

**INDIVIDUAL REVIEW OPTION CLAIM FORM FOR BUSINESSES  
(INCLUDING NON-PROFIT ORGANIZATIONS)**

**You should complete this form if:**

- Your Business (commercial businesses or non-profit organizations) operated in a location that was provided tap water service from West Virginia American's Kanawha Valley Water Treatment Plant on **January 9, 2014, AND**
- You are requesting an individual review for your Business Claim as explained in the claim form instructions.

If you do not want to itemize your claimed losses you may submit the Simple Claim Form instead of this form. The Simple Claim Form is available at [www.wwaterclaims.com](http://www.wwaterclaims.com).

(Note: Governmental Claimants requesting individual review of their governmental claims should submit the Individual Review Option Claim Form for Governmental Entities.)

**The deadline to submit this claim is February 21, 2018.**

**READ THE INSTRUCTIONS BEFORE COMPLETING THIS FORM. THE INSTRUCTIONS CONTAIN IMPORTANT DEFINITIONS AND INFORMATION ABOUT HOW TO DOCUMENT YOUR CLAIMED LOSS.**

**QUESTIONS? CALL 1-855-829-8121 OR VISIT [WWW.WWATERCLAIMS.COM](http://WWW.WWATERCLAIMS.COM)**

<b>Part 1. BUSINESS INFORMATION</b>	
Business Name:	
D/B/A Name (if applicable)	
Business Type (Corporation, Partnership, LLC, Sole Proprietorship, Franchise, Not-for-Profit, etc.)	
Business Tax ID Number OR Social Security Number OR EIN	
Street address of Business location that was served by KVTP on <b>JANUARY 9, 2014</b>	
If the Business is claiming losses for more than one business location, you must submit a separate claim form for each location.	
Nature and description of business activity conducted at this location on <b>January 9, 2014</b>	
<b>Name of Authorized Person Completing this Form:</b>	
First Name	
Middle Name or Initial	
Last Name	
Title of Authorized Person Completing this Form	
<b>Current Mailing Address of Authorized Person Completing this Form (including city, state and zip code):</b>	
Address Line 1	
Address Line 2	
City	
State	
Zip Code	
<b>Current</b> Telephone Number (including area code) of Authorized Person Completing this Form	
<b>Current</b> Email Address of Authorized Person Completing this Form	

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If you received a notice of this settlement in the mail, please provide the claim identification number that appears on that notice here. The identification number is located on the top left portion of the Simple Claim Forms that were included in the notice	
If your business was listed on the West Virginia American Water account for the business address listed above in 2014, provide your account number here	
<b>Attorney Information</b> – If you are being represented by an attorney for this claim, please provide the following information	
Attorney Name	
Attorney Law Firm	
Attorney Address	
Attorney Telephone Number (including area code)	
Attorney Email Address	

Check here if you would like you and your attorney to both receive communications from the Settlement Administrator; OR

Check here if you would like only your attorney to receive communications from the Settlement Administrator

**Part 2. Your Claim**

In this section, you must identify and describe the losses you claim resulted from the Property Damage caused by the Freedom Chemical Spill and loss of use of tap water. You must identify each claimed loss by type and amount, and include the requested information along with documentation to support your claim. There are four possible types of loss that you may claim:

- 1) Repair/Replacement: The cost to clean, repair or replace components of or certain appliances and/or equipment connected to the water system that were damaged by the Freedom Chemical Spill;
- 2) Extra Expenses: Extra expenses the Business incurred because it was required to operate without tap water as a result of the Freedom Chemical Spill;
- 3) Lost Inventory: Inventory that the Business was required to discard because of the Freedom Chemical Spill; and
- 4) Lost Profits: Profits that you can demonstrate were lost because of the Freedom Chemical Spill.

