

9 VAC 25-630-10. Definitions.

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law 62.1-44.2 et seq. and the VPA Permit Regulation (9 VAC 25-32-10 et seq.) unless the context clearly indicates otherwise, except that for the purposes of this regulation:

"Confined Poultry Feeding Operation" means any confined animal feeding operation with 200 or more animal units of poultry. The equivalent number of chickens is 20,000 and the equivalent number of turkeys is 11,000. These numbers are established regardless of animal age or sex.

"Nutrient Management Plan" means a plan developed or approved by the Department of Conservation and Recreation that requires proper storage, treatment and management of poultry waste, including dry litter, and limits accumulation of excess nutrients in soils and leaching or discharge of nutrients into state waters.

"Permittee" means the poultry grower whose confined poultry feeding operation is covered under the general permit.

"Poultry Grower" means any person who owns or operates a confined poultry feeding operation.

"Poultry Waste" means dry poultry litter and composted dead poultry.

9 VAC 25-630-20. Purpose.

This general permit regulation governs the management of poultry wastes at confined poultry feeding operations having 200 or more animal units. It establishes requirements for proper nutrient management, waste storage, and waste tracking and accounting of poultry waste.

9 VAC 25-630-30. Delegation of Authority.

The Director of the Department of Environmental Quality, or his designee, may perform any act of the Board provided under this regulation, except as limited by Section 62.1-44.14 of the Code of Virginia.

9 VAC 25-630-40. Effective Date of the Permit.

_____ This general permit will become effective on _____ . This
general permit will expire 10 years from the effective date.

9 VAC 25-630-50. Authorization to Manage Pollutants.

_____ A. Any poultry grower governed by this general permit is hereby
authorized to manage pollutants at confined poultry feeding operations
provided that the poultry grower files the registration statement of 9 VAC 25-
630-60, complies with the requirements of 9 VAC 25-630-70, and provided that:

_____ 1. The poultry grower has not been required to obtain an
individual permit according to 9 VAC 25-32-260 B;

_____ 2. The activities of the confined poultry feeding operation
shall not contravene the Water Quality Standards, as amended and adopted by
the Board, or any provision of the State Water Control Law. There shall be no
point source discharge of wastewater except in the case of a storm event
greater than the 25-year, 24-hour storm. Domestic sewage or industrial waste
shall not be managed under this general permit;

_____ 3. Confined poultry feeding operations that use disposal pits
for routine disposal of daily mortalities shall not be covered under this
general permit. The use of a disposal pit by a permittee for routine disposal
of daily poultry mortalities shall be considered a violation of this permit.
This prohibition shall not apply to the emergency disposal of entire flocks of
dead poultry governed by regulations adopted pursuant to § 3.1-726 of the Code
of Virginia;

_____ 4. The Department of Conservation and Recreation must approve a
Nutrient Management Plan for the confined poultry feeding operation prior to
the submittal of the Registration Statement. The poultry grower shall attach
to the Registration Statement a copy of the approved Nutrient Management Plan
and a copy of the letter from the Department of Conservation and Recreation
certifying approval of the Nutrient Management Plan. The poultry grower shall
implement the approved Nutrient Management Plan;

_____ 5. Adjoining Property Notification

a. When a poultry grower files a general permit registration statement for a confined poultry feeding operation that proposes construction of poultry growing houses after [the effective date of this general permit], the poultry grower shall also give notice to all owners or residents of property that adjoins the property on which the proposed confined poultry feeding operation will be located. Such notice shall include: (i) the types and maximum number of poultry which will be maintained at the facility; and (ii) the address and phone number of the appropriate Department regional office to which comments relevant to the permit may be submitted.

 b. Any person may submit written comments on the proposed operation to the Department within thirty days of the date of the filing of the registration statement. If, on the basis of such written comments or his review, the Director determines that the proposed operation will not be capable of complying with the provisions of the general permit, the Director shall require the owner to obtain an individual permit for the operation. Any such determination by the Director shall be made in writing and received by the poultry grower not more than forty-five days after the filing of the registration statement or, if in the Director's sole discretion additional time is necessary to evaluate comments received from the public, not more than sixty days after the filing of the registration statement; and

 6. Each poultry grower covered by this general permit shall complete the training program offered or approved by the Department of Conservation and Recreation within one year after the registration statement has been submitted for general permit coverage. Thereafter, all poultry growers shall complete the training program at least once every three years.

