



California Regional Water Quality Control Board

San Francisco Bay Region



Alan C. Lloyd, Ph.D.
Agency Secretary

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<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger
Governor

Date: NOV 18 2005
File No. 2119.1001 (MLZ)

CERTIFIED MAIL NO. 70050390000053246923
RETURN RECEIPT REQUESTED

General Chemical Corporation, Western Region
501 Nichols Road
Pittsburg, CA 94565-1098

Attn: Mr. Jeff Jakoncuk

Subject: Mandatory Minimum Penalties (MMPs) assessed under Water Code sections 13385 (h) and (i) for General Chemical Corporation, Pittsburg, Contra Costa County, NPDES No. CA0004979.

Dear Mr. Jakoncuk:

Enclosed is Complaint No. R2-2005-0060. The Complaint alleges that during the period between June 1, 2004, and September 30, 2005, General Chemical Corporation had eleven violations of its discharge limits. These violations are subject to a \$33,000 MMP.

We plan to bring this matter to the Water Board at its January 11, 2006, meeting. To address this Complaint, General Chemical Corporation has three options:

1. General Chemical Corporation can appear before the Water Board at the meeting to contest the matter. Written comments are due by December 16, 2005. At the meeting the Water Board may: impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or, refer the case to the Attorney General to have a Superior Court consider imposition of a penalty.
2. General Chemical Corporation can waive the right to a hearing by signing the attached waiver form and checking the first box. There will be no hearing on this matter, provided Water Board staff receives no significant public comments during the comment period. By checking the first box and signing the waiver, General Chemical Corporation agrees to pay the liability within 30 days after the signed waiver becomes effective.
3. General Chemical Corporation can waive the right to a hearing and agree to undertake a Supplemental Environmental Project (SEP) by signing the waiver and checking the second box. There will be no hearing on this matter, provided Water Board staff receives no

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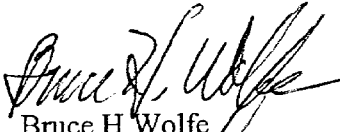
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significant public comments during the comment period. By checking the second box and signing the waiver, General Chemical Corporation agrees to complete an SEP in lieu of paying a suspended amount of up to \$24,000 of the penalty and remit the balance of the fine to the State Water Pollution Cleanup and Abatement Account within 30 days after the signed waiver becomes effective. Note that the SEP must be acceptable to the Executive Officer of the Water Board. If the Executive Officer determines that either, the SEP proposal is not acceptable, or the SEP is not adequately completed within the approved time schedule, General Chemical Corporation will be required to pay the suspended liability within 30 days of notification by the Executive Officer.

For options 2 or 3 above, we request that General Chemical Corporation mail and fax a copy of the signed waiver to the attention of Myriam Zech at (510) 622-2460 by no later than December 2, 2005. If General Chemical Corporation intends to complete an SEP, a preliminary proposal must accompany the waiver for approval of concept.

If you have any questions regarding this letter, please contact Myriam Zech at (510) 622-5684 or e-mail her at mzech@waterboards.ca.gov.

Sincerely,


Bruce H Wolfe
Executive Officer

Enclosure: Complaint No. R2-2005-0060

Preserving, enhancing, and restoring the San Francisco Bay Area's waters for over 50 years

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2005-0060
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
GENERAL CHEMICAL CORPORATION
PITTSBURG, CONTRA COSTA COUNTY**

This complaint assesses Mandatory Minimum Penalties (MMPs) pursuant to Water Code sections 13385(h) and (i). It is issued to General Chemical Corporation (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order No. R2-2002-0071 (NPDES No. CA0004979).

The Executive Officer finds the following:

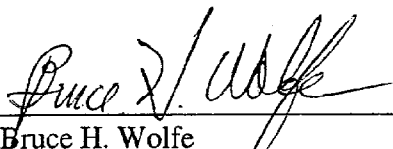
1. On June 19, 2002, the Water Board adopted Order No. R2-2002-0071 for the Discharger, to regulate discharges of waste from its facility.
2. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
3. Water Code Section 13385(h)(2) defines "serious violation" as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
4. Water Code Section 13385(i)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six consecutive months:
 - a. Violates a waste discharge requirement effluent limitation.
 - b. Fails to file a report pursuant to Section 13260.
 - c. Files an incomplete report pursuant to Section 13260.
 - d. Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
5. Water Code Section 13385(l) authorizes the Water Board to allow the discharger to undertake a Supplemental Environmental Project (SEP) for up to the full amount of the penalty for liabilities less than or equal to \$15,000. For liabilities in excess of \$15,000, SEPs are authorized up to \$15,000 plus half the penalty amount that exceeds \$15,000.