**Section 1: CLAIM FOR REPAIR/REPLACEMENT COSTS**

**a. Check here [ ] and complete this section if you are making a claim for repair or replacement of any of the Business's appliances and/or equipment connected to the water system. To receive compensation, you must show that it was necessary to repair or replace the appliance/equipment because the appliance/equipment was damaged by the Freedom Chemical Spill.**

Appliance/Equipment Type	
Appliance/Equipment Model	
Explanation of Damage Caused by Freedom Chemical Spill	
Explanation of use by Business	
Repaired or Replaced?	Repaired      Replaced      (choose one)
Date of Repair/Replacement	_____ (mm/dd/yyyy)
Amount Paid for Repair / Replacement	\$ _____
Amount of Claim for Repair / Replacement <i>(See instructions for information on the amounts you can claim)</i>	\$ _____

For each item claimed, please explain why the repair or replacement was necessary and how the Freedom Chemical Spill caused damage to the item that resulted in the need to repair or replace	
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**DOCUMENTATION:** You must submit documentation that shows: (1) that the appliance/equipment had to be repaired or replaced because of damage caused by the Freedom Chemical Spill, (2) the cost of the repair or replacement, and (3) the date the appliance/equipment was repaired/replaced.

**b. Check here [ ] and complete this section if you are making a claim for the amounts the Business paid for replacement of filters used in the Business’s water system and/or for hiring vendors for flushing/cleaning the water system.**

The Business replaced filters on	_____ (mm/dd/yyyy)
Identify types of filters replaced	
The Business had its water systems cleaned by a vendor on	_____ (mm/dd/yyyy)
Total Cost claimed for repairing/ replacing filter and/or cleaning the water system or its components	\$ _____

**DOCUMENTATION:** If you request compensation for replacing filters connected with the Business’s water system you must submit documents that show: (1) that the Business had filters replaced, (2) the cost of replacing the filters, and (3) the date that the filters were replaced.

If you request compensation for the cost you paid to have the Business’s water system flushed and cleaned, you must submit documentation that shows that: (1) you hired an outside vendor to clean and flush the system because of the Property Damage caused by the Freedom Chemical Spill, (2) the cost for the flushing/cleaning, and (3) the date of the flushing/cleaning.

The Instructions provide additional information about the types of documents you should submit and the types of filters that may qualify.

You may attach additional pages if necessary

**Section 2: CLAIM FOR EXTRA EXPENSES**

Check here [ ] and complete this section if you are making a claim for extra expenses that the Business incurred because the Business's water system was damaged by the Freedom Chemical Spill and the Business was not able to use tap water as a result. An extra expense is the cost of an item or service that the Business had to acquire in order to continue operations without the use of tap water.

The Instructions provide examples of extra expenses.

<b>Items</b>	<b>Date Extra Expense Paid</b>	<b>Amount Paid (\$xxx.xx)</b>
Substitute Water	_____ (mm/dd/yyyy)	\$ _____
Alternative Cleaning Supplies that do not Require Water	_____ (mm/dd/yyyy)	\$ _____
Extra Sewer Fees incurred as a result of flushing	_____ (mm/dd/yyyy)	\$ _____
Water Testing	_____ (mm/dd/yyyy)	\$ _____
Other Items (specify)	_____ (mm/dd/yyyy)	\$ _____
	<b>Total</b>	\$ _____

**DOCUMENTATION:** You must submit documentation that: (1) shows the actual cost of the extra expenses, (2) shows the date the extra expenses were incurred, and (3) if you claim extra expenses incurred after the Do Not Use Period, **you must** explain why it was necessary to purchase the items or incur the extra expenses.

The Instructions provide additional information about the types of documents you should submit and the time period during which claims for extra expenses are eligible.

<b>Section 3: CLAIM FOR LOST INVENTORY</b>	
<p>Check here [ ] and complete this section if you are making a claim for reimbursement for the documented value of inventory the Business was required to destroy or discard as a result of the Freedom Chemical Spill. Lost inventory is inventory that was in existence during the Do Not Use Period and had to be destroyed or discarded because the Business stopped operating due to the Freedom Chemical Spill. Perishable lost inventory in existence during the Do Not Use Period that was discarded within one week of the resumption of operations will be presumed to have been discarded as a result of the Freedom Chemical Spill.</p>	
Describe the lost inventory	
Was the lost inventory perishable?	Yes    No    (choose one)
Explain why the lost inventory had to be destroyed or discarded because of the Freedom Chemical Spill	
The destroyed/discarded inventory was acquired/created on (if multiple dates, provide first and last dates)	_____(mm/dd/yyyy) _____(mm/dd/yyyy)
The inventory was destroyed/discarded on (if multiple dates, provide first and last dates)	_____(mm/dd/yyyy) _____(mm/dd/yyyy)
<b>TOTAL COST</b> of lost inventory claimed	\$ _____

**DOCUMENTATION:** You must submit documentation that shows: (1) the actual cost of the lost inventory, and (2) the date the lost inventory was acquired or created.

