COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

16 December 2011

Mr. Richard Krejci
Director of Field Operations
Kinder Morgan Southeast Terminals LLC
1100 Alderman, Suite 200
Alpharetta, GA 30005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Modification of VPDES Permit No. VA0001988
Kinder Morgan Southeast Terminals LLC – Newington 2, Fairfax County

Dear Mr. Krejci:

The Department of Environmental Quality (DEQ) received a Change of Ownership Agreement form on 6 October 2011 for the transfer of VPDES Permit No. VA0001988. Per phone conversations between Kinder Morgan and DEQ-NRO staff, the official change of ownership will occur 1 January 2012. This letter confirms our acknowledgement that Kinder Morgan Southeast Terminals LLC will own this facility and will be responsible for meeting all permit requirements.

A revised copy of the VPDES Permit reflecting the change has been enclosed for your records.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period.

Alternately, any owner under §§ 62.1-44.16, 62.1-44.17, and 62.1-44.19 of the State Water Control Law aggrieved by any action of the State Water Control Board taken without a formal hearing, or by inaction of the Board, may demand in writing a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the Board. Said petition must meet the requirements set forth in §1.23(b) of the Board's Procedural Rule No. 1. In cases involving actions of the Board, such petition must be filed within thirty days after notice of such action is mailed to such owner by certified mail.

Please contact Douglas Frasier at 703-583-3873 or via email at Douglas.Frasier@deq.virginia.gov, if you have any questions.

Respectfully,

Bryant Thomas
Water Permits Manager

Enc.: Permit No. VA0001988

cc: DEQ-Water, OWPP
EPA-Region III, 3WP12
Department of Health, Culpeper
Water Compliance, NRO

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Permit No. **VA0001988**
Effective Date: **April 20, 2010**
Modification Date: **December 16, 2011**
Expiration Date: **April 19, 2015**

AUTHORIZATION TO DISCHARGE UNDER THE
VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM
AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, the following owner is authorized to discharge in accordance with the information submitted with the permit application, and with this permit cover page, Part I – Effluent Limitations and Monitoring Requirements, and Part II – Conditions Applicable To All VPDES Permits, as set forth herein.

Owner Name: Kinder Morgan Southeast Terminals LLC
Facility Name: Kinder Morgan Southeast Terminals LLC – Newington 2
County: Fairfax
Facility Location: 8206 Terminal Road, Lorton, VA 23079

The owner is authorized to discharge to the following receiving stream:

Stream Name: Accotink Creek, UT
River Basin: Potomac River
River Subbasin: None
Section: 7
Class: III
Special Standards: b

Thomas A. Faha
Director, Northern Regional Office
Department of Environmental Quality

December 16, 2011
Date

A. Effluent Limitations and Monitoring Requirements

1. Outfall 001 – Discharge from pond.

a). There shall be no discharge of floating solids or visible foam in other than trace amounts.

b). During the period beginning with the permit's effective date and lasting until the expiration date, the permittee is authorized to discharge from Outfall Number 001. Such discharges shall be limited and monitored by the permittee as specified below.

Parameter	Discharge Limitations				Monitoring Requirements	
	Monthly Average[1]	Daily Maximum[1]	Minimum	Maximum[1]	Frequency	Sample Type
Flow(MGD)	NL	N/A	N/A	NL	1/Q	ESTIMATE
pH	N/A	N/A	6.0 S.U.	9.0 S.U.	1/Q	Grab
Total Suspended Solids, TSS	N/A	N/A	N/A	60 mg/L	1/Q	Grab
Total Petroleum Hydrocarbons(TPH)*	N/A	N/A	N/A	15 mg/L	1/Q	Grab
Acute Toxicity (TU_a)[2]	N/A	N/A	N/A	NL	1/Y	Grab

[1] See Part I.B.
[2] See Part I.C.

MGD = Million gallons per day.
N/A = Not applicable.
NL = No limit; monitor and report.
S.U. = Standard units.

1/Q = Once every calendar quarter.
1/Y = Once every calendar year.

Grab = An individual sample collected over a period of time not to exceed 15-minutes.
Estimate = Reported flow is to be based on the technical evaluation of the sources contributing to the discharge.

*Total Petroleum Hydrocarbons (TPH) shall be analyzed using the Wisconsin Department of Natural Resources Modified Diesel Range Organics Method as specified in Wisconsin publication SW-141 (1995) or by EPA SW-846 Method 8015C for diesel range organics or by EPA SW-846 Method 8270D. If Method 8270D is used, the lab must report the combination of diesel range organics and polynuclear aromatic hydrocarbons.

The quarterly monitoring periods shall be January through March, April through June, July through September and October through December.
The DMR shall be submitted no later than the 10th day of the month following the monitoring period.

2. Outfall 101 – Hydrostatic Test Waters

a). There shall be no discharge of floating solids or visible foam in other than trace amounts.

b). During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from Outfall Number 101. Such discharges shall be limited and monitored by the permittee as specified below.

