

2. A. HAS RECENTLY UPGRADED TO MEET MORE STRINGENT STANDARDS AND IS OPERATING UNDER A START-UP PROGRAM AND SCHEDULE APPROVED BY THE DEPARTMENT;

B. IS IMPLEMENTING OPERATIONAL MODIFICATIONS TO ACCOMPLISH BIOLOGICAL NUTRIENT REMOVAL UNDER A PROGRAM AND SCHEDULE APPROVED BY THE DEPARTMENT; OR

C. IS ACCOMPLISHING MAJOR MAINTENANCE OR FACILITY REPAIR UNDER A PROGRAM AND SCHEDULE APPROVED BY THE DEPARTMENT; OR

(III) IF COMPLIANCE WITH THE EFFLUENT LIMITATIONS SET FORTH IN THIS SECTION IS PREVENTED BY A JUDICIAL OR ADMINISTRATIVE ACTION INITIATED BY A PERSON OTHER THAN AN AGENCY RESPONSIBLE FOR REGULATING THE SEWAGE TREATMENT PLANT OR THE OWNER OR OPERATOR OF THE SEWAGE TREATMENT PLANT.

(3) FOR PURPOSES OF THE WAIVER ALLOWED IN PARAGRAPH (2)(II) OF THIS SUBSECTION, UNLESS STIPULATED PENALTIES CONTAINED IN THE ORDER ARE COLLECTED, THE DEPARTMENT MAY NOT ISSUE ANY WAIVER IF THE COMPLIANCE SCHEDULE IN EFFECT AS OF JULY 1, 1992 OR ANY SUBSEQUENT COMPLIANCE SCHEDULE IS MODIFIED BY THE DEPARTMENT.

(4) THE DEPARTMENT SHALL EXTEND THE EFFECTIVE DATE OF A COMPLIANCE ORDER OR PROGRAM AND SCHEDULE UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION:

(I) IF THE OWNER OF THE SEWAGE TREATMENT PLANT IS ELIGIBLE FOR AND HAS APPLIED TO RECEIVE FUNDING FROM APPROPRIATE STATE FUNDING SOURCES TO UPGRADE OR MODIFY THE SEWAGE TREATMENT PLANT TO COMPLY WITH THE APPLICABLE EFFLUENT STANDARDS; AND

(II) FUNDS FOR THE PLANT UPGRADES OR MODIFICATIONS ARE NOT CURRENTLY AVAILABLE.

(J) (I) THE DEPARTMENT SHALL DEPOSIT THE PENALTIES COLLECTED UNDER THIS SECTION IN THE MARYLAND CLEAN WATER FUND CREATED UNDER § 9-320 OF THIS SUBTITLE.

(2) OF THE PENALTIES ASSESSED BY THE DEPARTMENT UNDER THIS SECTION AGAINST THE OWNER OF A FACILITY IN VIOLATION OF THIS SECTION, THE JURISDICTIONS SERVED BY THAT FACILITY ARE ELIGIBLE TO RECEIVE UP TO 50% OF THOSE PENALTIES TO FUND AN ENVIRONMENTAL PROJECT THAT IS:

(I) APPROVED BY THE DEPARTMENT;