 B. Receipt of this general permit does not relieve any poultry grower of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

9 VAC 25-630-60. Registration Statement.

 A. In order to be covered under the general permit, the poultry

grower shall file a complete VPA General Permit Registration Statement. The registration statement shall contain the following information:

1. The poultry grower's name, mailing address and telephone number;

2. The location of the confined poultry feeding operation;

3. The name and telephone number of a contact person or operator other than the poultry grower, if necessary;

4. The best time of day and day of the week to contact the poultry grower or contact person;

5. Does the facility have an existing VPA permit? If so, give the permit number;

6. Provide the types of poultry and the maximum numbers of each type to be grown at the facility at any one time;

7. Identify the method of dead bird disposal;

8. The poultry grower shall attach to the registration statement a copy of the nutrient management plan approved by the Department of Conservation and Recreation and a copy of the letter certifying approval of the plan; and

9. The following certification: "I certify that notice of the registration statement for any confined poultry feeding operation that proposes construction of poultry growing houses after [the effective date of this general permit] has been given to all owners or residents of property that adjoins the property on which the confined poultry feeding operation will be located. This notice included the types and numbers of poultry which will be grown at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. I certify under penalty of law that all the requirements of the Board for the general permit are being met and 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."

B. The registration statement shall be signed in accordance with 9 VAC 25-32-70.

9 VAC 25-630-70. Contents of the General Permit.

Any poultry grower whose registration statement is accepted by the Board will receive the following general permit and shall comply with the requirements therein and be subject to the VPA Permit Regulation, 9 VAC 25-32-10 et seq.

General Permit No. VPG2

Effective Date:

Expiration Date:

GENERAL PERMIT FOR POULTRY WASTE MANAGEMENT AT CONFINED POULTRY FEEDING OPERATIONS

AUTHORIZATION TO MANAGE POLLUTANTS UNDER THE VIRGINIA POLLUTION ABATEMENT PROGRAM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the State Water Control Law and State Water Control Board regulations adopted pursuant thereto, owners of confined poultry feeding operations having 200 or more animal units are authorized to manage pollutants within the boundaries of the Commonwealth of Virginia, except where Board regulations or policies prohibit such activities.

The authorized pollutant management activities shall be in accordance with the registration statement and supporting documents submitted to the Department of Environmental Quality; and Part I - Pollutant Management and Monitoring Requirements and Part II - Conditions Applicable To All VPA Permits, as set forth herein.

PART I

Pollutant Management and Monitoring Requirements

A. Pollutant Management Authorization and Monitoring Requirements.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to manage pollutants at the location(s) identified in the registration statement and the nutrient management plan.

2. If poultry waste is land applied, it shall be applied at the rates specified in the nutrient management plan.

3. Soil at the land application sites shall be monitored as specified below. Additional soils monitoring may be required in the nutrient management plan.

SOILS MONITORING

<u>PARAMETERS</u>	<u>LIMITATIONS</u>	<u>UNITS</u>	<u>MONITORING REQUIREMENTS</u>	
			<u>Frequency</u>	<u>Sample Type</u>
<u>pH</u>	<u>NL</u>	<u>SU</u>	<u>1/3 years</u>	<u>Composite</u>
<u>Phosphorus</u>	<u>NL</u>	<u>ppm</u>	<u>1/3 years</u>	<u>Composite</u>
<u>Potash</u>	<u>NL</u>	<u>ppm</u>	<u>1/3 years</u>	<u>Composite</u>
<u>Calcium</u>	<u>NL</u>	<u>ppm</u>	<u>1/3 years</u>	<u>Composite</u>
<u>Magnesium</u>	<u>NL</u>	<u>ppm</u>	<u>1/3 years</u>	<u>Composite</u>

Nitrate* NL ppm 1/3 years Composite

NL = No limit, this is a monitoring requirement only.