Parameter	Discharge Limitations				Monitoring Requirements	
	Monthly Average[1]	Daily Maximum[1]	Minimum	Maximum[1]	Frequency	Sample Type
Flow (MGD)	NL	N/A	N/A	NL	2/Discharge	Estimate
pH	N/A	N/A	6.0 S.U.	9.0 S.U.	2/Discharge	Grab
Total Suspended Solids (TSS)	N/A	N/A	N/A	60 mg/L	2/Discharge	Grab
Total Petroleum Hydrocarbons (TPH)*	N/A	N/A	N/A	15 mg/L	2/Discharge	Grab
Total Residual Chlorine (TRC)	N/A	N/A	N/A	0.016 mg/L	2/Discharge	Grab
Benzene	N/A	N/A	N/A	50 µg/L	2/Discharge	Grab
Toluene	N/A	N/A	N/A	175 µg/L	2/Discharge	Grab
Ethylbenzene	N/A	N/A	N/A	320 µg/L	2/Discharge	Grab
Total Xylene	N/A	N/A	N/A	33 µg/L	2/Discharge	Grab
Methyl Tertiary Butyl Ether (MTBE)	N/A	N/A	N/A	1,840 µg/L	2/Discharge	Grab
Ethanol**	N/A	N/A	N/A	4,100 µg/L	2/Discharge	Grab
Naphthalene***	N/A	N/A	N/A	10 µg/L	2/Discharge	Grab

[1] See Part I.B.

MGD = Million gallons per day.
N/A = Not applicable.
NL = No limit; monitor and report.
S.U. = Standard units.

2/Discharge = Two (2) samples per hydrostatic tank test. The first sample shall be collected during the initial discharge or be a representative sample collected and analyzed prior to the discharge. The second sample shall be collected during the discharge of the final 20% by volume or the last two (2) feet of hydrostatic tank test water. Samples shall be collected from the discharge point of the aboveground storage tank.

Estimate = Reported flow is to be based on the technical evaluation of the sources contributing to the discharge.

Grab = An individual sample collected over a period of time not to exceed 15-minutes.

*Total Petroleum Hydrocarbons (TPH) shall be analyzed using the Wisconsin Department of Natural Resources Modified Diesel Range Organics Method as specified in Wisconsin publication SW-141 (1995) or by EPA SW-846 Method 8015C for diesel range organics or by EPA SW-846 Method 8270D. If Method 8270D is used, the lab must report the combination of diesel range organics and polynuclear aromatic hydrocarbons.

** Monitoring is only required for tanks containing petroleum products consisting of Ethanol greater than 10%.

*** Naphthalene monitoring is only required when testing occurs on tanks containing aviation gasoline, jet fuel or diesel.
Naphthalene shall be analyzed by a current and appropriate EPA Wastewater Method from 40 CFR Part 136 (2007) or a current and appropriate EPA SW 846 Method.

B. Additional Monitoring Requirements, Quantification Levels and Compliance Reporting

1. Quantification Levels

a). The quantification levels (QLs) shall be less than or equal to the following concentrations:

Characteristic	Quantification Level
TSS	4.0 mg/L
TRC	0.10 mg/L
TPH	0.50 mg/L
Benzene	10 µg/L
Toluene	10 µg/L
Ethylbenzene	10 µg/L
Total Xylene	10 µg/L
Naphthalene	10 µg/L

b). The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the method. The permittee shall use any method in accordance with Part II.A. of this permit.

c). It is the responsibility of the permittee to ensure that proper quality assurance/quality control (QA/QC) protocols are followed during the sampling and analytical procedures. QA/QC information shall be documented to confirm that appropriate analytical procedures have been used and the required QLs have been attained.

2. Compliance Reporting for parameters in Part I.A.

a). Daily Maximum – Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I.B.1.a. shall be determined as follows: All concentration data below the QL of the measurement system shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL, then the maximu m value of the daily averages shall be reported as "<QL". If reporting for quantity is required on the DMR and the reported daily maximum concentration is < QL, then report "<QL" for the quantity. Otherwise use the reported daily average concentrations (including the defined zeros) and corresponding daily flows to determine daily average quantities and report the maximum of the daily average quantities during the reporting month.

b). Single Datum – Any single datum required shall be reported as < QL if it is less than the QL as stated above. Otherwise the numerical value shall be reported.

c). Significant Digits – The permittee shall report at least the same number of significant digits as the permit limit for a given parameter. Regardless of the rounding convention used (i.e., 5 always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

C. Toxics Monitoring Program Requirements

1. Biological Monitoring for Outfall 001

a). In accordance with the schedule in Part I.C.2. below, the permittee shall conduct annual acute toxicity tests for the duration of the permit. The permittee shall collect grab samples from Outfall 001.

The acute test to use is:

48-Hour Static Acute test using *Ceriodaphnia dubia* and *Pimephales promelas* on an alternating schedule

The acute test is to be conducted using five (5) geometric dilutions of effluent with a minimu m of four (4) replicates, with five (5) organisms in each. The NOAEC, as determined by hypothesis testing, shall be converted to TU_a (Acute Toxicity Units) for DMR reporting where $TU_a = 100/NOAEC$. The LC_{50} should also be determined and noted on the submitted report. Tests in which control survival is less than 90% are not acceptable.

b). The permittee may provide additional samples to address data variability. These data shall be reported. Test procedures and reporting shall be in accordance with the WET testing methods cited in 40 CFR 136.3.

c). Should the permittee conduct toxicity testing of the effluent prior to the compliance date listed in the schedule in Part I.C.2. below, the results of the test and the test report shall be reported with the DMR for the month following the receipt of the testing results. In no case shall this exceed 45 days from the completion of the test.

