



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

June 28, 2024

VIA ELECTRONIC MAIL

Chaney Materials, LLC
ATTN: Victor Vilece
2410 Evergreen Rd. Ste. 201
Gambrills, MD 21054
vvilece@chaneyenterprises.com

Subject: Coverage under the General VPDES Permit for Nonmetallic Mineral Mining Facilities,
Registration Number VAG840234
Chaney Enterprises - Moss Neck Sand and Gravel, 18467 Moss Neck Manor Rd, Fredericksburg, VA

Dear Permittee:

DEQ staff have reviewed your Registration Statement received on May 1, 2024, and have determined that activities of the nonmetallic mineral mining facility identified in the Registration Statement are hereby covered under the referenced general VPDES permit. Your coverage under this general permit becomes effective on July 1, 2024. The attached copy of the general permit contains the applicable effluent limitations, monitoring requirements and other conditions of coverage.

A Discharge Monitoring Report (DMR) for your process wastewater and stormwater associated with an industrial activity (Outfall 002 and 003) are available electronically through the myDEQ Portal <https://www.deq.virginia.gov/get-involved/mydeq-portal>. Each DMR specifies the applicable effluent limitations, monitoring requirements and monitoring frequency (i.e., quarterly or yearly) contained in the permit for the type of discharge (process (which may be commingled with stormwater) or stormwater. For quarterly monitoring, the DMR[s] should be submitted by the tenth of January, April, July and October. For yearly stormwater monitoring, the DMR[s] should be submitted by the tenth of January. Instructions and instructional videos for submitting DMRs electronically are available on the myDEQ Portal website. For further assistance with the eDMR system, please contact Marisol Villamonte at Marisol.Villamonte@deq.virginia.gov or 571-866-6486.

This general permit constitutes coverage of your stormwater discharges as required by the stormwater regulations for your industry Part II of the general permit requires that you review and modify, as appropriate, your existing Stormwater Pollution Prevention Plan to ensure that you are meeting the requirements of the general permit as expeditiously as practicable, but not later than 60 days from the date of coverage under the general permit. The existing plan should continue to be implemented until a new plan, if required, is developed and implemented.

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 of the Virginia Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period.

The general permit will expire on June 30, 2029. The conditions of the permit require that you submit a new registration statement at least 60 days prior to that date if you wish continued coverage under the general permit, unless permission is granted to submit a new registration statement on a later date.

Please contact Cathy Nicely at 571-866-6094 or Catherine.Nicely@deq.virginia.gov if you have any questions.

Respectfully,

Sarah K. Sivers
Water Permits and Planning Manager
Direct: 571-408-3157
Sarah.Sivers@deq.virginia.gov

Virginia Department of Environmental Quality
Northern Regional Office
13901 Crown Court, Woodbridge, VA 22193
Office: 703-583-3800

Attachments: Permit VAG840234

cc: Kyle Murray, Land GM (kmurray@chaneyenterprises.com)
Kathleen Love, Weighmaster (klove@chaneyenterprises.com)



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

General Permit No.: VAG840234

Effective date: July 1, 2024

Expiration date: June 30, 2029

GENERAL PERMIT FOR NONMETALLIC MINERAL MINING

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 to it, owners of nonmetallic mineral mines are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations that prohibit such discharges.

The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I - Effluent Limitations, Monitoring Requirements, and Special Conditions, Part II - Stormwater Management, and Part III - Conditions Applicable to All VPDES Permits, as set forth in this permit.

Part I

Effluent Limitations, Monitoring Requirements, and Special Conditions

A. Effluent limitations 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 discharge process wastewater and commingled stormwater associated with industrial activity from outfalls.

Such discharges shall be limited and monitored by the permittee as specified in the following table (Table 1):

Table 1

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency ⁽¹⁾	Sample Type
Flow (MGD)	NL	NA	NL	1/3 Months	Estimate
Total Suspended Solids (mg/l) ⁽²⁾	30	NA	60	1/3 Months	Grab
pH (standard units) ⁽³⁾	NA	6.0	9.0	1/3 Months	Grab

NL = No Limitation, monitoring required
 NA = Not Applicable

⁽¹⁾1/3 Months equals the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December. Discharge Monitoring Reports (DMRs) of quarterly monitoring shall be submitted to the department's applicable regional office no later than the 10th day of April, July, October, and January.

