COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Permit No. **VA0066907**
Effective Date: March 05, 2012
Expiration Date: March 04, 2017

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, and Parts I and II of this permit as set forth herein.

Owner:	Consolidation Coal Company
Facility Name:	Buchanan Mine Sewage Treatment Plant
County:	Buchanan
Facility Location:	State Route 632, 4.8 miles Southeast of Oakwood, Virginia

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

Stream:	Garden Creek
River Basin:	Tennessee Big-Sandy River
River Subbasin	Big-Sandy River
Section:	3
Class:	IV
Special Standards:	None

_____
Regional Director,
Department of Environmental Quality

_____
Date

Draft

A. LIMITATIONS AND MONITORING REQUIREMENTS

1. 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 serial number 001.

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATION				MONITORING REQUIREMENTS	
	Monthly Average	Weekly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)[a]	NL	NA	NA	NL	1/Day	Estimate[b]
pH (standard units)	NA	NA	6.0	9.0	1/Week	Grab
BOD_5 [c,d]	30 mg/l 2.3 kg/d	45 mg/l 3.4 kg/d	NA	NA	1/3 Months	Grab
Suspended Solids [c,d]	30 mg/l 2.3 kg/d	45 mg/l 3.4 kg/d	NA	NA	1/3 Months	Grab
Dissolved Oxygen	NA	NA	6.2 mg/l	NL	1/Day	Grab
Total Residual Chlorine (TRC) (mg/l)[e]	0.012 mg/l	0.015 mg/l	NA	NA	1/Day	Grab
E Coli[f]	126 N/100 ml	NA	NA	NL	1/Week	Grab

a. The design flow of this treatment facility is 0.020 MGD.
b. Estimated average daily flowrate shall be based on the most accurate method or device available such as: weir, potable water meter, pump rates, etc...
c. See Part I C. 1. for quantification levels and Part I C. 2. for compliance determinations for BOD_5 and TSS.
d. At least 85% removal for BOD_5 and TSS must be attained for this effluent.
e. See Part I B. (1-4) for Additional Requirements regarding TRC monitoring. See Part I C. 1. for quantification levels and Part I C. 2. for compliance determinations for TRC.
f. Four samples per month are to be collected during the month of July each year of the permit. Samples are to be collected at least 7 days apart. Each sample is to be collected between the hours of 10:00 a.m. and 4:00. Geometric means shall be calculated using all data collected during any calendar month with a minimum of four weekly samples.
g. There shall be no discharge of floating solids or visible foam in other than trace amounts.

NL = No Limitation; monitoring required
NA = Not Applicable

B. Additional Total Residual Chlorine Limitations and Monitoring Requirements

1. The permittee shall monitor the TRC at the outlet of each operating chlorine contact tank at a *frequency of once per day by grab sample.*

2. No more than [*3*] of all samples taken at the outlet of each chlorine contact tank shall be less than *1.0 mg/l* for any one calendar month. [DMR code # 157].

3. No TRC sample collected at each outlet of the chlorine contact tank shall be less than *0.60 mg/l*. [DMR code # 213].

4. If dechlorination facilities exist the samples above shall be collected prior to dechlorination.

5. If chlorine disinfection is not used, *E. coli* shall be limited and monitored by the permittee as specified below and this requirement, if applicable, shall substitute for the TRC requirements delineated elsewhere in Part I of this permit.

	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Monthly Avg.	Weekly Avg.	Frequency	Sample Type
E.coli (N/100ml)	126*	NA	1/Week**	Grab

* Geometric Mean
** Between 10:00 a.m. and 4:00 p.m.

C. Compliance Reporting

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

Effluent Characteristic	Quantification Level
BOD_5	*5.0 mg/l*
Total Suspended Solids	*1.0 mg/l*
Total Residual Chlorine	*0.10 mg/l*

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

2. Reporting

a. Monthly Average - Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in subsection C 1. of this permit condition shall be determined as follows: All concentration data below the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above) shall be treated as zero. All concentration data equal to or above the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above) shall be treated as it is reported. An arithmetic average shall be calculated using all reported data for the month, including the defined zeros. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated. If all data are below the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above), then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the reported monthly average concentration is <QL, then report "<QL" for the quantity. Otherwise use the reported concentration data (including the defined zeros) and flow data for each sample day to determine the daily quantity and report the monthly average of the calculated daily quantities.

b. Weekly Average - Compliance with the weekly average limitations and/or reporting requirements for the parameters listed in subsection C 1. of this permit condition shall be determined as follows: All concentration data below the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above) shall be treated as zero. All concentration data equal to or above the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above) shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each complete calendar week and entirely contained within the reporting month. The maximum value of the weekly averages thus determined shall be reported on the DMR. If all data are below the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above), then the weekly average shall be reported as "<QL". If reporting for quantity is required on the DMR and the reported weekly average concentration is <QL, then report "<QL" for the quantity. Otherwise use the reported concentration data (including the defined zeros) and flow data for each sample day to determine the daily quantity and report the maximum weekly average of the calculated daily quantities.

c. Daily Maximum - Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in subsection C 1. of this permit condition shall be determined as follows: All concentration data below the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above) shall be treated as zero. All concentration data equal to or above the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above) 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 used for the analysis (QL must be less than or equal to the QL listed in 1. above), then the maximum 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.