2. Reporting Schedule

The permittee shall monitor during the period specified; shall report the results on the DMR; and shall supply one copy of the toxicity test report specified in this Toxics Management Program in accordance with the following schedule:

Period	Species	Sampling Period	DMR/Report Submission Dates
Annual 1	*C. dubia*	1 January 2011 – 31 December 2011	10 January 2012
Annual 2	*P. promelas*	1 January 2012 – 31 December 2012	10 January 2013
Annual 3	*C. dubia*	1 January 2013 – 31 December 2013	10 January 2014
Annual 4	*P. promelas*	1 January 2014 – 31 December 2014	10 January 2015

3. Sampling Technique for Outfall 001 and Additional Information to be Submitted with the Results of Biological Tests Performed in Accordance with C.1. above

a). Sampling of each outfall shall, if at all possible, be within the first three hours following the initiation of a rainwater discharge event.

b). The permittee shall submit the following information with the results of the toxicity tests:

(1). An actual measurement or estimate of the flow at the time of sampling.

(2). The time the storm event began, the time the Outfall was sampled and the duration of the storm event.

(3). The duration between the storm event sampled and the end of the previous storm event.

D. Storm Water Monitoring Requirements

1. General Storm Water Special Conditions

Quarterly Visual Examination of Storm Water Quality

The permittee must perform and document a quarterly visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination(s) shall be made at least once in each of the following three-month periods: January through March, April through June, July through September and October through December. The visual examination shall be made during daylight hours (e.g., normal working hours). If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred. The documentation shall be signed and certified in accordance with Part II.K. of this permit.

a). Visual examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging from the facility. The examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen and other obvious indicators of storm water pollution. The examination shall be conducted in a well-lit area. No analytical tests are required to be performed on the samples. All samples (except snowmelt samples) shall be collected from the discharge resulting from a storm event that results in an actual discharge from the site (defined as a "measureable storm event") and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The 72-hour storm interval is waived when the preceding measurable storm did not yield a measurable discharge, or if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term. If no qualifying storm event resulted in runoff during daylight hours from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no qualifying storm event occurred during daylight hours that resulted in storm water runoff during that quarter. The documentation must be signed and certified in accordance with Part II.K.

b). The visual examination reports must be maintained on-site with the Storm Water Pollution Prevention Plan (SWPPP). The report must include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen and other obvious indicators of storm water pollution) and probable sources of any observed storm water contamination.

c). If the facility has two or more outfalls that discharge substantially identical effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, and storm water management practices occurring within the drainage areas of the outfalls, the permittee may conduct visual monitoring on the effluent of just one of the outfalls and report that the observations also apply to the substantially identical outfall(s) provided that the permittee includes in the stormwater pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (i.e., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)) shall be provided in the plan.

d). When the permittee is unable to conduct the visual examination due to adverse climatic conditions, the permittee must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

2. Allowable Non-Storm Water Discharges

a). The following non-storm water discharges are authorized by this permit provided the non-storm water component of the discharge is in compliance with 2.b, below:

(1). Discharges from fire fighting activities;

(2). Fire hydrant flushings;

(3). Potable water including water line flushings;

(4). Uncontaminated air conditioning or compressor condensate;

(5). Irrigation drainage;

(6). Landscape watering provided all pesticides, herbicides, and fertilizers have been applied in accordance with manufacturer's instructions;

(7). Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);

(8). Routine external building wash down which does not use detergents;

(9). Uncontaminated ground water or spring water;

(10). Foundation or footing drains where flows are not contaminated with process materials such as solvents.

b). Except for flows from fire fighting activities, the Storm Water Pollution Prevention Plan must include:

(1). Identification of each allowable non-storm water source;

(2). The location where the non-storm water is likely to be discharged; and

(3). Descriptions of appropriate BMPs for each source.

c). If mist blown from cooling towers is included as one of the allowable non-stormwater discharges from the facility, the permittee must specifically evaluate the discharge for the presence of chemicals used in the cooling tower. The evaluation shall be included in the SWPPP.

3. Releases of Hazardous Substances or Oil in Excess of Reportable Quantities

The discharge of hazardous substances or oil in the storm water discharge(s) from the facility shall be prevented or minimized in accordance with the storm water pollution prevention plan for the facility. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill. This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302 or § 62.1-44.34:19 of the Code of Virginia. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117 or 40 CFR 302 occurs during a 24-hour period:

a). The permittee is required to notify the Department in accordance with the requirements of Part II.G. as soon as he or she has knowledge of the discharge;

b). Where a release enters a municipal separate storm sewer system (MS4), the permittee shall also notify the owner of the MS4; and

c). The storm water pollution prevention plan required by this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

4. Additional Requirements for Salt Storage

Storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation. The permittee shall implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. All salt storage piles shall be located on an impervious surface. All runoff from the pile, and/or runoff that comes in contact with salt, including under drain systems, shall be collected and contained within a bermed basin lined with concrete or other impermeable materials., or within an underground storage tank(s), or within an above ground storage tank(s), or disposed of through a sanitary sewer (with the permission of the treatment facility). A combination of any or all of these methods may be used. In no case shall salt contaminated storm water be allowed to discharge directly to the ground or to state waters.

E. General Storm Water Pollution Prevention Plan Requirements

Refer to Part I.F. for sector specific storm water pollution prevention plan requirements.