⁽²⁾See Special Condition 18 with regard to conditions applicable to emergency dewatering.

⁽³⁾Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, the most stringent limits (technology-based or water quality based) shall be the minimum and maximum pH effluent limits.

2. During the period beginning with the permittee's coverage under the general permit and lasting until the permit's expiration date, the permittee is authorized to discharge stormwater associated with industrial activity that does not combine with other process wastewaters prior to discharge from outfalls.

a. Such discharges shall be monitored by the permittee as specified in the following table (Table 2) :

Table 2

EFFLUENT CHARACTERISTICS	EVALUATION VALUE MONITORING			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency ⁽¹⁾	Sample Type
Flow (MG)	NA	NA	NL	1/Year	Estimate ⁽²⁾
Total Suspended Solids (mg/l)	NA	NA	100 ⁽³⁾	1/Year	Grab
pH (standard units)	NA	NL	NL	1/Year	Grab

NL = No Limitation, monitoring required

NA = Not applicable

⁽¹⁾Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the department's applicable regional office no later than the 10th day of January.

⁽²⁾ Estimate of the total volume of the discharge during the storm event.

⁽³⁾ Permittees shall review the results of the TSS monitoring required by Part I A 2 a to determine if changes to the Stormwater Pollution Prevention Plan (SWPPP) may be necessary. If the total suspended solids (TSS) monitoring results are greater than the evaluation value indicated in Table 2 then the permittee shall perform a routine facility inspection within five days of becoming aware of the exceedance and maintain documentation as described in Part II H 3 d for that outfall. Any deficiencies noted during the inspection shall be corrected within 60 days of being identified.

b. The permittee shall conduct calendar quarterly visual monitoring of stormwater discharges associated with the industrial activity. The monitoring shall include examination of stormwater samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. Samples will be in a clean, colorless glass or plastic container and examined in a well-lit area. Documentation of visual monitoring of stormwater shall be maintained onsite in the SWPPP and include the examination date and time, examination personnel, outfall location, the nature of the discharge (i.e., runoff or snowmelt), visual quality of the stormwater discharge and probable sources of any observed stormwater contamination. Part II A regarding monitoring instructions, Part II B regarding representative outfalls, and Part II C regarding sampling waivers shall apply to the taking of samples for visual monitoring except that the documentation required by these sections shall be retained with the SWPPP rather than submitted to the department. Calendar quarters equal the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December.

B. Special conditions.

1. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to prevent the potential or actual point source pollution of the surface or groundwaters of the state. Fuels, lubricants, coolants, and hydraulic fluids, or any other

petroleum products shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or groundwaters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up and disposed of in a manner so as not to allow their entry into the surface or groundwaters of the state.

2. No sewage shall be discharged from this mineral mining activity except under the provisions of another VPDES permit specifically issued for that purpose.

3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement, unless prior approval of the chemical is granted by the department.

4. The permittee shall submit a new registration statement if the mining permit approved by the Division of Mineral Mining (or associated waived program, or bordering state mine authority) is modified or reissued in any way that would affect the outfall location or the characteristics of a discharge covered by this general permit. Government owned and operated mines without mining permits shall submit the registration statement whenever outfall location or characteristics are altered. The new registration statement shall be filed within 30 days of the outfall relocation or change in the characteristics of the discharge.

5. 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 that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter (100 µg/l) of the toxic pollutant;

(2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

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

(4) The level established by the department.

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

(1) Five hundred micrograms per liter (500 µg/l) of the toxic pollutant;

(2) One milligram per liter (1 mg/l) for antimony;

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

(4) The level established by the department in accordance with 9VAC25-31-220 F.

6. Any and all product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product, or wastes shall be handled, disposed of, or stored in such a manner and consistent with best management practices, so as not to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters, except as expressly authorized.

7. There shall be no discharge of process wastewater pollutants from colocated asphalt paving materials operations. For the purposes of this special condition, process wastewater pollutants are any pollutants present in water used in asphalt paving materials manufacturing that come into direct contact with any raw materials, intermediate product, by-product, or product related to the asphalt paving materials manufacturing process.

8. Process wastewater may be used on site for the purpose of dust suppression. Dust suppression shall be carried out as a best management practice but not as a process wastewater disposal method

provided that ponding or direct runoff from the site does not occur during or immediately following its application. Dust suppression shall not occur during a storm event that results in an actual discharge from the site.

