



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
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Harold D. Ward, Cabinet Secretary
dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
HAZARDOUS WASTE MANAGEMENT ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 18**

TO: Marathon Gas Station
c/o Majors Management, LLC
Attn.: Scott Moon
1255 Lakes Parkway, Suite 180
Lawrenceville, GA 30043

DATE: April 21, 2026

ORDER NO.: HW-26-001

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter “Director”), under the authority of West Virginia Code 22-18-1 et seq. to Marathon Gas Station [formerly B.P. Oil Company Boron Division] (hereinafter “Marathon”).

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Marathon operates a gasoline station and convenience store located at 1243 National Road in Wheeling, Ohio County, West Virginia. EPA ID No. WVD981735558 was previously assigned to the facility.
2. On June 10, 2025, The West Virginia Department of Environmental Protection (WVDEP) received a Notification of Emergency Spill, reporting that a gasoline release had occurred at the Marathon Gas Station located at 1243 National Road in Wheeling.
3. On June 10, 2025, WVDEP personnel conducted an inspection of the facility in response to the spill. During the inspection, violations of the following sections of the Code of Federal Regulations were observed and documented:

Promoting a healthy environment.

- a. 40 CFR 262.16(b)(8)(i) – Marathon failed to operate and maintain a facility to minimize release of hazardous waste or hazardous waste constituents to the environment.
- b. 40 CFR 262.11 – Marathon failed to make accurate waste determination at the point of generation.

As a result of the aforementioned violations, Notice of Violation (NOV) No. 2506-923 was issued to Marathon.

4. On September 3, 2025, EnviroServe provided disposal documentation to WVDEP on behalf of Marathon. However, no waste characterization documentation was provided. Marathon has failed to provide documentation that an “accurate determination as to whether the waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations”. As such, both violations included in NOV No. 2506-923 remain outstanding.
5. On March 11, 2026, WVDEP personnel and representatives of Marathon met to discuss the terms and conditions of this Order.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code 22-18-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. Marathon shall immediately take all measures to initiate compliance with all pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, Marathon shall submit for approval a proposed plan of corrective action (POCA) that outlines their policies and procedures for managing spills at the dispensers moving forward. The POCA shall include but not be limited to the following:
 - a. Containerization of the spilled material.
 - b. Labeling of the container(s).
 - c. Proper waste determination.
 - d. Proper accumulation/management of container(s).
 - e. Recognition of accumulation time limits.
 - f. Proper disposal.

The POCA shall make reference to EPA ID No. WVD981735558 and Order No. HW-26-001 and shall be submitted to:

**Chief Inspector
Environmental Enforcement – Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the POCA and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable POCA and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Marathon's violations, Marathon shall be assessed a civil administrative penalty of thirteen thousand three hundred fifty dollars (\$13,350) to be paid to the West Virginia Department of Environmental Protection for deposit in the Hazardous Waste Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

**Chief Inspector
Environmental Enforcement – Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Marathon hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-18-1 et seq. Under this Order, Marathon agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Marathon does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Marathon other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Marathon shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Marathon becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Marathon shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Marathon intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Marathon (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A

force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Marathon of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Marathon to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Marathon, its successors and assigns.
7. This Order shall terminate upon Marathon's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Scott Moon
Marathon Gas Station
c/o Majors Management, LLC

7/29/2026

Date

Public Notice begin:

Date

Public Notice end:

Date

Jeremy W. Bandy, Director
Division of Water and Waste Management

Date



Photo 1: A leaking hose on the gasoline dispenser.



Photo 2: The initial vault status upon arrival.



Photo 3: Containerized water/gasoline retrieved from the sump.



Photo 4: Oil/Petroleum absorbent pads had been added to the vault.



Photo 5: The vault, after cleanout by Enviroserve.

Hazardous Waste Base Penalty Calculation

(pursuant to 33CSR27-6.1)

Responsible Party:

Marathon Gas Station

EPA ID Number:

WVD981735558

Generator Classification:

N/A

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#											
			3.a.	3.b.										
a)	Harm to RCRA Program	1 to 3	2	3										
b)	Probability of Exposure	0 to 3	3	2										
c)	Potential Seriousness of Contamination	1 to 3	2	2										
	Average Potential for Harm Factor		2.3	2.3	No	No	No	No	No	No	No	No	No	No
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	2	2										

Potential for Harm Factors

1a. - Harm to the RCRA Program

- All regulatory requirements are fundamental to the continued integrity of the RCRA Program
- Violations that undermine the statutory or regulatory purposes or procedures for implementing the RCRA program may have serious implications and merit substantial penalties. Examples include but are not limited to: failure to notify as a generator, failure to respond to an info request, failure to prepare or maintain a manifest, and operating / disposal without a permit

1b. - Probability of Exposure - factors to be considered include but are not limited to: evidence of a release, evidence of waste mismanagement, and adequacy of provisions for detecting and preventing a release

1c. - Potential Seriousness of Contamination - factors to consider include but are not limited to quantity and toxicity of wastes (potentially) released, likelihood or fact of transport by way of environmental media (e.g. air and groundwater), and existence, size and proximity of receptor populations (e.g. local residents, fish, wildlife) and sensitive environmental media (e.g. surface waters and aquifers.)

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

[illegible]

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
3.a.	Major	Moderate	\$6,660	1	\$6,660
3.b.	Major	Moderate	\$6,660	1	\$6,660
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$13,320

Penalty Adjustment Factors

(pursuant to 33CSR27-6.2)

Penalty Adjustment Factors

6.2.b.1 - Good faith efforts to comply or lack of good faith - 10% decrease to 10% increase

6.2.b.2 - Degree of Willfulness and / or Negligence - 0% to 30% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.4 - History of Non-Compliance - 0% to 100% increase -
based upon review of last three (3) years - Warning = maximum of 5% each,
N.O.V. = maximum of 10% each, previous Order = maximum of 25% each

6.2.b.5 - Ability to pay a civil administrative penalty - 0% to 100% decrease

6.2.b.6 - Economic Benefit of non-compliance

6.2.b.7 - Staff Investigative Costs

6.2.b.8 - Other relevant factors determined on a case-by-case basis

Base Penalty Adjustments

(pursuant to 33CSR27-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Adjustments
6.2.b.1 - Good Faith - Increase			\$0
6.2.b.1 - Good Faith - Decrease		10	(\$1,332)
6.2.b.2 - Willfulness and/or negligence	20		\$2,664
6.2.b.3 - Cooperation with the Secretary		10	(\$1,332)
6.2.b.4 - Compliance/noncompliance history			\$0
6.2.b.5 - Ability to Pay an Administrative Penalty			\$0
6.2.b.6 - Economic Benefit (flat monetary increase)			\$0
6.2.b.7 - Staff Investigative Costs (flat monetary increase)			\$0
6.2.b.8 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.8 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Cost (flat monetary increase)	\$30		\$30
Penalty Adjustments			\$30
Penalty =			\$13,350

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments:	Economic benefit not warranted.