



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

SEP 30 2011

Ref: 8ENF-W-NP

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Sandra Lemke, Acting Mayor
City of Dupree
P.O. Box 276
Dupree, South Dakota 57623

Re: Proposed Assessment of Class I Civil
Penalty under Section 309 of the Clean
Water Act
Docket No. **CWA-08-2011-0040**

Dear Mayor Lemke:

Enclosed is a United States Environmental Protection Agency Region 8 (EPA) Administrative Complaint and Notice of Opportunity for Hearing (complaint) issued to the City of Dupree under section 309(a) of the Clean Water Act, as amended (Act), 33 U.S.C. § 1319(a). Based on our review of all available information, the EPA has determined that the City of Dupree Wastewater Treatment Facility (City) is in violation of the National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342.

The complaint proposes a penalty of \$30,000 be assessed for failure to comply with the NPDES permit. The City has the right to a hearing to contest the factual allegations in the complaint. A copy of the procedures for such a hearing is enclosed for review. Please note the requirements for an answer set forth in 40 C.F.R. §§ 22.15 and 22.38.

If the City wishes to contest the allegations in the complaint or the penalty proposed in the complaint, it must file an answer within thirty (30) days of your receipt of the enclosed complaint to the EPA Region 8 Hearing Clerk at the following address:

Regional Hearing Clerk (8RC)
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202

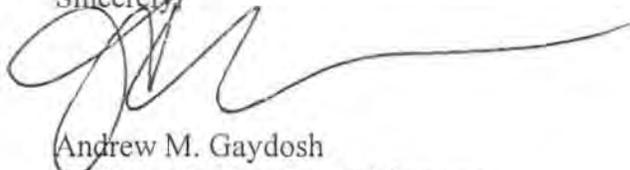
If the City does not file an answer within 30 days (see 40 C.F.R. § 22.15(d)), it may be found in default. A default judgment may impose the full penalty of \$30,000 proposed in the complaint.

The EPA encourages settlement of these proceedings at any time prior to a formal hearing if the settlement is consistent with the provisions and objectives of the Act and applicable regulations (See 40 C.F.R. § 22.18). Whether or not the City requests a hearing, it may confer informally with the EPA concerning the alleged violations or the proposed penalty amount. However, please note that a request for an informal conference does **not** extend the 30 day period for filing an answer and/or requesting a hearing.

If a mutually satisfactory settlement can be reached, it will be formalized in a consent agreement signed by a City representative and the delegated authority for the EPA. Upon final approval of the consent agreement by the Regional Judicial Officer, the City will be bound by the terms of the consent agreement and will waive its right to a hearing on, and judicial appeal of, the agreed upon penalty. The City has the right to be represented by an attorney at any stage of the proceedings, including any informal discussions with the EPA, but this is not required.

If you have any questions regarding this letter or complaint, or any other matters pertinent to compliance with the Act, the most knowledgeable people on my staff regarding these matters are Natasha Davis, Technical Enforcement, at (303) 312-6225, and Amy Swanson, Enforcement Attorney, at (303) 312-6906.

Sincerely,



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: Tina Artemis, Regional Hearing Clerk
Honorable Joeseeph Brings Plenty, Sr., Chairman, Cheyenne River Sioux Tribe
David Nelson, Environmental Director, Cheyenne River Sioux Tribe

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 2011 SEP 30 AM 9:56
REGION 8

In the Matter of:)	Docket No. CWA-08-2011-0040
)	
The City of Dupree, South Dakota)	ADMINISTRATIVE COMPLAINT AND
Dupree, South Dakota)	NOTICE OF OPPORTUNITY FOR
NPDES Permit No. SDG589116)	HEARING
)	
Respondent)	Proceeding to assess Class I penalty
)	under section 309(g) of the Clean Water
)	Act, 33 U.S.C. § 1319(g)

AUTHORITY

1. This Administrative Complaint and Notice of Opportunity for Hearing (Complaint) is issued pursuant to section 309(g) of the Clean Water Act (Act), 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.13. Section 309(g) of the Act authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to make findings and to assess civil penalties for violations of section 301 of the Act, 33 U.S.C. § 1311, and for violations of a condition or limitation of a permit issued under section 402 of the Act, 33 U.S.C. § 1342. This proceeding is subject to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits (Consolidated Rules), 40 C.F.R. part 22, a copy of which accompanies this Complaint. The undersigned EPA official has been properly delegated the authority to issue this Complaint.