9. Process wastewater from mine dewatering may be provided to local property owners for beneficial agricultural use.

10. There shall be no:

- a. Discharge of floating solids or visible foam in other than trace amounts from process wastewater discharges;
- b. Solids deposition to surface water as a result of a discharge associated with industrial activity; or
- c. Oil sheen resulting from petroleum products discharged to surface water as a result of the industrial activity.

11. The permittee shall report at least two significant digits for a given parameter. Regardless of the rounding convention used (i.e., five 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.

12. Discharges to waters with an approved total maximum daily load (TMDL). Owners of facilities that are a source of the specified pollutant of concern to waters where a TMDL has been approved prior to the term of this permit shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. If the TMDL establishes a numeric wasteload allocation that applies to discharges from the facility, the owner shall perform any required monitoring for the pollutant of concern in accordance with the monitoring frequencies in Part I A and implement measures necessary to meet that allocation. At permit reissuance, the permittee shall submit a demonstration with the registration statement to show the wasteload allocation is being met.

13. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.

14. Inactive and unstaffed facilities (including temporarily inactive and unstaffed facilities).

a. A waiver of the process and stormwater monitoring and routine inspections may be exercised by the department at a facility that is both inactive and unstaffed as long as the facility remains inactive and unstaffed. Such a facility is required to conduct a site inspection in accordance with the requirements in Part II H 3 d. No DMR reports will be required to be submitted when a facility is approved as inactive and unstaffed.

b. An inactive and unstaffed sites waiver request shall be submitted to the department for approval and shall include the name of the facility; the facility's VPDES general permit registration number; a contact person, telephone number, and email address (if available); the reason for the request; and the date the facility became or will become inactive and unstaffed. The waiver request shall be signed and certified in accordance with Part III K. If this waiver is granted, a copy of the request and the department's written approval of the waiver shall be maintained with the SWPPP.

c. To reactivate the site the permittee shall notify the department within 30 days or an alternate timeframe if written approval is received in advance from the department, and all process and stormwater monitoring and routine inspections shall be resumed immediately. This notification must be submitted to the department, signed in accordance with Part III K, and retained on site at the facility covered by this permit in accordance with Part III B.

- d. The department retains the authority to revoke this waiver when it is determined that the discharge causes, has a reasonable potential to cause, or contributes to a water quality standards violation.
15. Process wastewater systems designed to operate as "no discharge" shall have no discharge of process wastewater or pollutants, except in storm events greater than a 25-year, 24-hour storm event. In the event of such a discharge, the permittee shall report an unusual or extraordinary discharge per Part III H of this permit. No sampling or DMR is required for these discharges as they are considered to be discharging in emergency discharge conditions. These discharges shall not contravene the Water Quality Standards (9VAC25-260) or any provision of the State Water Control Law. Any other discharge from this type of system is prohibited, and shall be reported as an unauthorized discharge per Part III G of this permit.
16. Best management practices for blasting. The permittee shall utilize best management practices to ensure that contaminants do not enter surface water as a result of blasting at the site.
17. Notice of termination.
- a. The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:
- (1) Operations have ceased at the facility and there are no longer discharges of process wastewater or stormwater associated with the industrial activity;
 - (2) A new owner has assumed responsibility for the facility. A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted;
 - (3) All discharges associated with this facility have been covered by a VPDES individual permit or an alternative VPDES permit; or
 - (4) Termination of coverage is being requested for another reason, provided the department agrees that coverage under this general permit is no longer needed.
- b. The notice of termination shall contain the following information:
- (1) Owner's name, mailing address, telephone number, and email address (if available);
 - (2) Facility name and location;
 - (3) VPDES general permit registration number for the facility; and
 - (4) The basis for submitting the notice of termination, including:
 - (a) A statement indicating that a new owner has assumed responsibility for the facility;
 - (b) A statement indicating that operations have ceased at the facility, and there are no longer discharges from the facility;
 - (c) A statement indicating that all discharges have been covered by a VPDES individual permit; or
 - (d) A statement indicating that termination of coverage is being requested for another reason (state the reason).
- c. The following certification:
- "I certify under penalty of law that all process wastewater and stormwater discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge nonmetallic mineral mining process wastewater or stormwater in accordance with the general permit, and that discharging pollutants to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this

notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

d. The notice of termination shall be submitted to the department's applicable regional office serving the area where the facility discharge is located and signed in accordance with Part III K.