You must also explain why it was necessary to destroy/discard the lost inventory. If the lost inventory was discarded more than one week after the Business resumed operations, you must demonstrate a specific reasonable basis for the delay in the destruction.

The Instructions provide additional information about the types of documents you should submit and the time period during which claims for lost inventory are eligible.

**Section 4: CLAIM FOR LOST PROFITS**

Complete this section if you are making a claim for profits the Business can demonstrate it lost because it suffered Property Damage as a result of the Freedom Chemical Spill and the loss of use of tap water in January 2014. Business Claimants may claim lost profits using the following approach: lost sales, less the saved direct cost of sales, less all other saved operating costs.

**Businesses that were Shut Down or Partially Shut Down.** If you claim that the Business was Shut Down or Partially Shut Down then you must complete question a. and a-1. below and provide documentation to prove that the Business was Shut Down or Partially Shut Down. Shut Down means that the Business was required by a regulation or order of the County Health Department or other regulatory agency to cease all operations regulated by the County Health Department or other regulatory agency during the Do Not Use Period as a result of the Freedom Chemical Spill. A voluntary decision to cease or reduce operations does not meet the definition of Shut Down.

a. Check here if you claim that your Business was Shut Down or Partially Shut Down	[ ]
a-1. If you checked the box for question a., describe the rule, regulation, order or notification that directed you to Shut Down or Partially Shut Down the Business operations and the action you took in response.	
b. Provide the dates that the Business was Shut Down or Partially Shut Down	_____(mm/dd/yyyy) TO _____(mm/dd/yyyy)
c. For a Business that was Shut Down, state the time period for which the Business claims lost profits	_____(mm/dd/yyyy) TO _____(mm/dd/yyyy)
d. For a Business that was Partially Shut Down, state the time period for which you claim lost profits for the component of the Business that was Partially Shut Down	_____(mm/dd/yyyy) TO _____(mm/dd/yyyy)
e. For a Business that was Partially Shut Down, explain what portion of your Business was Partially Shut Down and the reason for the Partial Shut Down	
f. For a Business that was Partially Shut Down, what percentage of your Business's overall profit in 2013 was attributable to the portion of the Business that was Partially Shut Down?	
g. For a Business that was Partially Shut Down, are you also claiming lost profits for components of the Business that were not Partially Shut Down?	Yes      No      (choose one)

g-1. If you answered YES to Question g. above, state the time period for which you claim lost profits for the components of the Business that were not Partially Shut Down	_____ (mm/dd/yyyy) TO _____ (mm/dd/yyyy)
h. Check here if you are claiming lost profits for a Business that was not Shut Down or Partially Shut Down	<input type="checkbox"/>
h1. If you answered YES to Question h. above, state the time period of your claimed lost profits	_____ (mm/dd/yyyy) TO _____ (mm/dd/yyyy)
i. For All Claims: State the total amount of lost profits you claim resulted from the Freedom Chemical Spill	\$ _____

**HOW TO SUPPORT YOUR CLAIM FOR LOST PROFITS: - You must submit reliable and specific documentation demonstrating the amount of lost profits you are claiming as described below and in the Instructions. The required documentation differs depending on (i) whether your Business was Shut Down or Partially Shut Down or continued to operate, and (ii) the period of time for which you claim lost profits. Look for the category that applies to your Business and claim.**

(1) Category 1: Category 1 applies if: (1) your Business was Shut Down or Partially Shut Down and (2) if Partially Shut Down you claim lost profits only for the Partially Shut Down portion of the Business, and (3) you claim lost profits only for the period of Shut Down or Partial Shut Down. Submit documentation demonstrating the following:

- a. The actual sales for the claimed period of loss;
- b. The direct costs of sales for the same period of time in 2013, 2014 and 2015; and
- c. The costs saved as a result of cessation of operations for the claimed period of loss.

If your Business falls in Category 1 but you are not able to provide the information above, you must submit the documentation required for Category 2 and 3 Claims as detailed below.