d. Single Datum - Any single datum required shall be reported as "<QL" if it is less than the QL used for the analysis (QL must be less than or equal to the QL listed in 1. above). Otherwise the numerical value shall be reported.

e. 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 by the permittee (i.e., always rounding up or to the nearest even number), the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

D. Other Requirements or Special Conditions

1. *95% Capacity Reopener* - A written notice and a plan of action for ensuring continued compliance with the terms of this permit shall be submitted to the Southwest Regional Office of the Virginia Department of Environmental Quality, P. O. Box 1688, Abingdon, VA 24212 when the monthly average flow influent to the sewage treatment plant reaches 95 percent of the design capacity authorized in this permit for each month of any three consecutive month period. The written notice shall be submitted within 30 days and the plan of action shall be received at the Southwest Regional Office, P. O. Box 1688, Abingdon, VA 24212 no later than 90 days from the third consecutive month for which the flow reached 95 percent of the design capacity. The plan shall include the necessary steps and a prompt schedule of implementation for controlling any current or reasonably anticipated problem resulting from high influent flows. Failure to submit an adequate plan in a timely manner shall be deemed a violation of this permit.

2. *Indirect Dischargers* - The permittee shall provide adequate notice to the Department of the following:

   a. Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Section 301 or 306 of Clean Water Act and the State Water Control Law if it were directly discharging those pollutants; and
   b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of this permit.

   Adequate notice shall include information on (i) the quality and quantity of effluent introduced into the treatment works, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the treatment works.

3. *O&M Manual Requirement* - The permittee shall review the existing Operations and Maintenance (O & M) Manual and notify the DEQ Regional Office in writing within 90 days of the effective date of this permit 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 Regional Office within 90 days of the effective date of this permit. The permittee will maintain an accurate, approved operation and maintenance 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. The permittee shall operate the treatment works in accordance with the approved O&M Manual. 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 DEQ Regional 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.

4. *Reliability Class* - The permitted treatment works shall meet Reliability Class III.

5. *CTC, CTO Requirement* - The permittee shall, in accordance with the DEQ Sewage Collection and Treatment Regulation (9VAC25-790), obtain a Certificate to Construct (CTC), and a Certificate to Operate (CTO) from the DEQ Office of Wastewater Engineering (for Water Quality Improvement Funded (WQIF) projects) or submitted by the design engineer and owner to the DEQ regional water permit manager (for non WQIF projects) prior to constructing wastewater treatment works and operating the treatment works, respectively. Non-compliance with the CTC or CTO shall be deemed a violation of the permit.

6. *Treatment Works Closure Plan* - If the permittee plans an expansion or upgrade to replace the existing treatment works, or if the facility is permanently closed, the permittee shall submit to the DEQ Regional Office a closure plan for the existing treatment works. The plan shall address the following information as a minimum: Verification of elimination of sources and/or alternate treatment scheme; treatment, removal and final disposition of residual wastewater and solids; removal/demolition/disposal of structures, equipment, piping and appurtenances; site grading, and erosion and sediment control; restoration of site vegetation; access control; fill materials; and proposed land use (post-closure) of the site. The plan should contain proposed dates for beginning and completion of the work. The plan must be approved by the DEQ prior to implementation.

7. *Sludge Use and Disposal* - The permittee shall conduct all sewage sludge use or disposal activities in accordance with the Sludge Management Plan (SMP) approved with the issuance of this permit. Any proposed changes in the sewage sludge use or disposal practices or procedures followed by the permittee shall be documented and submitted for DEQ approval 90 days prior to the effective date of the changes. Upon approval, the revised SMP becomes an enforceable part of the permit. The permit may be modified or alternatively revoked and reissued to incorporate limitations or conditions necessitated by substantive changes in sewage sludge use or disposal practices.

   The Sludge Management Plan is considered to be the VPDES sewage sludge permit application form and attachments; The plan consists of using a licensed contractor to pump the sludge into a truck-mounted watertight tank and hauling it to the Town of Haysi sewage treatment plant (VA0067571) where additional treatment will be provided prior to final disposal.

8. *Sludge Reopener* - The Board may promptly modify or revoke and reissue this permit if any applicable standard for sewage sludge use or disposal promulgated under Section 405(d) of the Clean Water Act is more stringent than any requirements for sludge use or disposal in this permit, or controls a pollutant or practice not limited in this permit.

9. *Public Sewerage Service* - This discharge shall be terminated whenever public sewerage service is made available.

10. *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.

11. *Reduced Monitoring* - If the facility permitted herein is issued a Notice of Violation for any of the parameters listed below, then the following effluent monitoring frequencies shall become effective upon written notice from DEQ and remain in effect until permit expiration.

PARAMETER	MONITORING FREQUENCY
BOD_5	*1/Month*
Total Suspended Solids	*1/Month*
pH	*1/Day*

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.

4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

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
   Southwest Regional Office
   P.O. Box 1688
   Abingdon, VA 24212

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

3. 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.

4. 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 his 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 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 Regional Office at (276) 676-4800 (voice) or (276) 676-4899 (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. Applications. 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: (i) 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 (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where 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: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. 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 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.