18. Discharge requirements for emergency dewatering during flooded conditions. For covered facilities except for those in SIC 1475, the monthly average and daily maximum discharge limitations for Total Suspended Solids (TSS) in Part I A 1 Table 1 do not apply to mine pit dewatering discharges resulting from a storm equal to or greater than a 10-year, 24-hour storm event that has caused flood conditions within the mine such that normal operation at the active portion of the mine cannot continue. Rather, the TSS levels in such dewatering discharges shall not exceed a daily maximum of 100 mg/l during emergency dewatering. The operator must conduct such dewatering by pumping from the surface of the flooded area through a filtered mechanism to minimize the discharge of solids. The operator shall notify DEQ of such flooded conditions as an unusual or extraordinary discharge as described in Part III H of the permit. The emergency dewatering TSS limitation remains in effect until operation at the active portion of the mine resumes or the emergency dewatering activity has ceased, whichever occurs first. In no case shall the emergency dewatering TSS limit be applicable for more than 30 days from the beginning of the relevant 10-year, 24-hour storm event, unless otherwise approved by DEQ. The permittee shall take actions to maximize the settling of stormwater prior to and during dewatering. Cationic settling agents shall not be used during dewatering without prior DEQ approval of a demonstration that the use will not result in aquatic toxicity. During emergency dewatering, the permittee shall monitor for TSS daily and notify DEQ of any exceedances. Dewatering discharges shall not contravene the Water Quality Standards (9VAC25-260) or any provision of the State Water Control Law.

Part II

Stormwater Management

A. Monitoring instructions.

1. Collection and analysis of samples. Sampling requirements shall be assessed on an outfall-by-outfall basis. Samples shall be collected and analyzed in accordance with the requirements of Part III A.

2. When and how to sample.

a. In the case of snowmelt or a discharge from a stormwater management structure, a representative sample shall be taken at the time the discharge occurs.

b. For all other types of stormwater discharges, a minimum of one grab sample shall be taken resulting from a storm event that results in a discharge from the site, providing the interval from the preceding storm event discharge is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document with the discharge monitoring report (DMR) that less than a 72-hour interval is representative for local storm events during the sampling period. The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of discharge provided that the permittee explains with the DMR why a grab sample during the first 30 minutes was impracticable and maintains that documentation with the SWPPP.

B. Representative outfalls. If a facility has two or more exclusively stormwater outfalls that discharge substantially identical effluents, based on similarity of industrial activity, significant materials, frequency of discharges, and management practices and activities within the area drained by the outfalls, then the permittee may monitor the effluent stormwater of just one of the outfalls and report that the observations also apply to the substantially identical outfall. The permittee shall document representative outfalls in the SWPPP. The representative outfall monitoring provisions apply to Part I A 2 a monitoring and quarterly visual monitoring.

The permittee must include the following information in the SWPPP:

1. The locations of the outfalls; and
2. An evaluation, including available monitoring data, indicating why the outfalls are expected to discharge substantially identical effluents.

C. Sampling waivers. When a permittee is unable to conduct quarterly stormwater monitoring required under Part I A 2 b within the specified sampling period due to no storm event discharge or adverse weather conditions, documentation shall be submitted explaining the permittee's inability to conduct the stormwater monitoring. The documentation must include the dates and times that the outfalls were viewed and sampling was attempted. 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, or electrical storms). Acceptable documentation includes National Climatic Data Center weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data. All documentation shall also be maintained with the SWPPP. This waiver is not applicable to annual monitoring required under Part I A 2 a.

D. Stormwater Pollution Prevention Plan (SWPPP) . An SWPPP shall be developed and implemented for the facility. The plan shall include best management practices (BMPs) that are reasonable, economically practicable, and appropriate considering current industry practices. The BMPs shall be selected, designed, installed, implemented, and maintained in accordance with good engineering practices to eliminate or reduce the pollutants in all stormwater discharges from the facility. The SWPPP shall also include all control measures necessary for the stormwater discharges to meet applicable water quality standards.

