

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION

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SUBJECT: Guidance Memo No. 02-2010, Amendment No. 2
Compliance Auditing Manual Revisions – Section I “Spills”, Section J
“Inspection” and Appendix I “Point Assessment Criteria”

TO: Regional Directors

FROM: Ellen Gilinsky, Ph.D., Director



DATE: July 29, 2009

COPIES: Deputy Regional Directors, Regional Water Compliance Managers, Rick Weeks,
James Golden, Melanie Davenport, Kathleen OConnell, Fred Cunningham

Summary:

The purpose of this amendment is to update the compliance auditing procedures and the point assessment criteria related to spills and inspection deficiencies. The Compliance Auditing Manual was originally issued through this guidance memo on May 23, 2002, and revised Section I “Spills” was issued through Amendment No. 1 on March 25, 2008.

Section I “Spills” has been updated to reflect changes to the revised NOAVs guidance (Enforcement Guidance Memo No. 1-2005 (Revision 1)), specifically regarding oil discharge violations under Article 11 of the State Water Control Law. Section J “Inspection” has been revised to be consistent with the Water Risk Based Inspection Strategy, Guidance Memo No. 09-2002 (DEQ field measurements, sampling and evaluation of data), and Guidance Memo No. 04-2019 (commercial laboratory inspection procedures). Appendix 1 “Point Assessment Criteria” has also been updated to reflect these changes. Specific changes were made to Section 1(a) (iv), Section 2 (d), Section 4 (a) (ii), and Section 5 (f). Appendix 2 “Warning Letter” and Appendix 3 “Notice of Violation” have been superseded by the revised NOAVs guidance (and it will be inserted as Appendix 3 later) and a new Appendix 2 “Referral of Potential Violation Form” is issued with Section J through this amendment.

Note: Other sections of the Compliance Auditing Manual are to be updated at a later date and they will be issued through future amendments of this guidance memo.

Electronic Copy:

An electronic copy of this guidance in PDF format is available for staff internally on DEQNET, and for the general public on DEQ's website at: <http://www.deq.virginia.gov>.

Contact information:

Please contact Lily Choi, Office of Water Permits and Compliance Assistance, at (804) 698-4054 or Lily.Choi@deq.virginia.gov with any questions regarding the application of this guidance.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate any particular method nor does it prohibit any particular method for the analysis of data, establishment of a wasteload allocation, or establishment of a permit limit. If alternative proposals are made, such proposals should be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

I. SPILLS

I.1. Spills at Permitted Facilities

Spills or unauthorized discharges at permitted facilities are addressed in the following VPDES permit special conditions (boilerplate). Failure to comply with these conditions is considered a permit violation. A Notice of Violation is warranted when such spills or discharges cause adverse environmental impacts or present an imminent and substantial danger to the environment, or when there is a failure to report any spills or unauthorized discharges. A Warning Letter is warranted for such spills or discharges that do not result in adverse environmental impact or that present less than an imminent and substantial danger to the environment.

Part II. 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.*

Part II. 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 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.

I.2. Other Spills

Spills or discharges of oil are addressed in Article 11 of the State Water Control Law. As indicated below in Section 62.1-44.34:18(A) of the Code, any spill of oil to state waters, lands, or storm drains is prohibited. Section 62.1-44.34:19(A) specifies the reporting requirements of these spills.

Section 62.1-44.34:18(A) The discharge of oil into or upon state waters, lands, or storm drain systems within the Commonwealth is prohibited. For purposes of this section, discharges of oil into or upon state waters include discharges of oil that (i) violate applicable water quality standards or a permit or certificate of the Board or (ii) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

Section 62.1-44.34:19(A) Any person discharging or causing or permitting a discharge of oil into or upon state waters, lands, or storm drain systems within the Commonwealth or discharging or causing or permitting a discharge of oil which may reasonably be expected to enter state waters, lands, or storm drain systems within the Commonwealth, and any operator of any facility, vehicle or vessel from which there is a discharge of oil into state waters, lands, or storm drain systems, or from which there is a discharge of oil which may reasonably be expected to enter state waters, lands, or storm drain systems, shall, immediately upon learning of the discharge, notify the Board, the director or coordinator of emergency services appointed pursuant to § 44-146.19 for the political subdivision in which the discharge occurs and any other political subdivision reasonably expected to be affected by the discharge, and appropriate federal authorities of such discharge. Notice will be deemed to have been given under this section for any discharge of oil to state lands in amounts less than twenty-five gallons if the recordkeeping requirements of subsection C of § 62.1-44.34:19.2 have been met and the oil has been cleaned up in accordance with the requirements of this article.

Informal correction is not appropriate for discharge of oil. A Notice of Violation is warranted under the following conditions:

- i. Discharge of oil of greater than or equal to 500 gallons, if any portion of the discharge reaches state waters; or

Note: The guidance does not apply to the following situations: 1) releases from farm or residential tanks having a capacity of 1,100 gallons or less and used for storing motor fuel for noncommercial purposes; 2) releases from tanks used for storing heating oil for consumption on the premises where stored; 3) discharges from aboveground storage tanks with a capacity of 5,000 gallons or less containing heating oil for consumption on the premises where stored; or 4) discharges that are exempt under Va. Code Section 62.1-44.34:23, e.g., accidental discharges from farm vehicles or noncommercial vehicles; accidental discharges from fuel tanks of commercial vehicles with fuel tank capacity of <150 gallons; and releases from regulated underground storage tanks.