A storm water pollution prevention plan (SWPPP) for the facility was required to be developed and implemented under the previous permit. The existing storm water pollution prevention plan shall be reviewed and modified, as appropriate, to conform to the requirements of this section.

The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water dis charges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Permittees shall implement the provisions of the storm water pollution prevention plan as a condition of this permit.

The storm water pollution prevention plan requirements of this permit may be fulfilled, in part, by incorporating by reference other plans or documents such as an erosion and sediment control (ESC) plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility under Section 311 of the Clean Water Act, or best management practices (BMP) programs otherwise required for the facility, provided that the incorporated plan meets or exceeds the plan requirements of Part I.E.1 (Contents of the Plan). If a plan incorporated by reference does not contain all of the required elements of the SWPPP of Part I.E.1., the permittee shall develop the missing SWPPP elements and include them in the required plan. All plans incorporated by reference into the storm water pollution prevention plan become enforceable under this permit.

1. Contents of the Plan

The contents of the SWPPP shall comply with the requirements listed below and those in Part I.F (Site Specific). The plan shall include, at a minimum, the following items:

a). Pollution Prevention Team. The plan shall identify the staff individuals by name or title that comprises the facility's storm water pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.

b). Site Description. The plan shall include the following:

(1). Activities at the Facility. A description of the nature of the industrial activities at the facility.

(2). General Location Map. A general location map (e.g., USGS quadrangle or other map) with enough detail to identify the location of the facility and the receiving waters within one mile of the facility.

(3). Site Map. A site map identifying the following:

(i) The size of the property (in acres);

(ii) The location and extent of significant structures and impervious surfaces (roofs, paved areas and other impervious areas);

(iii) Locations of all storm water conveyances including ditches, pipes, swales and inlets and the directions of storm water flow (e.g., use arrows to show which ways storm water will flow);

(iv) Locations of all existing structural and source control BMP's;

(v) Locations of all surface water bodies, including wetlands;

(vi) Locations of potential pollutant sources identified under Part E.1.c.;

(vii) Locations where significant spills or leaks identified under Part E.1.d. have occurred;

(viii) Locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; processing and storage areas; access roads; rail cars and tracks; transfer areas for substances in bulk; and machinery;

(ix) Locations of stormwater outfalls and an approximate outline of the area draining to each outfall and location of municipal storm sewer systems, if the stormwater from the facility discharges to them;

(x) Location and description of all non-storm water discharges;

(xi) Location of any storage piles containing salt used for deicing or other commercial or industrial purposes; and

(xii) Locations and sources of runon to the site from adjacent property where the runon contains significant quantities of pollutants. The permittee shall include an evaluation with the SWPPP of how the quality of the storm water running onto the facility impacts the facility's storm water discharges.

(4). Receiving Waters and Wetlands. The name all surface waters receiving discharges from the site, including intermittent streams, dry sloughs and arroyos. Provide a description of wetland sites that may receive discharges from the facility. If the facility discharges through a municipal separate storm sewer system (MS4), identify the MS4 operator and the receiving water to which the MS4 discharges.

c). Summary of Potential Pollutant Sources. The plan shall identify each separate area at the facility where industrial materials or activities are exposed to storm water. Industrial materials or activities include, but are not limited to: material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, byproducts, final products and waste products. Material handling activities include, but are not limited to: the storage, loading and unloading, transportation, disposal or conveyance of any raw material, intermediate product, final product or waste product. For each separate area identified, the description shall include:

(1). Activities in Area. A list of the activities (e.g., material storage, equipment fueling and cleaning, cutting steel beams); and

(2). Pollutants. A list of the associated pollutant(s) or pollutant constituents (e.g., crankcase oil, zinc, sulfuric acid, cleaning solvents etc.) for each activity. The pollutant list shall include all significant materials that have been handled, treated, stored or disposed that have been exposed to storm water between in the three years prior to the date this SWPPP was prepared or amended. The list shall include any hazardous substances or oil at the facility.

d). Spills and Leaks. The SWPPP shall clearly identify areas where potential spills and leaks that can contribute pollutants to storm water discharges can occur and their corresponding outfalls. The plan shall include a list of significant spills and leaks of toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a stormwater conveyance during the three-year period prior to the date SWPPP was prepared or amended. The list shall be updated if significant spills or leaks occur in exposed areas of the facility during the term of the permit. Significant spills and leaks include releases of oil or hazardous substances in excess of reportable quantities, and may also include releases of oil or hazardous substances that are not in excess of reporting requirements.

e). Sampling Data. The plan shall include a summary of existing stormwater discharge sampling data taken at the facility. The summary shall include, at a minimum, any data collected during the previous permit term.

f). Storm Water Controls. The SWPPP shall include a description of stormwater management controls appropriate for the facility. The description of controls shall address the following minimum components:

(1). Description of Existing and Planned BMP's. BMP's shall be implemented for all the areas identified in Part I.E.1.c. (Summary of Potential Pollutant Sources) to prevent or control pollutants in stormwater discharges from the facility. All reasonable steps shall be taken to control or address the quality of discharges from the site that may not originate at the facility. The SWPPP shall describe the type, location and implementation of all BMPs for each area where industrial materials or activities are exposed to stormwater. Selection of BMP's shall take into consideration:

(i) That preventing stormwater from coming into contact with polluting materials is generally more effective and less costly than trying to remove pollutants from stormwater;

(ii) BMPs generally shall be used in combination with each other for most effective water quality protection;

(iii) Assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to designing effective control measure;

(iv) That minimizing impervious areas at the facility can reduce runoff and improve groundwater recharge and stream base flows in local streams (however, care must be taken to avoid groundwater contamination);

(v) Flow attenuation by use of open vegetated swales and natural depressions can reduce in-stream impacts of erosive flows;

(vi) Conservation or restoration of riparian buffers will help protect streams from stormwater runoff and improve water quality; and

(vii) Treatment interceptors (e.g. swirl separators and sand filters) may be appropriate in some instances to minimize the discharge of pollutants.