(2) Category 2: Category 2 applies if: (1) your Business was Shut Down or Partially Shut Down and (2) if Partially Shut Down you are claiming lost profits for only that portion of the Business that was Partially Shut Down, and (3) **you claim lost profits after the period of Shut Down or Partial Shut Down.**

- a. For the claim of lost profits *during* the Shut Down Period or Partial Shut Down Period, submit the documentation described for Category 1 above.
- b. For the claim of lost profits for any period *after* the Shut Down Period or Partial Shut Down Period, you must submit reliable documentary evidence that demonstrates that there was a documented reduction in profits that can be directly attributed with reasonable certainty to the Freedom Chemical Spill. The methodology that will apply to your claim and the documentation that you must submit is described at Paragraph (4) below and in the Instructions.

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- c. Lost profits are limited to the period January 9, 2014 through March 31, 2014. If you claim lost profits after March 31, 2014, you must apply the methodology and submit the documentation described in Paragraph (4) and in the instructions to prove with reasonable certainty that the lost profits resulted from the Incident.
- (3) Category 3: Category 3 applies if: (1) Your Business was not Shut Down or Partially Shut Down or (2) you cannot provide data for the Partially Shut Down portion of the Business and you claim lost profits for the Partially Shut Down portion for any period of time or (3) your Business was Partially Shut Down and you claim lost profits for the portion that was not Partially Shut Down.
- a. Lost profits are limited to the period January 9, 2014 to February 24, 2014 unless you are able to establish a longer period of loss under the standard stated below at Paragraph (4).
  - b. To be eligible for lost profits for any period of time, you must demonstrate (with reliable documentary evidence) that there was a documented reduction in profits that can be directly attributed with reasonable certainty to the Freedom Chemical Spill. You must submit the information listed below at Paragraph (4) and described in the Instructions. The Instructions provide details about the methodology to be applied to determine whether the Business is eligible for lost profits.
- (4) Documentation you must submit for lost profits claims, if available:
- a. Daily sales (and occupancy for lodging) records for the period of claimed loss;
  - b. Profit and Loss Statements (or Income and Expense Statements) for 2012, 2013 and 2014 (Departmental statements if applicable);
  - c. Monthly sales (and occupancy for lodging) for 2012, 2013 and 2014;
  - d. Payroll records (for the period of claimed loss);
  - e. Your calculation of Lost Profits along with all supporting documentation including: (1) the underlying Business records relied upon, (2) an analysis that shows your basis for how the Freedom Chemical Spill caused the claimed Lost Profits and accounts for other factors that affect revenue and profit, (3) an explanation of the forensic accounting methodology employed in the calculation, and (4) if the computation was prepared by a third party, the computation document should include the name and affiliation of that third party;
  - f. Any other relevant document; and
  - g. Documents requested by the Settlement Administrator.

**Part 3. TOTAL AMOUNT OF CLAIM**

Please provide the total amount of all losses you are *claiming* (total of losses for any repair/replacement losses, extra expenses, lost inventory and lost profits).

Total Repair/Replacement Claimed      \$ \_\_\_\_\_  
Total Extra Expenses Claimed            \$ \_\_\_\_\_  
Total Lost Inventory Claimed            \$ \_\_\_\_\_  
Total Lost Profits Claimed                \$ \_\_\_\_\_  
  
TOTAL AMOUNT OF CLAIM                \$ \_\_\_\_\_

**THIS TOTAL CLAIMED AMOUNT IS THE MAXIMUM AMOUNT YOU CAN RECOVER FROM THE SETTLEMENT FOR THE ELIGIBLE BUSINESS LOCATION IDENTIFIED IN PART 1. IF YOU DO NOT STATE THE AMOUNT OF YOUR CLAIM, THE SETTLEMENT ADMINISTRATOR WILL NOT CONSIDER YOUR CLAIM UNTIL YOU DO.**

**Part 4. VERIFICATION AND SIGNATURE**

By signing this Claim Form, I hereby certify under penalty of perjury that:

- (a) all of the information contained in this Claim Form is true and correct;
- (b) the supporting documents attached to or submitted in connection with this Claim Form and the information contained in those documents are true, accurate, and complete to the best of my knowledge and that unless otherwise noted, the documents supporting any claim for Lost Profits are business records kept in the ordinary course of the Business;
- (c) I am authorized to make this Claim on behalf of the Business Claimant listed above; and
- (d) I understand that there can be only one Claim Form per Business Location and to the best of my knowledge I am the only person authorized to submit a claim for this Business Location and I am not aware of any other Business Claim Form for this Business Location.