* The Nitrate test is only required on those sites planted in corn or small grains.

4. Poultry waste shall be monitored as specified below. Additional waste monitoring may be required in the nutrient management plan.

WASTE MONITORING

<u>PARAMETERS</u>	<u>LIMITATIONS</u>	<u>UNITS</u>	<u>MONITORING REQUIREMENTS</u>	
			<u>Frequency</u>	<u>Sample Type</u>
<u>Total Kjeldahl Nitrogen</u>	<u>NL</u>	<u>ppm</u>	<u>1/year</u>	<u>Composite</u>
<u>Ammonia Nitrogen</u>	<u>NL</u>	<u>ppm</u>	<u>1/year</u>	<u>Composite</u>
<u>Total Phosphorus</u>	<u>NL</u>	<u>ppm</u>	<u>1/year</u>	<u>Composite</u>
<u>Total Potassium</u>	<u>NL</u>	<u>ppm</u>	<u>1/year</u>	<u>Composite</u>
<u>Moisture Content</u>	<u>NL</u>	<u>%</u>	<u>1/year</u>	<u>Composite</u>

NL = No limit, this is a monitoring requirement only.

Part I A (cont'd)

5. Analysis of soil and waste shall be according to methods specified in Reference Soil Test Methods for the Southern Region of the United States, Southern Cooperative Series Bulletin 289 (1983); or Reference Soil and Media Diagnostic Procedures for the Southern Region of the United States, Southern Cooperative Series Bulletin 374 (1992); or Laboratory Procedures, Virginia Tech Soil Testing and Plant Analysis Laboratory, Virginia Cooperative Extension, Publication 452-881 (1996).

6. All monitoring data required by Part I.A. shall be maintained on site in accordance with Part II B. Reporting of results to the Department is not required, however, the monitoring results shall be made available to Department personnel upon request.

B. Other Requirements or Special Conditions.

1. The confined poultry feeding operation shall be designed and operated to (i) prevent point source discharges of pollutants to state waters except in the case of a storm event greater than the 25-year, 24-hour storm and (ii) provide adequate waste storage capacity to accommodate periods when the ground is frozen or saturated, periods when land application of nutrients should not occur due to limited or non-existent crop nutrient uptake, and periods when physical limitations prohibit the land application of waste.

2. Poultry waste shall be stored according to the nutrient management plan and in a manner that prevents contact with surface water and ground water. Poultry waste storage facilities constructed after [the effective date of this general permit] shall not be located on a 100-year floodplain. Adequate storage shall be provided for any poultry waste that is stored at any location outside of the growing house for more than 14 days. Adequate storage shall, at a minimum, include the following:

a. Poultry waste shall be covered to protect it from precipitation and wind;

b. Poultry waste storage facilities shall prevent storm water from running onto or under the stored poultry waste; and

c. A minimum of 3 feet separation distance to the seasonal high water table or use of an impermeable barrier to prevent capillary movement of soil water into stored poultry waste. Seasonal high water table means that portion of the soil profile where a color change has occurred in the soil as a result of saturated soil conditions or where soil concretions have formed. Typical colors are gray mottlings, solid gray or black. The depth in the soil at which these conditions first occur is termed the seasonal high water table. Impermeable barriers must have a permeability equal to or greater than a synthetic liner of at least 20 mils thickness or compacted clay with a permeability rating of 0.0014 inches per hour.