The SWPPP requirements of this general permit may be fulfilled, in part, by incorporating by reference other plans or documents, such as an erosion and sediment control plan, a mine drainage plan as required by the Virginia Department of Energy's Division of Mineral Mining, a Spill Prevention Control and Countermeasure (SPCC) Plan developed for the facility under § 311 of the federal Clean Water Act, or BMP programs otherwise required for the facility provided that the incorporated plan meets or exceeds the SWPPP requirements of Part II H (contents of SWPPP). All plans incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of Part II H, the permittee must develop the missing SWPPP elements and include them in the required SWPPP.

E. Deadlines for SWPPP preparation and compliance.

1. Owners of existing facilities that are continuing coverage under this general permit shall update and implement any revisions to the SWPPP within 60 days of the department granting coverage under this permit.
2. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit that elect to be covered under this general permit shall prepare and implement the SWPPP prior to submitting the registration statement.
3. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall update and implement any revisions to the SWPPP within 60 days of ownership change.
4. Upon a showing of good cause, the director may establish a later date in writing for the preparation and compliance with the SWPPP.

F. Signature and SWPPP review.

1. The SWPPP shall be signed in accordance with Part III K (signatory requirements), and be retained on site at the facility covered by this permit in accordance with Part III B (records) of this permit. When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office to the facility location .
2. The permittee shall make the SWPPP, routine inspection documentation, or other information available to the department upon request.
3. The director or an authorized representative may notify the permittee at any time that the SWPPP, BMPs, or other components of the facility's stormwater program do not meet one or more of the requirements of this part. Such 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. Within 60 days of such notification from the director, or as otherwise provided by the director or an authorized representative, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

G. Maintaining an updated SWPPP. The permittee shall review and amend the SWPPP as appropriate whenever:

1. There is construction or a change in design, operation, or maintenance that has a significant effect on the discharge or the potential for the discharge of pollutants to surface waters;
2. Routine inspections determine that there are deficiencies in the BMPs;
3. Inspections by local, state, or federal officials determine or any other process, observation, or event results in a determination that modifications to the SWPPP are necessary;
4. There is a spill, leak, or other release at the facility;
5. There is an unauthorized discharge from the facility; or

6. The department notifies the permittee that a TMDL has been developed and applies to the permitted facility.

SWPPP modifications shall be made within 60 calendar days after discovery, observation, or an event requiring an SWPPP modification. Implementation of new or modified BMPs distinct from regular preventive maintenance of existing BMPs described in Part II H 3 b (preventative maintenance) 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.

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 III G of this permit.

H. Contents of SWPPP. The SWPPP shall include, at a minimum, the following items:

1. Pollution prevention team. Each plan shall identify the staff individuals by name or title who comprise the facility's stormwater pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, revising, and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.

2. Summary of potential pollutant sources. The SWPPP shall identify where industrial materials or activities at the facility are exposed to stormwater. The description shall include:

a. Site map. The site map shall document:

(1) An outline of the drainage area of each stormwater outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in stormwater run-off, surface water bodies, locations where materials are exposed to precipitation, locations where major spills or leaks identified under Part II H 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle or equipment degreasing, cleaning areas, loading or unloading, locations used for the treatment, storage or disposal of wastes and wastewaters, liquid storage tanks, processing areas, and storage areas. The map must indicate all outfall locations. The types of discharges contained in the drainage areas of the outfalls must be indicated either on the map or in an attached narrative.

(2) For each area of the facility that generates stormwater discharges associated with industrial activity, locations of stormwater conveyances, including ditches, pipes, swales, and inlets, and the directions of stormwater flow and an identification of the types of pollutants that are likely to be present in stormwater discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced, or discharged; the likelihood of contact with stormwater; and history of significant spills or leaks of toxic or hazardous pollutants. Flows with a potential for causing erosion shall be identified.

b. Inventory of exposed materials. A list of the industrial materials or activities, including material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, by-products, final products, and waste products. Material handling activities include the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product, or waste product.

c. Spills and leaks. A list of significant spills and leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a stormwater conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