**Date:**

**Name and Title/Signature:**

**If you are a legal representative completing this form on behalf of an incapacitated or deceased claimant, you must complete the following:**

Name of Legal Representative:	Legal Representative Address:	Telephone Number:	Email Address:

Please submit documentation that you have been duly appointed as legal representative for the Claimant on whose behalf you are filing this claim form and are authorized to submit this Claim Form on Claimant's behalf.

This Claim Form must be submitted online or postmarked no later than **February 21, 2018**.

Mail the Claim Form to: WV Water Settlement Administrator  
P.O. Box 4227  
Charleston, WV 25364

**ONLY COMPLETE FORMS WILL BE PROCESSED**

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## **INDIVIDUAL REVIEW OPTION CLAIM FORM FOR BUSINESSES**

### **Instructions**

Please read the entire Claim Form and these Instructions before you complete the Form.

Type or print legibly all information in blue or black ink if you are using a hard copy version of the Claim Form. You may find it easier to use the online form.

Answer all applicable questions and provide all information and documents. If you do not submit supporting documents your claim will be found deficient and may be denied. Make a copy of your completed Claim Form and supporting documents for your records. **Do not submit your only copy of the supporting documents.** Materials submitted by mail will not be returned. All copies of documentation submitted in support of this Claim should be clear, legible and complete.

#### **Part 1**

Provide the name and type of the Business and the additional information requested. You must provide the physical location of the Business on January 9, 2014.

#### **Part 2**

##### **Section 1. Repair/Replacement Costs:**

Items eligible for a repair or replacement claim are:

- 1) Replacement of filters in the water system;
- 2) 75% of the paid costs to replace affected appliances or equipment that was damaged by the Freedom Chemical Spill and that was used to operate the Business;
- 3) The reasonable documented cost of replacing or repairing components of the water system; and
- 4) The cost of hiring an outside vendor to clean and flush the water system as directed by the flushing guidelines provided by West Virginia American and/or to meet any health department or other regulatory requirements.

Eligible Time Period. Repairs or replacements must have occurred between January 9, 2014 and February 18, 2014. If you make a claim for repairs/replacements that occurred after February 18, 2014, you must demonstrate why it was reasonable to delay the repair/replacement.

Documentation. To be eligible for repair/replacement cost, you must submit reliable documents that show:

- 1) The specific item that was repaired or replaced (such as the component of the water system or appliance that was repaired/replaced);
- 2) If you are making a claim for replacement of an appliance or equipment you must provide reliable documentation that it was necessary to replace the appliance or equipment because of the Freedom Chemical Spill. For example: a communication from a manufacturer/distributor/repair technician that replacement was necessary as a result of the Incident.
- 3) The cost of the repair or replacement; and
- 4) The date of the repair or replacement.

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Examples of the types of documents that you may submit include:

- a) Invoices for the repair service or item showing the item, the cost and the date of service or replacement;
- b) Sales receipts for the service/items showing the cost and the date of the sale;
- c) Credit card statements that list the items repaired/replaced, the cost and the date of the sale;
- d) Contracts with the vendor that performed the service showing the particular service, the date of the service and the cost of the service; and/or
- e) Canceled checks or bank statements that demonstrate payment to a vendor for the repair/replacement.

Note: The documents submitted must demonstrate all necessary information. A credit card statement, for example, might provide the amount paid for an item or service but might not specify the item or service. A canceled check might be sufficient to show the cost but not the date of service. You may submit several documents that together provide all the necessary information.

**Section 2. Extra Expenses:**

To claim extra expenses, the Business must demonstrate Property Damage. The Business may recover costs paid for the Property Damage and for extra expenses.

Eligible Time Period. Extra expenses means amounts that the Business was reasonably required to incur during the Do Not Use Period in order to operate during the Do Not Use Period. A Business Claimant may claim the cost of replacement water through March 3, 2014. A Business may also claim other extra expenses beyond the Do Not Use Period through March 3, 2014 if the Business can demonstrate a specific reasonable basis for incurring extra expenses after the end of the Do Not Use Period. No payment can be made for any claimed extra expenses incurred after March 3, 2014.