(2). Control Measures. The permittee shall implement the following types of BMPs to prevent and control pollutants in the stormwater discharges from the facility, unless it can be demonstrated and documented that such controls are not relevant to the discharges (e.g. there are no storage piles containing salt).

i. Good Housekeeping. The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants to storm water discharges. Typical problem areas include areas around trash containers, storage areas, loading docks and vehicle fueling and maintenance areas. The plan shall include a schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks and containers. The introduction of raw, final or waste materials to exposed areas of the facility shall be minimized to the maximum extent practicable. The generation of dust, along with off-site vehicle tracking of raw, final or waste materials, or sediments, shall be minimized to the maximum extent practicable.

ii. Eliminating and Minimizing Exposure. To the extent practicable, industrial materials and activities shall be located inside or protected by a storm-resistant covering to prevent exposure to rain, snow, snowmelt and runoff.

iii. Preventive Maintenance. The permittee shall have a preventive maintenance program that includes regular inspection, testing, maintenance and repairing of all industrial equipment and systems to avoid breakdowns or failures that could result in leaks, spills and other releases. This program is addition to the specific BMP maintenance required under Part I.E.2 (Maintenance of BMPs).

iv. Spill Prevention and Response Procedures. The plan shall describe the procedures that will be followed for preventing and responding to spills and leaks.

(A) Preventive measures include barriers between material storage and traffic areas, secondary containment provisions and procedures for material storage and handling.

(B) Response procedures shall include notification of appropriate facility personnel, emergency agencies and regulatory agencies and procedures for stopping, containing and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect or respond to a spill or leak shall be training these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the Pollution Prevention Team.

(C) Contact information for individuals and agencies that must be notified in the event of a spill shall be included in the SWPPP and in other locations where it will be readily available.

v. Routine Facility Inspections. Facility personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can also evaluate the effectiveness of BMPs shall regularly inspect all areas of the facility where industrial materials or activities are exposed to stormwater. These inspections are in addition to, or as part of, the comprehensive site evaluation required under Part I.E.3 (Comprehensive Site Compliance Evaluation). At least one member of the Pollution Prevention Team shall participate in the routine facility inspections.

The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit or written approval is received from the Department for less frequent intervals. At least once each calendar year, the routine facility inspection must be conducted during a period when a stormwater discharge is occurring.

Any deficiencies in the implementation of the SWPPP that are found shall be corrected as soon as practicable, but not later than within 30 days of the inspection, unless permission for a later date is granted in writing by the Director. The results of the inspections shall be documented in the SWPPP, along with the date(s) and description(s) of any corrective actions that were taken in response to any deficiencies or opportunities for improvement that were identified.

vi. Employee Training. The permittee shall implement a stormwater employee training programs for the facility. The SWPPP shall include a schedule for all types of necessary training and shall document all training sessions and the employees who received this training. Training shall be provided for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance personnel etc.). The training shall cover the components and goals of the SWPPP and include such topics as spill response, good housekeeping, material management practices, BMP operation and maintenance etc. The SWPPP shall include a summary of any training performed.

vii. Sediment and Erosion Control. The plan shall identify areas at the facility that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative and/or stabilization BMPs to prevent or control on-site and off-site erosion and sedimentation. Flow velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel if the flows would otherwise create erosive conditions.

viii. Management of Runoff. The plan shall describe the stormwater runoff management practices (i.e. permanent structural BMPs) for the facility. These types of BMPs are typically used to divert, infiltrate, reuse or otherwise reduce pollutants in stormwater discharges from the site.

Structural BMPs may require a separate permit under § 404 of the CWA and the Virginia Water Protection Permit Program Regulation (9VAC 25-210) before installation begins.

2. Maintenance

All BMPs identified in the SWPPP shall be maintained in effective operating condition. Storm water BMPs identified in the SWPPP shall be observed during active operation (i.e., during a storm water runoff event) to ensure that they are functioning correctly. Where discharge locations are inaccessible, nearby downstream locations shall be observed. The observations shall be documented in the SWPPP.

The SWPPP shall include a description of procedures and a regular schedule for preventive maintenance of all BMPs, and shall include a description of the back-up practices that are in place should a runoff event occur while a BMP is off-line. The effectiveness of nonstructural BMPs shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

If site inspections required by Part I.E.1.f.(2).(v) (Routine Facility Inspections) or Part I.E.3 (Comprehensive Site Compliance Evaluation) identify BMPs that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. In the interim, back-up measures shall be employed and documented in the SWPPP until repairs or maintenance is complete. Documentation shall be kept with the SWPPP of maintenance and repairs of BMPs, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair or replacement, and for repairs, date(s) that the BMP(s) returned to full function, and the justification for any extended maintenance or repair schedules.

