is under the CA.

<u> X </u> MAJOR	MODERATE	MINOR
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Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000 \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250