Examples of extra expenses are:

- 1) Substitute water;
- 2) Alternative cleaning supplies that do not require water;
- 3) Extra sewer fees incurred as a result of flushing the water system as directed by the flushing guidelines provided by West Virginia American; and
- 4) Cost of water testing.

Documentation. To be eligible for extra expenses, you must submit documents that show:

- 1) The amount paid for each type of extra expense (in the case of extra sewer fees, you must submit documents demonstrating the difference in the normal sewer fees and those incurred in connection with the flushing);
- 2) The specific extra expenses – such as substitute water or alternative cleaning supplies;
- 3) The dates the extra expenses were incurred; and
- 4) The Property Damage (as defined below) you incurred.

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Examples of the types of documents that you should submit include:

- a) Invoices or sales receipts showing the item purchased and the date of purchase;
- b) Contracts with the vendor showing the items acquired and the date of acquisition;
- c) Credit card statements with sufficient detail to determine the expense incurred and the date the expense was incurred; and/or
- d) Canceled checks or bank statements showing the item purchased, the amount paid and the date the expense was incurred.

### **Section 3. Lost Inventory**

To be eligible for reimbursement for lost inventory:

- 1) The lost inventory must have been rendered unusable as a result of the cessation of operations due to the Freedom Chemical Spill. If the lost inventory was perishable, there is a presumption that its loss was caused by the Freedom Chemical Spill;
- 2) The lost inventory must have been in existence during the Do Not Use Period (this date depends on your location, for the end of the Do Not Use Period, see below);
- 3) The lost inventory must have been discarded or destroyed within one week of the resumption of operations. If you make a claim for inventory discarded or destroyed after this date, you must explain why it was reasonable to discard or destroy the inventory after the end of the Do Not Use Period; and
- 4) You must have written documentation of the cost of the lost inventory.

Time Period of Eligible Loss. The lost inventory must have been in existence during the Do Not Use Period and must have been discarded or destroyed within one week of the Business resuming operations unless you can demonstrate a specific reasonable basis for a delay in the loss or destruction.

Documentation. You must attach documents that:

- 1) Identify the lost inventory;
- 2) Show the dates the lost inventory was acquired or created;
- 3) Show the costs incurred in creating or obtaining the lost inventory; and
- 4) Show the dates the lost inventory was discarded or destroyed, if available.

Examples of the types of documents that you should submit include:

- a) Itemized inventory list from January 2014, including the quantity, value per unit, type of valuation (cost, sales, other), date acquired, and reason for destruction/disposal;
- b) Invoices or receipts from the vendors from which you obtained the inventory showing the costs of obtaining or creating the inventory;
- c) Credit card statements, bank statements, or cancelled checks showing the purchase of the lost inventory and the amount and date of the purchase;

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- d) Inventory lists or purchase records documenting the inventory that was destroyed or disposed of; and/or
- e) Receipts showing the disposal of the lost inventory.

**Section 4. Lost Profits - Eligibility Requirements.** To be eligible for a lost profits claim, the Business must have had Property Damage and have lost profits as a direct result of the Freedom Chemical Spill. You may demonstrate Property Damage by confirming that the Business's water system required cleaning and/or flushing as a result of the Freedom Chemical Spill or that you had to repair or replace components of the water system as a result of the Freedom Chemical Spill.

There are three categories of lost profits claims. The categories are based on the time period of claimed lost profits and whether or not the Business was Shut Down or Partially Shut Down.

#### **Shut Down or Partially Shut Down Businesses**

If you claim that the Business was Shut Down or Partially Shut Down you must complete questions a. and a-1 and you must provide documentation to prove that the Business was Shut Down or Partially Shut Down.

Generally, restaurants and barber and beauty shops were required or directed to shut down.

#### **General Methodology for Lost Profits Claims for Businesses that were Shut Down or Partially Shut Down.**

In general lost profits for Businesses that were Shut Down or Partially Shut Down will be computed using the following basic formula if the claim of lost profits is for the period of Shut Down or Partial Shut Down: Lost sales, less the saved direct cost of sales, less all other saved operating costs for the eligible time period equals lost profits. There is a presumption that lost profits for Businesses that were Shut Down or Partially Shut Down were caused by the Incident for the duration of the Do Not Use Period for Businesses that were Shut Down or for Businesses that Partially Shut Down with respect to lost profits attributable to the portion of the Business that was Partially Shut Down. A claim for lost profits for *only* the period of Shut Down or Partial Shut Down (and, if Partial Shut Down, only for lost profits of that portion of the Business that was Partially Shut Down) is a Category 1 claim.