3. Comprehensive Site Compliance Evaluation

The permittee shall conduct comprehensive site evaluations at least once a year. The evaluations shall be done by qualified personnel who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility and who can also evaluate the effectiveness of BMPs. The personnel conducting the evaluations may be either facility employees or outside constituents hired by the facility.

a). Scope of the Compliance Evaluation. Evaluations shall include all areas where industrial materials or activities are exposed to storm water, as identified in Part I.E.1.c.(2). The personnel shall evaluate:

(1). Industrial materials, residue or trash on the ground that may have or could come into contact stormwater;

(2). Leaks or spills from industrial equipment, drums, barrels, tanks or other containers that have occurred within the past three years;

(3). Off-site tracking of industrial or waste materials or sediment where vehicles enter or exit the site;

(4). Tracking or blowing of raw, final or waste materials from areas of no exposure to exposed areas; and

(5). Evidence of, or the potential for, pollutants entering the drainage system.

(6). Evidence of pollutants discharging to surface waters at all facility outfalls and the condition of and around the outfall, including flow dissipation measure to prevent scouring;

(7). Review of training performed, inspections completed, maintenance performed, quarterly visual examinations and effective operation of BMPs;

(8). Results of both visual and any analytical monitoring done during the past year shall be taken into consideration during the evaluation

b). Based on the results of the evaluation, the SWPPP shall be modified as necessary (e.g., show additional controls on the map required by Part E.1.b.(3); revise the description of controls required by Part I.E.1.f. to include additional or modified BMPs designed to correct problems identified). Revisions to the SWPPP shall be completed within 30 days following the evaluation, unless permission for a later date is granted in writing by the Director. If existing BMP's need to be modified or if additional BMP's are necessary, implementation shall be completed before the next anticipated storm event, if practicable, but not more than 60days after completion of the comprehensive site evaluation, unless permission for a later date is granted in writing by the Department;

c). Compliance Evaluation Report. A report shall be written, summarizing the scope of the evaluation, name(s) of personnel making the evaluation, the date(s) of the evaluation and all observations relating to the implementation of the SWPPP, including elements stipulated in Part I.E.3.a.(1) through (8) above. Observations shall include things as: the location(s) of discharges of pollutants from the site; location(s) of previously unidentified sources of pollutants; location (s) BMPs that need replacement; and location(s) where additional BMPs are needed. The report shall identify any incidents of noncompliance; the report shall contain a certification that the facility is in compliance with the SWPPP and this permit. The report shall be signed in accordance with Part II.K. and maintained with the SWPPP; and

d). Where compliance evaluation schedules overlap with routine inspections required under Part E.1.f.(2).(a).v, the annual compliance evaluation may be used as one of the routine inspections.

4. Signature and Plan Review

a). Signature/Location. The SWPPP shall be signed in accordance with Part II.K., dated and retained on-site at the facility covered by this permit in accordance with Part II.B.2. All other changes to the SWPPP and other permit compliance documentation must be signed and dated by the person preparing the change or documentation.

b). Availability. The permittee shall make the SWPPP, annual site compliance evaluation report and other information available to the Department upon request.

c). Required Modifications. The Director may notify the permittee at any time that the SWPP, BMPs or other components of the facility's stormwater program do not meet one or more of the minimum requirements of this permit. The notification shall identify specific provisions of the permit that are not being met, and may include required modifications to the stormwater program, additional monitoring requirements and special reporting requirements. The permittee shall make any required changes to the SWPPP within 60 days of receipt of such notification, unless permission for a later date is granted in writing by the Director, and shall submit a written certification to the Director that the requested changes have been made.

5. Maintaining an Updated SWPPP

a). The permittee shall review and amend the SWPPP as appropriate whenever:

(1). There is construction or a change in design, construction, operation, or maintenance at the facility that has a significant effect on the discharge, or the potential for the discharge, of pollutants from the facility;

(2). Routine inspections or compliance evaluations determine that there are deficiencies in the BMPs;

(3). Inspections by local, state or federal officials determine that modifications to the SWPPP are necessary;

(4). There is a spill, leak or other release at the facility; or

(5). There is an unauthorized discharge from the facility.

(6). During inspections, monitoring or investigations by facility personnel or by local, state or federal officials it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under Part I.E.1.c., or is otherwise not achieving the general objectives of controlling pollutants in discharges from the facility.

b). SWPPP modifications shall be made within 30 calendar days after discovery, observation or event requiring a SWPPP modification. Implementation of new or modified BMPs (distinct from regular preventive maintenance of existing BMPs described in Part I.E.1.f.(2).(a).(iii)) shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the Director. The amount of time taken to modify a BMP or implement additional BMPs shall be documented in the SWPPP.

c). If the SWPPP modification is based on a release or unauthorized discharge, include a description and date of the release, the circumstances leading to the release, actions taken in response to the release, and measures to prevent the recurrence of such releases. Unauthorized releases and discharges are subject to the reporting requirements of Part II.G. of this permit.

F. Sector Specific Storm Water Pollution Prevention Plan Requirements

The requirements listed under this section apply to storm water discharges associated with industrial activity from ground transportation facilities and rail transportation facilities (generally identified by SIC Codes 40, 41, 42, 43, and 5171), that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) and/or equipment cleaning operations. Also covered under this section are facilities found under SIC Codes 4221 through 4225 (public warehousing and storage) that do not have vehicle and equipment maintenance shops and/or equipment cleaning operations.