- d. Sampling data. A summary of existing stormwater sampling data taken at the facility. The summary shall include, at a minimum, any data collected during the previous three years.
3. Stormwater controls. Control measures shall be implemented for all areas identified in Part II H 2 b (inventory of exposed materials) 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. The BMPs shall also address the following minimum components, including a schedule for implementing such controls:
- a. Good housekeeping. Good housekeeping requires the clean and orderly maintenance of areas that have the potential to contribute pollutants to stormwater discharges. The SWPPP shall describe procedures performed to minimize contact of materials with stormwater runoff. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, vehicle fueling and maintenance areas, loading or unloading areas, and vehicle entrance and exits. The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants in stormwater. The permittee shall sweep or vacuum paved surfaces of the site that are exposed to stormwater at regular intervals or use other equivalent measures to minimize the potential discharge of these materials in stormwater. Indicate in the SWPPP the frequency of sweeping, vacuuming, or other equivalent measures.
 - b. Preventive maintenance. A preventive maintenance program shall involve 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. All BMPs identified in the SWPPP shall be maintained in effective operating condition. The SWPPP shall include a description of procedures and a regular schedule for preventive maintenance and observation of all BMPs and shall include a description of the back-up practices that are in place should a run-off event occur while a BMP is off line or not operating effectively. The effectiveness of nonstructural BMPs shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained). If site inspections required by Part II H 3 d (routine facility inspections) 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. Documentation shall be kept with the SWPPP of maintenance and repairs of BMPs, including the dates of regular maintenance, dates of discovery of areas in need of repair or replacement, dates for repairs, dates that the BMPs returned to full function, and the justification for an extended maintenance or repair schedules. The maintenance program shall require periodic removal of debris from discharge diversions and conveyance systems. Permittees using settling basins to control their effluents must provide maintenance schedules for such basins in the SWPPP.
 - c. Spill prevention and response procedures. The SWPPP shall describe the procedures that will be followed for preventing and responding to spills and leaks, including barriers between material storage and traffic areas, secondary containment provisions, procedures for material storage and handling, response procedures for 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 trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the pollution prevention team. 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.

d. Routine facility inspections.

(1) Personnel who are familiar with the mining activity, the best management practices, and the SWPPP shall be identified to conduct routine facility inspections. Such inspections must include all areas where industrial materials or activities are exposed to stormwater as identified in Part II H 2 b (inventory of exposed materials), including material storage and handling areas, areas where aggregate is stockpiled outdoors, liquid storage tanks, hoppers or silos, material handling vehicles, equipment, and processing areas; off-site tracking of industrial or waste materials or sediment where vehicles enter or exit the site; vehicle and equipment maintenance areas and cleaning and fueling areas; best management practices; and discharge points.

(2) The inspection frequency shall be specified in the SWPPP based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly. Inspections of best management practices shall include inspection of stormwater discharge diversions, conveyance systems, sediment control and collection systems, containment structures, vegetation, serrated slopes, and benched slopes to determine their adequacy and effectiveness, the integrity of control structures, if soil erosion has occurred, or if there is evidence of actual or potential discharge of contaminated stormwater.

(3) Site inspection and best management practices inspection results must be documented and maintained on-site with the SWPPP.

(4) A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Such actions must include updating pollution sources, updating pollution prevention measures and controls, and updating the SWPPP as appropriate based on information developed during the inspections.

(5) The requirement for routine facility inspections is waived for facilities that have maintained an active Virginia Environmental Excellence Program (VEEP) E3 (Exemplary Environmental Enterprise) or E4 (Extraordinary Environmental Enterprise) status .

e. Employee training. Employee training shall be conducted at least annually at active mining sites and at those temporarily inactive sites that are staffed. Employee training programs shall inform personnel responsible for implementing activities identified in the SWPPP or otherwise responsible for stormwater management at all levels of responsibility of the components and goals of the stormwater pollution prevention plan. Training should address topics such as spill response, good housekeeping, and material management practices. All employee training shall be documented in the SWPPP.

f. Recordkeeping and internal reporting procedures. A description of incidents, such as spills or other discharges along with other information describing the quality and quantity of stormwater discharges, shall be included in the SWPPP required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the SWPPP. Ineffective best management practices must be recorded and the date of their corrective action noted in the SWPPP.

g. Sediment and erosion control. The plan shall identify areas 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, or stabilization BMPs to prevent or control on-site and off-site erosion and sedimentation.

h. Management of runoff. The SWPPP 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. Appropriate measures may include: vegetative swales and practices, reuse of collected

stormwater (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention or retention devices.