For any claim of lost profits *after* the Do Not Use Period for a Business that was Shut Down or Partially Shut Down, or for any claim for lost profits attributable to a portion of the Business that was *not* Partially Shut Down, the Business must submit documentation demonstrating that those lost profits were caused by the Freedom Chemical Spill. To be eligible for lost profits after the Shut Down period or Partial Shut Down period, or for lost profits attributable to the portion of the Business that was not Partially Shut Down, you must demonstrate to a reasonable degree of economic certainty (using forensic accounting methods for the type of Business at issue) a direct causal link between the Freedom Chemical Spill and the alleged loss of revenues/sales for the post Shut Down or Partial Shut Down period by accounting for all factors affecting revenue/profits. A claim for lost profits after the Shut Down period or Partial Shut Down period for a Business that was Shut Down or Partially Shut Down is a Category 2 claim.

#### **Time Period of Eligible Lost Profits Claim.**

**Business that was Shut Down.** If your Business was Shut Down you may claim lost profits for the period January 9, 2014 through March 31, 2014. You have the right to assert lost profits after March 31, 2014, but to be eligible for a lost profits payment for the period after March 31, 2014 you must demonstrate to a reasonable degree of economic certainty (using forensic accounting methods for the type of business at issue) a direct causal link between the Freedom Chemical Spill and the alleged loss of revenues/sales for the period after March 31, 2014 by accounting for all factors affecting revenue/profits. This is the same

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standard that applies to a claim of lost profits after the Shut Down period and through March 31, 2014 but you must provide evidence specifically for the period after March 31, 2014.

**Business that was Partially Shut Down.** If your Business was Partially Shut Down you may claim lost profits for the period January 9, 2014 through March 31, 2014 for lost profits attributable to the portion of the Business that was Partially Shut Down.

You have the right to assert lost profits after March 31, 2014, but to be eligible for a lost profits payment for the period after March 31, 2014, you must demonstrate to a reasonable degree of economic certainty (using forensic accounting methods for the type of Business at issue) a direct causal link between the Freedom Chemical Spill and the alleged loss of revenues/sales for the period after March 31, 2014 by accounting for all factors affecting revenue/profits. This is the same standard that applies for a claim of lost profits after the Partial Shut Down period but you must provide evidence specifically for the period after March 31, 2014.

**Methodology for Business that was not Shut Down or Partially Shut Down.** If your business was not Shut Down or if your Business was Partially Shut Down and you are making a claim for the portion of your Business that was not Partially Shut Down and you cannot provide data for the portion of the Business that was Partially Shut Down, then your claim is a Category 3 claim and you may claim lost profits only for the period January 9, 2014 through February 24, 2014. To establish a claim for lost profits you must demonstrate to a reasonable degree of economic certainty (using forensic accounting methods for the type of Business at issue) that there is a direct causal link between the Freedom Chemical Spill and the alleged loss of revenues/sales by accounting for all factors affecting revenue/profits. You have the right to assert a claim for lost profits you allege occurred after February 24, 2014 but you must provide evidence using the same standard specifically for the period after February 24, 2014.

**Specific Documentation Required.** In order for your claim for lost profits to be considered, you must submit reliable documentation that will enable the Settlement Administrator to evaluate your claim for lost profits. Following are the documentation requirements for each type of lost profits claim.

- 1) Category 1 Claims:
  - a. The actual sales for the claimed period of loss;
  - b. The direct costs of sales for the same period of time in 2013, 2014 and 2015; and
  - c. The costs saved as a result of cessation of operations for the claimed period of loss.
- 2) Category 2 and 3 Claims:
  - a. Daily sales (and occupancy for lodging business) records for the period of claimed loss.
  - b. Profit and Loss Statements (or Income and Expense Statements) for 2012, 2013, and 2014. (Departmental statements, if applicable).
  - c. Monthly sales (and occupancy for lodging) for 2012, 2013 and 2014.
  - d. Payroll records.
  - e. Your computation of lost profits showing the methodology employed and all calculations. You must submit all data and documents you relied on in making this computation including: (1) the underlying Business records relied upon, (2) for any claim except a Category 1 claim, an analysis that shows your basis for asserting a causal link between the Freedom Chemical Spill and the claimed lost profits and that accounts for all factors

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affecting revenue and profit, and (3) an explanation of the forensic accounting methodology employed in the computation. You must identify the person/firm that prepared the computation and provide the credentials of that person/firm.