In addition to the requirements of Part I.E., the SWPPP shall include, at a minimum, the following items:

1. Storm Water Controls

a. Good Housekeeping.

(1). Vehicle and Equipment Storage Areas. The storage of vehicles and equipment awaiting maintenance with actual or potential fluid leaks shall be confined to designated areas (delineated on the site map). The permittee shall consider the following measures (or their equivalents): the use of drip pans under vehicles and equipment; indoor storage of vehicles and equipment; installation of berms or dikes; use of absorbents; roofing or covering storage areas; and cleaning pavement surface to remove oil and grease.

(2). Fueling Areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from fueling areas. The permittee shall consider the following measures (or their equivalents): covering the fueling area; using spill/overflow protection and cleanup equipment; minimizing storm water run-on/runoff to the fueling area; using dry cleanup methods; and treating and/or recycling collected storm water runoff.

(3). Material Storage Areas. Storage vessels of all materials (e.g., for used oil/oil filters, spent solvents, paint wastes, hydraulic fluids) shall be maintained in good condition, so as to prevent contamination of storm water and plainly labeled (e.g., "used oil," "spent solvents," etc.). The permittee shall consider the following measures (or their equivalents): indoor storage of the materials; installation of berms/dikes around the areas, minimizing runoff of storm water to the areas; using dry cleanup methods; and treating and/or recycling the collected storm water runoff.

(4). Vehicle and Equipment Cleaning Areas. The permittee shall describe and implement measures that prevent or minimize contamination of storm water runoff from all areas used for vehicle/equipment cleaning. The permittee shall consider the following measures (or their equivalents): performing all cleaning operations indoors; covering the cleaning operation; ensuring that all washwaters drain to a proper collection system (i.e., not the storm water drainage system unless VPDES permitted); and treating and/or recycling the collected storm water runoff. Note: the discharge of vehicle/equipment wash waters, including tank cleaning operations, are not authorized by this permit and must be covered under a separate VPDES permit or discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

(5). Vehicle and Equipment Maintenance Areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from all areas used for vehicle/equipment maintenance. The permittee shall consider the following measures (or their equivalents): performing maintenance activities indoors; using drip pans; keeping an organized inventory of materials used in the shop; draining all parts of fluids prior to disposal; prohibiting wet clean up practices where the practices would result in the discharge of pollutants to storm water drainage systems; using dry cleanup methods; treating and/or recycling collected storm water runoff; and minimizing run-on/runoff of storm water to maintenance areas.

b. Routine Facility Inspections. The following areas/activities shall be included in all inspections: storage area for vehicles/equipment awaiting maintenance; fueling areas; indoor and outdoor vehicle/equipment maintenance areas; material storage areas; vehicle/equipment cleaning areas; and loading/unloading areas.

c. Employee Training. Employee training shall take place, at a minimum, annually (once per calendar year). Employee training shall address the following, as applicable: used oil and spent solvent management; fueling procedures; general good housekeeping practices; proper painting procedures; and used battery management.

d. Non-Storm Water Discharges. For facilities that discharge vehicle and equipment washwaters to the sanitary sewer system, the operator of the sanitary system and associated treatment plant shall be notified. In such cases, a copy of the notification letter shall be attached to the plan. If an industrial user permit is issued under a pretreatment program, a reference to that permit shall be in the plan. In all cases, any permit conditions or pretreatment requirements shall be considered in the plan. If the washwaters are handled in another manner (e.g., hauled off-site), the disposal method shall be described and all pertinent documentation (e.g., frequency, volume, destination, etc.) shall be attached to the plan.

G. Other Requirements and Special Conditions

1. Operation and Maintenance (O&M) Manual Requirement
The permittee shall review the existing Operations and Maintenance (O&M) Manual and notify the DEQ Northern Regional Office, in writing on or before 19 July 2010, whether it is still accurate and complete. If the O&M Manual is no longer accurate and complete, a revised O&M Manual shall be submitted for approval to the DEQ Northern Regional Office on or before 19 July 2010. The permittee will maintain an accurate, approved O&M Manual for the treatment works. This manual shall detail the practices and procedures which will be followed to ensure compliance with the requirements of the permit. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

   a). Techniques to be employed in the collection, preservation and analysis of effluent and sludge samples;

   b). Procedures for measuring and recording the duration and volume of treated wastewater discharged;

   c). Discussion of Best Management Practices, if applicable;

   d). Procedures for handling, storing and disposing of all wastes, fluids and pollutants that will prevent these materials from reaching state waters;

   e). Treatment works design, treatment works operation, routine preventative maintenance of units within the treatment system, critical spare parts inventory and record keeping; and

   f). A plan for the management and/or disposal of waste solids and residues.

   Any changes in the practices and procedures followed by the permittee shall be documented and submitted for staff approval within 90 days of the effective date of the changes. Upon approval of the submitted manual changes, the revised manual becomes an enforceable part of the permit. Noncompliance with the O&M Manual shall be deemed a violation of the permit.

2. Water Quality Criteria Reopener
Should effluent monitoring indicate the need for any water quality-based limitations, this permit may be modified or alternatively revoked and reissued to incorporate appropriate limitations.