3. When a poultry grower sells or gives away to another person more than 10 tons of poultry waste in any 365-day period, the poultry grower shall provide that person a copy of the most recent nutrient analysis for the poultry waste. The poultry grower shall also provide the person buying or taking the poultry waste a fact sheet approved by the Department that includes appropriate practices for proper storage and management of the waste. The person receiving the waste shall certify in writing that he agrees to utilize and manage the waste according to the recommendations in the fact sheet. If the person receiving the waste is not the end user, then he shall also certify in writing that he will provide a copy of the nutrient analysis and fact sheet to each end user to whom he sells or gives away poultry waste.

4. When a poultry grower sells or gives away to another person more than 10 tons of poultry waste in any 365-day period, the poultry grower shall keep a record of the name and address of the person who received the poultry waste, the amount of poultry waste received by the person, the date of the transaction and the signed waste utilization certification. These records shall be maintained on site for three years after the transaction and shall be made available to Department personnel upon request.

5. Confined poultry feeding operations that use disposal pits

for routine disposal of daily mortalities shall not be covered under this general permit. The use of a disposal pit for routine disposal of daily poultry mortalities by a permittee shall be considered a violation of this permit. This prohibition does not apply to the emergency disposal of entire flocks of dead poultry governed by regulations adopted pursuant to § 3.1-726 of the Code of Virginia.

6. The "Nutrient Management Plan" (NMP) approved by the Department of Conservation and Recreation (DCR) shall be maintained on site. The NMP shall be implemented and is enforceable through this permit. The NMP shall contain at a minimum the following information:

a. Site map indicating the location of the waste storage facilities and the fields where waste will be applied by the poultry grower;

b. Site evaluation and assessment of soil types and potential productivities;

c. Nutrient management sampling including soil and waste monitoring;

d. Storage and land area requirements for the grower's poultry waste management activities;

e. Calculation of waste application rates; and

f. Waste application schedules.

7. When the poultry waste storage facility is no longer needed, the permittee shall close it in a manner that: (i) minimizes the need for further maintenance; and (ii) controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water or the atmosphere. At closure, the permittee shall remove all poultry waste residue from the waste storage facility. Removed waste materials shall be utilized according to the nutrient management plan.

8. Nitrogen application rates contained in the NMP shall not exceed crop nutrient needs as determined by the Department of Conservation and

Recreation. The application of poultry waste shall be managed to minimize runoff, leachate, and volatilization losses, and reduce adverse water quality impacts from nitrogen.

9. For all NMPs developed after October 1, 2001, phosphorus application rates shall not exceed the greater of crop nutrient needs or crop nutrient removal as determined by the Department of Conservation and

Recreation. For all NMPs developed after December 31, 2005, phosphorus application rates shall be in accordance with the Department of Conservation and Recreation's regulatory criteria and standards in effect at the time the NMP is written. The application of poultry waste shall be managed to minimize runoff and leaching and reduce adverse water quality impacts from phosphorous.

10. Land application of poultry waste shall not be undertaken when soil is saturated, frozen, or covered with snow; or when no actively growing crop is either in place or will be planted within 30 days using sound agronomic practices.

11. Buffer zones at waste application sites shall, at a minimum, be maintained as follows:

a. Distance from occupied dwellings not on the permittee's property: 200 feet (unless the occupant of the dwelling signs a waiver of the buffer zone);

b. Distance from water supply wells or springs: 100 feet;

c. Distance from surface water courses: 50 feet (for surface application) or 25 feet (if by subsurface injection);

d. Distance from rock outcropping (except limestone): 25 feet;

e. Distance from limestone outcroppings: 50 feet; and

f. Waste shall not be applied in such a manner that it would discharge to sinkholes that may exist in the area.

12. Records shall be maintained to demonstrate where and at what rate waste has been applied, that the application schedule has been followed,

and what crops have been planted. These records shall be maintained on site for a period of three years after recorded application is made and shall be made available to Department personnel upon request.

13. Each poultry grower covered by this general permit shall complete the training program offered or approved by the Department of Conservation and Recreation within one year after the registration statement has been submitted for general permit coverage. Thereafter, all poultry growers shall complete the training program at least once every three years.