### **PART 3**

You **MUST** specify the total amount of your claim for the Business location identified in Part 1. Without a total, your claim will **NOT** be processed. Your claim payment will **NOT** exceed the amount you claim.

### **PART 4**

You **MUST** sign the verification. Without a signed verification, your claim will **NOT** be processed. By signing the verification, you acknowledge that under the terms of the Amended Settlement Agreement you are releasing all claims the Business Claimant has or may in the future have against the Defendants for the Business location identified in Part 1.

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## **DEFINITIONS**

“Business” means a Commercial Business or non-profit entity.

“Commercial Business” means a Business that is not a non-profit entity.

“Defendants” means West Virginia-American Water Company (“West Virginia American”), American Water Works Company, Inc., American Water Works Service Company, Inc., and Eastman Chemical Company.

“Do Not Use Period” means the period of time during which the individual Settlement Class Member was subject to the Do Not Use notice issued by West Virginia American in consultation with the West Virginia Bureau for Public Health that tap water supplied from the KVTP should not be used other than for toilet flushing or fire protection. The Do Not Use Period differs based on the location of the Residence or Business but does not extend beyond January 18, 2014 for any Settlement Class Member.

“Eligible Business Location” means a Business that was located at real property that was supplied tap water by the KVTP on January 9, 2014. “Freedom Chemical Spill” or “Incident” means the January 9, 2014 chemical spill into the Elk River in Charleston, West Virginia from the site owned by Freedom Industries, Inc. including the introduction of water containing the spilled chemicals into the Kanawha Valley Water Treatment Plant and the Kanawha Valley Distribution System operated by West Virginia American.

“Governmental Entity” means an instrumentality of state, county, or municipal government created by or pursuant to statute, regulation, or ordinance.

“KVTP” means the Kanawha Valley Water Treatment Plant.

“Lodging Business” means a Business that provides traveler accommodation and has the characteristics for classification under the NAICS (North American Industry Classification System) prefix 721, except that Lodging Business does NOT include recreational vehicle parks or campgrounds.

“Partially Shut Down” or “Partial Shut Down” means a Business that was Shut Down only with respect to certain activities conducted by the Business while other business activities continued (e.g., food service operations within a larger retail store). A separate Business that operates at the same location as another Business and meets the definition of Shut Down is considered to be Shut Down and not Partially Shut Down even if other separate Businesses operating in the same location were not Shut Down.

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“Property Damage” means physical damage to or destruction of tangible property, at a residential or business location resulting from the Freedom Chemical Spill, including the loss of use thereof at any time resulting therefrom; and loss of use of tangible property which has not been physically damaged or destroyed arising from physical damage to or destruction of other tangible property. Property Damage includes the presence of chemical or chemical residue in the water system (pipes and other components) from the Freedom Chemical Spill that required cleaning and flushing the water system to remove such residue from pipes and appliances and/or to clean or replace certain components of the water system as recommended in the flushing guidelines provided by West Virginia American Water.

“Shut Down” means that the Business was (i) conducted at a location where the Business making the Business Claim possessed a West Virginia Business Registration Certificate for the location that is the subject of the Business Claim and (ii) with respect to that location, was subject to a regulation requiring it to cease operations, or a direct order or instruction from a regulatory agency to cease the operations regulated by that regulatory agency, during the Do Not Use Period as a result of the Freedom Chemical Spill. A separate Business that operates at the same location as another Business and meets the definition of Shut Down is considered to have been Shut Down even if other separate Businesses operating in the same location were not Shut Down; however, an individual who leases space from a Business that was Shut Down but who does not have any ownership interest in the Business that was Shut Down does not meet the definition of Shut Down. A voluntary decision to cease or reduce operations does not meet the definition of Shut Down.