6. Order No. R2-2002-0071 includes the following effluent limitations:
Effluent Limitation B.5.e. Mercury Interim Daily Maximum Limit 1 µg/l
Effluent Limitation B.6. Mercury Interim Mass Emission Limit (12-Month Moving Average of Total Mass Load) 0.021 kg/month
7. From June 1, 2004 to September 30, 2005, the Discharger exceeded its NPDES permit limits eleven times; no penalty has previously been assigned to these violations. These eleven violations are five mercury interim daily maximum limit violations and six mercury interim mass emission limit violations. A summary of the violations appears in Table 1.
8. Mercury is a Group II pollutant. Three of the five mercury interim daily maximum effluent limit violations are serious violations because the violations exceed the effluent limitation by 20 percent or more. These three serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$9,000. Two of the five mercury effluent limit violations are chronic violations because the violations exceed the effluent limitation by less than 20 percent. Because there were more than three effluent limit violations in the preceding 180 days, these two chronic effluent limit violations are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$6,000.
9. All six mercury interim mass emission limit violations are serious violations because the violations exceed the effluent limitation by 20 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$18,000.
10. Water Code Section 13385(j) provides for some exceptions related to the assessment of an MMP for effluent limit violations. None of the exceptions apply to the violations cited in this Complaint.
11. The total MMP amount is \$33,000.
12. In lieu of the first \$15,000 of the penalty the discharger may be permitted to conduct a supplemental environmental project (SEP) approved by the Executive Officer. Of the penalty amount in excess of \$15,000 the discharger may be permitted to contribute 50% towards an SEP. Thus, \$24,000 of the \$33,000 penalty in this complaint is eligible for SEP substitution.

GENERAL CHEMICAL CORPORATION IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Water Board proposes that the Discharger be assessed an MMP in the amount of \$33,000.
2. The Water Board shall hold a hearing on this Complaint on January 11, 2006, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and checking the appropriate box, and there is no significant public comment. By doing so, the Discharger agrees to:
 - a. Pay the full penalty of \$33,000 within 30 days after the signed waiver becomes effective as indicated in item 4 below, or

- b. Pay a penalty of a minimum of \$9,000 within 30 days after the signed waiver becomes effective as indicated in item 4 below, and complete an SEP in an amount equivalent to a maximum of \$24,000. The sum of the SEP amount and the amount of the fine to be paid to the State Board shall equal the full penalty amount of \$33,000.
3. If the Discharger chooses to propose an SEP, it must submit a proposal by December 2, 2005, for the Executive Officer's approval. Any SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended amount. All payment, including any money not expended for the SEP must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
4. The signed waiver becomes effective upon closure of the public comment period for this Complaint, provided no significant public comment is received by Board staff by the due date indicated in the appropriate public notice.
5. If a hearing is held, the Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of the civil liability.



Bruce H. Wolfe
Executive Officer

NOV 1 2 2005

Date

Table 1 – Violations Summary

Table 1. Violations Summary

Item No.	Date of Violation	Parameters in Violation	Permit Limit	Reported Value	Penalty (Chronic)	Penalty (Serious)
1	30-Jun-04	Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo	0.021	0.3861		\$3,000
2	31-Jul-04	Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo	0.021	0.0462		\$3,000
3	31-Aug-04	Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo	0.021	0.037		\$3,000
4	30-Sep-04	Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo	0.021	0.0328		\$3,000
5	31-Oct-04	Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo	0.021	0.0263		\$3,000
6	18-Nov-04	Mercury Interim Effluent Daily Maximum ug/l	1	1.99		\$3,000
7	30-Nov-04	Mercury Interim Effluent 12-month Moving Average Total Mass Load kg/mo	0.021	0.0254		\$3,000
8	21-Jan-05	Mercury Interim Effluent Daily Maximum ug/l	1	2		\$3,000
9	31-Jan-05	Mercury Interim Effluent Daily Maximum ug/l	1	1.1	\$3,000	
10	3-May-05	Mercury Interim Effluent Daily Maximum ug/l	1	1.13	\$3,000	
11	2-Jun-05	Mercury Interim Effluent Daily Maximum ug/l	1	1.41		\$3,000
Number of fineable chronic violations				2	\$6,000	
Number of serious violations				9		\$27,000
Total Penalty					\$33,000	