3. Notification Levels
The permittee shall notify the Department as soon as they know or have reason to believe:

   a). That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

      (1). One hundred micrograms per liter;

      (2). Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;

      (3). Five times the maximum concentration value reported for that pollutant in the permit application; or

      (4). The level established by the Board.

   b). That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant, which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

      (1). Five hundred micrograms per liter;

      (2). One milligram per liter for antimony;

      (3). Ten times the maximum concentration value reported for that pollutant in the permit application; or

      (4). The level established by the Board.

4. Oil Storage Groundwater Monitoring Reopener
This facility manages groundwater in accordance with 9 VAC 25-90-10 et seq., Oil Discharge Contingency Plans and Administration Fees for Approval; therefore, this permit does not presently impose groundwater monitoring requirements. However, this permit may be modified or alternately revoked and reissued to include groundwater monitoring not required by the ODCP regulation.

5. Materials Handling/Storage
Any and all products, materials, industrial wastes and/or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation and/or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of and/or stored in such a manner so as not to permit a discharge of such product, materials, industrial wastes and/or other wastes to State waters, except as expressly authorized.

6. Hydrostatic Testing
The permittee shall notify and obtain approval from the DEQ Northern Regional Office forty-eight (48) hours in advance of any discharge resulting from hydrostatic testing. The Conditions of approval shall be contingent on the volume and duration of the proposed discharge and the nature of the residual product.

7. Total Maximum Daily Load (TMDL) Reopener
This permit shall be modified or alternatively revoked and reissued if any approved wasteload allocation procedure, pursuant to Section 303(d) of the Clean Water Act, imposes wasteload allocations, limits or conditions on the facility that are not consistent with the permit requirements.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

A. Monitoring

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under Title 40 Code of Federal Regulations Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Records

1. Records of monitoring information shall include:

   a. The date, exact place, and time of sampling or measurements;
   b. The individual(s) who performed the sampling or measurements;
   c. The date(s) and time(s) analyses were performed;
   d. The individual(s) who performed the analyses;
   e. The analytical techniques or methods used; and
   f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the Board.

C. Reporting Monitoring Results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to:

   Department of Environmental Quality - Northern Regional Office (DEQ-NRO)
   13901 Crown Court
   Woodbridge, VA 22193

   Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the Department.

2. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under Title 40 of the Code of Federal Regulations Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the Department.

3. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to Provide Information.

The permittee shall furnish to the Department, within a reasonable time, any information which the Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from this discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

E. Compliance Schedule Reports.

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized Discharges.

Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of Unauthorized Discharges.

Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II.F.; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II.F., shall notify the Department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the Department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of Unusual or Extraordinary Discharges.

If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the Department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the Department within five days of discovery of the discharge in accordance with Part II.I.2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of Noncompliance.

The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

   a. Any unanticipated bypass; and
   b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within 5 days and shall contain:

   a. A description of the noncompliance and its cause;
   b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
   c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

   The Board may waive the written report on a case-by-case basis for reports of noncompliance under Part II.I. if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts II, I.1.or I.2., in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II.I.2.

NOTE: The immediate (within 24 hours) reports required in Parts II, G., H. and I. may be made to the Department's Northern Regional Office at (703) 583-3800 (voice) or (703) 583-3821 (fax). For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of Planned Changes.

1. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

   a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

      1) After promulgation of standards of performance under Section 306 of Clean Water Act which are applicable to such source; or

      2) After proposal of standards of performance in accordance with Section 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal;

   b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

   c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory Requirements.

1. All permit applications shall be signed as follows:

   a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

      1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
      2) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

   b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

   c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes:

      1) The chief executive officer of the agency, or
      2) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. All reports required by permits, and other information requested by the Board shall be signed by a person described in Part II.K.1., or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a. The authorization is made in writing by a person described in Part II.K.1.;
   b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
   c. The written authorization is submitted to the Department.

3. Changes to authorization. If an authorization under Part II.K.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II.K.2. shall be submitted to the Department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts II, K.1. or K.2. shall make the following certification:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to Comply.

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to Reapply.

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Board. The Board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a Permit.

This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State Law.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by Section 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II.U.), and "upset" (Part II.V.) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper Operation and Maintenance.

The permittee shall at all times properly operate and maintain 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 this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges.

Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to Mitigate.

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to Halt or Reduce Activity not a Defense.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II, U.2. and U.3.

2. Notice

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.
   b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II.I.

3. Prohibition of bypass.

   a. Bypass is prohibited, and the Board may take enforcement action against a permittee for bypass, unless:

      1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
      2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
      3) The permittee submitted notices as required under Part II.U.2.

   b. The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed above in Part II.U.3.a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II.V.2. are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An upset occurred and that the permittee can identify the cause(s) of the upset;
   b. The permitted facility was at the time being properly operated;
   c. The permittee submitted notice of the upset as required in Part II.I.; and
   d. The permittee complied with any remedial measures required under Part II.S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and Entry.

The permittee shall allow the Director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit Actions.

Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the Department. Except as provided in Part II.Y.2., a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

2. As an alternative to transfers under Part II.Y.1., this permit may be automatically transferred to a new permittee if:

   a. The current permittee notifies the Department at least 30 days in advance of the proposed transfer of the title to the facility or property;
   b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
   c. The Board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II.Y.2.b.

Z. Severability.

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.