I. Authorized nonstormwater discharges. The following nonstormwater discharges are authorized by this permit:

1. Discharges from emergency firefighting activities or firefighting training activities managed in a manner to avoid an instream impact in accordance with § 9.1-207.1 of the Code of Virginia;
2. Fire hydrant flushing, managed in a manner to avoid an instream impact;
3. Potable water, including water line flushing, managed in a manner to avoid instream impact;
4. Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
5. Irrigation drainage;
6. Landscape watering, provided all pesticides, herbicides, and fertilizers have been applied in accordance with approved labeling;
7. Routine external building washdown that does not use detergents or hazardous cleaning products and is managed in a manner to avoid an instream impact;
8. Pavement wash waters where no detergents or hazardous cleaning products are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed). Pavement wash waters shall be managed in a manner to avoid instream impacts;
9. Uncontaminated groundwater or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials; and
11. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

Part III
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 40 CFR 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 ensure 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 individuals who performed the sampling or measurements;
 - c. The dates and times analyses were performed;
 - d. The individuals who performed the analyses;
 - e. The analytical techniques or methods used; 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 registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report, or request for coverage. 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 department.

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 the department's regional office.
2. Monitoring results shall be reported on a discharge monitoring report (DMR) or on forms provided, approved or specified by the department. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least a three-month notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR 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 that 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 that the department may request to determine whether cause exists for terminating coverage under this permit or to determine compliance with this permit. The department 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 its 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 department, 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, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee that 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 III F (unauthorized discharges) or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III 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 (see Part III I 3), in no case later than 24 hours, the department after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects 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 III I 2. Unusual and extraordinary discharges include 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.

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

a. 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 that shall be reported within 24 hours under this subdivision:

- (1) Any unanticipated bypass; and
- (2) Any upset that causes a discharge to surface waters.

b. A written report shall be submitted within five days and shall contain:

- (1) A description of the noncompliance and its cause;
- (2) 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
- (3) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

3. The immediate (within 24 hours) reports required in Part III G, H, and I shall be made to the department's regional office. Reports may be made by telephone or online at <https://www.deq.virginia.gov/our-programs/pollution-response> (online reporting preferred). For reports outside normal working hours, the online portal shall be used. For emergencies, call the Virginia Department of Emergency Management's Emergency Operations Center (24-hours) 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 § 306 of the federal Clean Water Act that are applicable to such source; or
- (2) After proposal of standards of performance in accordance with § 306 of the federal Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 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 that 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 registration 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 that may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:
 - a. For a corporation: by a responsible corporate officer. For the purposes 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-making 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 that govern the operation of the regulated facility, including having the explicit or implicit duty of making capital investment recommendations and initiating and directing other comprehensive measures to ensure 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 registration 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 and other information. All reports required by permits and other information requested by the department shall be signed by a person described in Part III 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 III 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 III 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 III 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 Part III 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 federal 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 federal Clean Water Act. Permit noncompliance is grounds for enforcement action, for permit coverage termination, or for denial of permit coverage.

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 coverage under a new permit. All permittees with currently effective permit coverage shall submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the department. The department shall not grant permission for registration statements 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. This permit does not authorize any injury to private property or invasion of personal rights or any infringement of federal, state, or local laws 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 § 510 of the federal Clean Water Act. Except as provided in permit conditions on bypass as described in Part III U and upset as described in Part III 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 §§ 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) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include 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 that 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 that 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 that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts III 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 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I (reports of noncompliance).

3. Prohibition of bypass.

a. Bypass is prohibited, and the department 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 that occurred during normal periods of equipment downtime or preventive maintenance; and
- (3) The permittee submitted notices as required under Part III U 2.

b. The department may approve an anticipated bypass, after considering its adverse effects, if the department determines that it will meet the three conditions listed in Part III 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 III 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 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 III I; and
- d. The permittee complied with any remedial measures required under Part III 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 (including an authorized contractor acting as a representative of the administrator), 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 ensuring permit compliance or as otherwise authorized by the federal 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 in this general permit shall make an inspection unreasonable during an emergency.

X. Permit actions. Permit coverage may be 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 permit coverage.

1. Permit coverage is not transferable to any person except after notice to the department.

2. Coverage under 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 unless permission for a later date has been granted by the department;
 - 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 department does not notify the existing permittee and the proposed new permittee of its intent to deny the permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III 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.