FINDINGS OF FACT

2. The City of Dupree (Respondent) is a "municipality" as defined in section 502(4) of the Act, 33 U.S.C. § 1362(4), and 40 C.F.R. § 122.2.

3. Respondent is a municipality and therefore a “person” as that term is defined in section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
4. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits, among other things, the discharge of any pollutant by any person into navigable waters, unless authorized by certain other provisions of the Act, including section 402 of the Act, 33 U.S.C. § 1342.
5. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System (NPDES) program, under which the EPA may issue permits authorizing discharges into navigable waters, subject to specific terms and conditions.
6. Effective September 14, 2010, EPA issued the NPDES General Permit for Wastewater Lagoons in Indian Country, authorizing, in part, operators of wastewater treatment lagoons within the Cheyenne River Sioux Indian Reservation to discharge to waters of the U.S. in accordance with the conditions set forth in the Permit.
7. Effective May 19, 2011, EPA authorized the City of Dupree under NPDES Permit No. SDG589116 (Permit).
8. Respondent owns and/or operates a Category 3 (no discharge) wastewater treatment facility (facility), that includes a sewer collection and conveyance system, a lift station, and a four-cell wastewater treatment lagoon, serving the incorporated City of Dupree, County, South Dakota, within the exterior boundaries of the Cheyenne River Sioux Indian Reservation.
9. The facility is a “point source” within the meaning of section 502(14) of the Act, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2.
10. Wastewater is a “pollutant” within the meaning of section 502(6) of the Act, 33 U.S.C. § 1362(6).

11. The facility discharges into Bear Creek, which flows north into the Moreau River before entering the Missouri River. The Missouri River and its tributaries constitute “waters of the United States” within the meaning of 40 C.F.R. § 122.2 and, therefore, navigable waters within the meaning of section 502(7) of the Act, 33 U.S.C. § 1362(7).
12. Part 5.1 of the Permit states there shall be no discharge except in accordance with the Permit’s bypass provisions. If an unauthorized release is discovered or expected to occur, the permittee shall take the appropriate measures to minimize the discharge of pollutants.
13. Part 5.2 of the Permit requires Respondent to monitor the facility’s effluent for flow, biochemical oxygen demand (BOD₅), total suspended solids (TSS), pH, and visually monitor oil and grease at the beginning, middle, and end of an unauthorized release that is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week.
14. Part 6.4.3 of the Permit requires Respondent to submit effluent monitoring results obtained during the duration of a discharge on the form located in Part 10 of the permit, postmarked no later than the 28th day of the month following the beginning of the unauthorized release.
15. Part 6.8.1 of the Permit requires Respondent to report any noncompliance which may endanger health or the environment to EPA and the Cheyenne River Sioux Tribe (Tribe) within 24 hours of becoming aware of the circumstance.

16. Part 6.8.2 of the Permit requires Respondent to report, in part, any unauthorized discharge by telephone to EPA and the Tribe the first workday following the day of becoming aware of the circumstance.
17. Part 6.8.3 of the Permit requires Respondent to provide EPA and the Tribe with a written submission within five days of becoming aware of the circumstances that contains (1) a description of the noncompliance and its cause; (2) the period of noncompliance, including exact dates and times; (3) the estimated time noncompliance is expected to continue if it has not been corrected; and (4) the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
18. Part 7.5 of the Permit requires Respondent to properly operate and maintain at all times all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. At a minimum, Respondent is required to operate one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.
19. Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), authorizes the assessment of a Class I civil penalty of up to \$16,000 per violation of § 301 of the Act, 33 U.S.C. § 1311, and any condition or limitation in a permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342, up to a maximum of \$37,500 for violations occurring after January 12, 2009. These amounts have been adjusted for inflation by 40 C.F.R. Part 19.

ALLEGATIONS

March –June 2011 SSO

Count 1

20. Paragraphs 1 – 19 are incorporated herein.
21. Respondent experienced a sanitary sewer overflow (SSO) when it discharged wastewater from an unauthorized outfall at the facility's lift station from March 1, 2011, to June 30, 2011.
22. Untreated wastewater was discharged from the facility's lift station directly into Bear Creek during this time period.
23. Respondent failed to identify and replace the damaged equipment responsible for the inoperable lift station in order to minimize the discharge of wastewater as required by Part 5.1 of the Permit.
24. Respondent failed to conduct periodic inspections of the lift station in order to identify and correct operational issues in order to avoid SSOs, as required by Part 7.5 of the Permit.
25. Respondent's failure to comply with the terms and conditions of Parts 5.1 and 7.5 of the Permit constitute violations of the Permit and the Act.