Part II

CONDITIONS APPLICABLE TO ALL VPA 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 listed under Title 40 Code of Federal Regulations Part 136, 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 name of the individual(s) who performed the sampling or measurements;

c. The date(s) and time(s) analyses were performed;

d. The name of the individual(s) who performed the analyses;

e. The analytical techniques or methods used, with supporting information such as observations, readings, calculations and bench data; and

- f. The results of such analyses.
2. 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 may be extended by request of the Board at any time.

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 the monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the Department's Region Office.
2. Monitoring results shall be reported on forms provided or specified by the Department.
3. If the permittee monitors the pollutant management activity, at a sampling location specified in this permit, for any pollutant more frequently than required by the permit using approved analytical methods, the permittee shall report the results of this monitoring on the monitoring report.
4. If the permittee monitors the pollutant management activity, at a sampling location specified in this permit, for any pollutant that is not required to be monitored by the permit, and uses approved analytical methods, the permittee shall report the results with the monitoring report.
5. 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, terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to

the Department, upon request, copies of records required to be kept by the permittee. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as requested by the Board prior to commencing construction.

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 H 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 F, G and H may be made to the Department's Regional Office. 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 design or operation of the pollutant management activity.

2. The permittee shall give at least 10 days 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 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: (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. (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. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with the State Water Control Law.

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 be responsible for the proper operation and maintenance of all treatment works, systems and controls which are installed or used to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures.

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 pollutant management activity 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. Prohibition - Bypass means intentional diversion of waste streams from any portion of a treatment works. A bypass of the treatment works is prohibited except as provided herein.

2. Anticipated Bypass - If the permittee knows in advance of the need for a bypass, he shall notify the Department promptly at least 10 days prior to the bypass. After considering its adverse effects the Board may approve an anticipated bypass if:

a. The bypass will be unavoidable to prevent loss of human life, personal injury, or severe property damage ("Severe Property Damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production); and

b. There are no feasible alternatives to bypass such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. However, if bypass occurs during normal periods of equipment downtime or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.

3. Unplanned Bypass - If an unplanned bypass occurs, the permittee shall notify the Department as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This

notification will be a condition for defense to an enforcement action that an unplanned bypass met the conditions in paragraphs U 2 a and b and in light of the information reasonably available to the permittee at the time of the bypass.

V. Upset.

A permittee may claim an upset as an affirmative defense to an action brought for noncompliance. In any enforcement proceedings a permittee shall have the burden of proof to establish the occurrence of any upset. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:

1. That an upset occurred and that the cause can be identified;
2. That the permitted facility was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;
3. That the 24-hour reporting requirements to the Department were met; and
4. That the permittee took all reasonable steps to minimize or correct any adverse impact on state waters resulting from noncompliance with the permit.

W. Inspection and Entry.

Upon presentation of credentials, any duly authorized agent of the Board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private and have access to records required by this permit;
2. Have access to, inspect and copy any records that must be kept as part of permit conditions;
3. Inspect any facility's equipment (including monitoring and control equipment) practices or operations regulated or required under the permit; and
4. Sample or monitor any substances or parameters at any locations for the purpose of assuring permit compliance or as otherwise authorized by the State Water Control Law.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is involved in managing pollutants. 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 upon the request of the permittee or interested persons, or upon the Board's initiative. If a permittee files a request for a permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the permit terms and conditions shall remain effective until the request is acted upon by the Board. This provision shall not be used to extend the expiration date of the effective VPA permit.

Y. Transfer of Permits.

1. Permits are not transferable to any person except after notice to the Department. The Board may require modification or revocation and reissuance of the permit to change the name of the permittee and to incorporate such other requirements as may be necessary. 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 to reflect the transfer or has been revoked and reissued to the new owner or operator.

2. As an alternative to transfers under Part II Y 1, this permit shall 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, within the 30-day time period, notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit.

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.