Count 2

26. Paragraphs 1 – 25 are incorporated herein.
27. On March 9, 2011, EPA received a phone call from the Cheyenne River Sioux Tribe Environmental Program that the City of Dupree was discharging untreated wastewater from the facility's lift station directly into Bear Creek.

28. Untreated wastewater poses a significant threat to human health by potentially exposing the public to harmful fecal coliform bacteria and other pathogens present in feces.
29. Respondent failed to report the unauthorized discharge from the facility's lift station which could have endangered public health or the environment to EPA or the Tribe within 24 hours of becoming aware of the violation as required by Part 6.8.1 of the Permit.
30. Respondent failed to report the unauthorized discharge to EPA and the Tribe by the first workday following the day of becoming aware of the circumstance as required by Part 6.8.2 of the Permit.
31. On March 21, 2011, EPA received a written submission from the Respondent via e-mail containing (1) a description of the SSO assumed to have been caused by a rupture in the collection system; (2) the SSO start date of March 1, 2011; (3) a commitment to replace the sewer line; and (4) a commitment to replace other lines as necessary to prevent future SSOs.
32. Respondent failed to provide the written submission within five days of becoming aware of the violation as required by Part 6.8.3 of the Permit.
33. Respondent failed to include in the written submission the estimated time noncompliance is expected to continue if it has not been corrected, and the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance as required by Part 6.8.3 of the Permit.
34. Respondent's failure to report the SSO to EPA and the Tribe as required by Part 6.8.1, 6.8.2, and 6.8.3 of the Permit constitutes a violation of the Permit and the Act.

June 2011 Discharge

Count 3

35. Paragraphs 1 – 34 are incorporated herein.
36. On May 18, 2011, Respondent contacted EPA to obtain authorization for a discharge from the facility's lagoon.
37. On May 20, 2011, EPA provided a letter clarifying the sample analysis requirements during the period discharge.
38. On June 15, 2011, EPA was contacted by the private land owner adjacent to the facility's lagoon regarding the status of the ongoing discharge.
39. Respondent failed to report to EPA and the Tribe a summary of the effluent monitoring results for Category 3 facilities for the June 2011 discharge in the format of Part 10 of the Permit on or before the 28th of the following month as required by Part 6.4.3 of the Permit.
40. Respondent failed to monitor the June 2011 discharge for BOD₅, TSS, pH, flow, oil and grease at the required frequency as required by Part 5.2 of the Permit.
41. Respondent's failure to monitor and report to EPA and the Tribe effluent monitoring results for the June 2011 discharge as required by Parts 5.2 and 6.4.3 of the Permit constitutes a violation of the Permit and the Act.

August 2011 Discharge

Count 4

42. Paragraphs 1-41 are incorporated herein.
43. Respondent informed EPA on September 12, 2011, that it discharged wastewater from the facility's lagoon on or about August 1, 2011.

44. Respondent failed to report the unauthorized discharge to EPA and the Tribe by the first workday following the day of becoming aware of the circumstance as required by Part 6.8.2 of the Permit.
45. Respondent's failure to report the August 1, 2011 unauthorized discharge event to EPA and the Tribe as required by Part 6.8.2 of the Permit constitutes a violation of the Permit and the Act.

Count 5

46. Paragraphs 1 – 45 are incorporated herein.
47. Respondent discharged from the facility's lagoon in August 2011.
48. Respondent failed to report to EPA and the Tribe a summary of the effluent monitoring results for Category 3 facilities for the August 2011 discharge in the format of Part 10 of the Permit on or before the 28th of the following month as required by Part 6.4.3 of the Permit.
49. Respondent failed to monitor the August 2011 discharge for BOD₅, TSS, pH, flow, oil and grease at the required frequency as required by Part 5.2 of the Permit.
50. Respondent's failure to monitor and report to EPA and the Tribe effluent monitoring results for the August 2011 discharge as required by Parts 5.2 and 6.4.3 of the Permit constitutes a violation of the Permit and the Act.

PROPOSED CIVIL PENALTY

Section 309(g)(1)(A) of the Act, 33 U.S.C. § 1319(g)(1)(A), authorizes the EPA to assess a civil administrative penalty for any violation of a condition or limitation of a permit issued under section 402 of the Act, 33 U.S.C. §1342. For the time period involved in this case, EPA can assess up to \$37,500 per day for each day during a violation continues.

Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), requires EPA to take into account the following factors in assessing a civil administrative penalty: the nature, circumstances, extent and gravity of the violation(s) and, with respect to the violator, ability to pay, any prior history of such violations, degree of culpability, any economic benefit or savings gained from the violation, and such other factors that justice may require.

In light of the statutory factors and the specific facts of this case, EPA proposes that a penalty of \$30,000 be assessed against Respondent for the violations alleged, as explained below:

Nature, Circumstances, Extent and Gravity of Violations

Respondent experienced an SSO from the facility's lift station directly to Bear Creek beginning March 1, 2011. The SSO continued until June 30, 2011. Untreated wastewater is a serious pollutant and poses a significant threat to human health by potentially exposing the public to harmful fecal coliform bacteria and other pathogens present in feces. Untreated wastewater also can cause damage to aquatic ecosystems.

The SSO was unreported to EPA and the Tribe by the Respondent, which is required as the permittee to notify EPA within 24 hours of becoming aware of the violation. Furthermore, Respondent did not submit their notification of non compliance letter in a timely manner and with all the required information.

Respondent conducted two discharge events during the summer of 2011. The intent to discharge was given to EPA prior to the first discharge, but was not provided for the second discharge. Respondent failed to conduct effluent monitoring during these discharge events.

Prior Compliance History

Respondent reported a lift station pump failure at the facility to the State of South Dakota in January 2010. This failure may have resulted in a SSO, but was unreported to EPA.

Degree of Culpability

Respondent neglected to inspect the facility's lift station at the time the SSO began. Rather than conducting an inspection of the lift station, the Respondent assumed the SSO was the result of a sewer line rupture and claimed that it could not be addressed until enough snow melted to allow access to the sewer line. Not until May 23, 2011, did the operator notice the floats were malfunctioning and required replacement. The floats were finally replaced 38 days later on June 30, 2011. The floats could have been ordered and replaced within a much shorter timeframe.

Respondent submitted a request for discharge prior to the June 2011 discharge event, yet proceeded to discharge again in August 2011 without any notification. EPA provided a response to the June 2011 request which detailed all of the monitoring requirements and provided further compliance assistance during phone conversations with the operator. Respondent collected some, but not all of the required number of samples. Respondent has therefore demonstrated knowledge of the need to comply with the permit.

Economic Benefit

Respondent received an economic benefit by avoiding required effluent monitoring samples and associated shipping costs and paying for sample analysis of BOD and TSS. Respondent avoided the cost of regularly inspecting the facility's lift station, and delayed the cost of purchasing floats for the lift station.

Ability to Pay

EPA considered available information under this factor, but will consider any new information Respondent may present regarding Respondent's ability to pay the penalty proposed in this Complaint.

Other Matters that Justice may Require

EPA is making no adjustments regarding these factors at this time.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

As provided in § 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. § 22.15(c), Respondent has the right to request a hearing in this matter. If Respondent (1) contests the appropriateness of the proposed penalty; or (2) asserts that it is entitled to judgment as a matter of law, it must file a written Answer in accordance with 40 C.F.R. §§ 22.15 and 22.38 of the Consolidated Rules within 30 calendar days after receipt of this Complaint. The Answer must (1) clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint with regard to which Respondent has knowledge; (2) state circumstances or arguments which are alleged to constitute grounds for defense; (3) state the facts Respondent disputes; (4) state the basis for opposing the proposed relief; and (5) specifically request an administrative hearing, if desired. Failure to admit, deny or explain any material factual allegation in this Complaint will constitute an admission of the allegation.

The Answer and one copy must be sent to:

Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

and a copy must be sent to the following attorney:

City of Dupree
Complaint - 11

Amy Swanson, Enforcement Attorney (8ENF-L)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129
Telephone: (303) 312-6906

IF YOU FAIL TO REQUEST A HEARING, YOU WILL WAIVE YOUR RIGHT TO FORMALLY CONTEST ANY OF THE ALLEGATIONS SET FORTH IN THE COMPLAINT.

IF YOU FAIL TO FILE A WRITTEN ANSWER OR PAY THE PROPOSED PENALTY WITHIN THE 30 CALENDAR DAY TIME LIMIT, A DEFAULT JUDGMENT MAY BE ENTERED PURSUANT TO 40 C.F.R. § 22.17. THIS JUDGMENT MAY IMPOSE THE PENALTY PROPOSED IN THE COMPLAINT.

TERMS OF PAYMENT FOR QUICK RESOLUTION

If the Respondent does not contest the findings and penalty proposal set out above, this action may be resolved by paying the proposed penalty in full pursuant to 40 C.F.R. § 22.18. If such payment is made within 30 calendar days of receipt of this Complaint, no Answer need be filed. For more time for payment, Respondent may file a statement agreeing to pay the penalty within 30 days of receipt of the Complaint, then pay the money within 60 days of such receipt. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of the case, for the amount, payable to the : **"Environmental Protection Agency,"** to:

**US checks by regular
US postal service mail:**

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

**Federal Express, Airborne,
Or other commercial carrier:**

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Wire transfers:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency "

On Line Payment:

WWW.PAY.GOV
Enter sfo 1.1 in the search field

Open form and complete required fields.

A copy of the check or wire transfer shall be simultaneously sent to:

Natasha Davis (8ENF-W-NP)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

Payment of the penalty in this manner does not relieve Respondent of its obligation to comply with the requirements of the statute and regulations. Payment of the penalty in this manner shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing on this matter.

SETTLEMENT CONFERENCE

The EPA encourages settlement of a proceeding at any time if the settlement is consistent with the provisions and objectives of the Act and applicable regulations. EPA is willing to explore this possibility in an informal settlement conference. If you or your attorney, if you choose to be represented by one, have any questions or wish to have an informal settlement

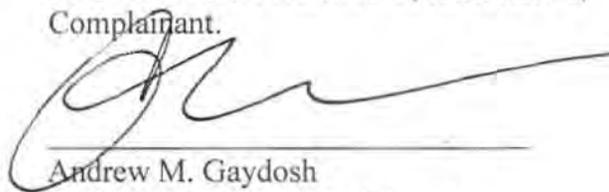
conference with EPA, please call Enforcement Attorney Amy Swanson at (303) 312-6906. Please note that a request for, scheduling of, or participation in a settlement conference does not extend the period for filing an Answer and request for hearing as set out above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in the Consolidated Rules. If a settlement can be reached, its terms must be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Regional Judicial Officer.

PUBLIC NOTICE

As required by section 309(g)(4) of the Act, 33 U.S.C. §1319(g)(4), prior to assessing a civil penalty, EPA will provide public notice of the proposed penalty and a reasonable opportunity for the public to comment on the matter and, if a hearing is held, to be heard and present evidence.

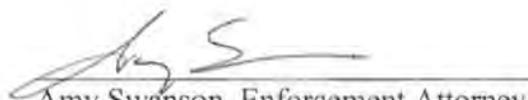
**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.**

Date: 9-30-2011



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice

Date: 9/30/2011



Amy Swanson, Enforcement Attorney
U.S. EPA, Region 8
1595 Wynkoop Street (8ENF-L)
Denver, CO 80202-1149
Colorado Atty. Reg. No. 26488
Telephone: 303/312-6906
Facsimile: 303/312-6953

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the preceding Administrative Order for Compliance were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202, and that a true copy of the same was sent to the following by CERTIFIED MAIL/RETURN RECEIPT REQUESTED:

Sandra Lemke, Acting Mayor
City of Dupree
P.O. Box 276
Dupree, SD 57623

Date: 9-30-2011

By: Judith M. McTernan

1st Page only

§21.13

40 CFR Ch. I (7-1-08 Edition)

approve or disapprove the State issued statement, in accordance with the requirements of §21.5.

(2) The Regional Administrator will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with §21.5, on any such statement.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in §21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

- Sec. 22.1 Scope of this part. 22.2 Use of number and gender. 22.3 Definitions. 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment. 22.5 Filing, service, and form of all filed documents; business confidentiality claims. 22.6 Filing and service of rulings, orders and decisions. 22.7 Computation and extension of time. 22.8 Ex parte discussion of proceeding. 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances. 22.11 Intervention and non-party briefs. 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding. 22.14 Complaint. 22.15 Answer to the complaint. 22.16 Motions. 22.17 Default. 22.18 Quick resolution; settlement; alternative dispute resolution. 22.19 Prehearing information exchange; prehearing conference; other discovery. 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing. 22.22 Evidence. 22.23 Objections and offers of proof. 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard. 22.25 Filing the transcript. 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision. 22.28 Motion to reopen a hearing.