- ii. Discharge of oil, regardless of the amount of the discharge and whether or not the discharge reaches state waters, if:
 - 1. the discharge is the result of willful or grossly negligent action(s);
 - 2. the discharge is part of a pattern of chronic behavior;
 - 3. the discharge impairs any beneficial uses;
 - 4. the responsible party refuses to clean up the discharge; or
 - 5. the discharge adversely impacts human health.

Failure to report of any spills also warrants a Notice of Violation except in cases where spills are in amounts less than 25 gallons and the clean-up and recordkeeping requirements are met.

A Warning Letter should be issued for discharges greater than or equal to 150 gallons but less than 500 gallons, if the discharge reaches state waters.

I.3. Referral of Potential Violations

PREP, inspection, or other appropriate staff should refer any spills to the CA via a Referral of Potential Violations Form (Appendix 2).

I.4. Determination of Noncompliance

The CA receives documentation to review (i.e. Referral of Potential Violations Form, site inspection memo, 5-day letter, etc.). The CA will make a determination of noncompliance based on the information provided by the permittee or the responsible person, and, if appropriate, verified by permit, inspection, and enforcement staff. Before notifying the permittee or the responsible person of potential violations, the CA needs to verify the basis for the potential violation.

For permitted facilities, the CA should assess points based on the Point Assessment Criteria (Appendix 1) under Section 4 “Other Violations”. The CA should add the potential violations and points into CEDS. All data are to be entered prior to the monthly CEDS evaluation of data (usually the 25th of each month). For other spills, the CA or other appropriate staff should assess points based on the Point Assessment Criteria under Section 3 (d) “Petroleum Statute Violations – Oil Discharge Violations (Article 11)”.

J. INSPECTIONS

J.1. Inspection Deficiencies

Inspections are conducted by the water inspection staff in accordance with DEQ's Risk Based Inspection Strategy. When possible and allowable, the noncompliance issues are to be resolved at the lowest level following the Informal Corrective Action (ICA) process as discussed in Enforcement Guidance Memorandum No. 1-2005 (Revision 1) or its successor. Typically the ICA would allow up to 30 days for correction of deficiencies found during inspection. However, for deficiencies found in the Storm Water Pollution Prevention Plan (SWPPP), up to 60 days would be allowed for correction. If the noncompliance issues are not resolved through the ICA process, the inspection staff should refer the noncompliance issues via a Referral of Potential Violations Form (Appendix 2) to the CA for review and point assessment.

Problems found during inspections generally fall into the following categories: plant operations, and analytical and recordkeeping requirements. Examples regarding plant operations may include: Operation and Maintenance (O&M) Manual problems (Permit Part II Q); non-adherence to the Certificate to Operate (CTO) (9 VAC 25-790-50 Sewage Collection and Treatment Regulations). Examples regarding analytical and recordkeeping requirements may include: non-adherence to permit "boilerplate" recordkeeping requirements (Permit Part II B); improper laboratory procedures (Permit Part II A); improper or incomplete records associated with a SWPPP.

Some of the noncompliance issues identified during an inspection are potential violations of specific permit conditions and/or regulations and they should be referred to the CA immediately without going through the ICA process. Typically these are issues which lead to an appreciable risk of (or actual) harm to the environment. Examples include: unpermitted discharge; constructing without obtaining a Certificate to Construct (CTC); operating without a CTO; failure to develop the SWPPP; failure to maintain the SWPPP on site or failure to implement the SWPPP; the licensed operator requirements not met.

Other inspection deficiencies that are deemed egregious, severe or a substantial repetitive deficiency should be referred to the CA immediately without going through the ICA process (i.e., elevated deficiencies). Examples include: extensive disrepair or substantial poor maintenance of the wastewater treatment works (this includes all wastewater appurtenances); repeat substantial deficiency from a previous inspection report and/or DEQ correspondence, where permittee fails to notify DEQ of the problem, fails to adequately implement corrective actions, and/or fails to correct in a timely manner.

J.2. Types of Inspections

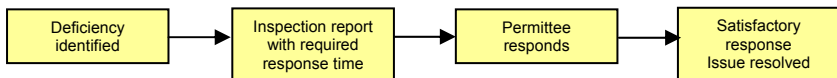
J.2.1. Technical Inspections

Technical inspections are conducted by inspecting and evaluating the wastewater treatment units associated with the wastewater treatment facility. In addition, relevant special conditions of the permit are evaluated. An inspection report is generated and copied to the permittee. ICAs, if determined, are identified in the report summary and the permittee is required to submit an adequate written response to the deficiencies noted in the report, along with appropriate documentation that the deficiencies have been addressed

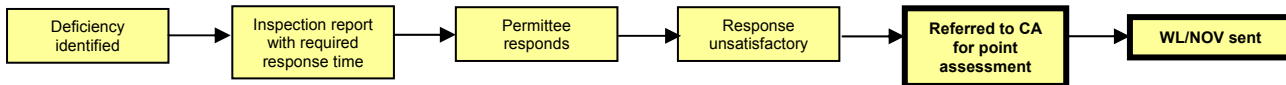
by an established due date (i.e., in the transmittal letter for the report). Responses are evaluated and followed up by inspection staff. If corrections are not made, the matter is referred to the CA via a Referral of Potential Violations Form for review and point assessment. A follow-up inspection may, or may not, be conducted. Each month that deficiencies remain, the inspection staff should continue to provide the Referral of Potential Violations Form to the CA for point assessment and warning letters to be sent. [Note: Technical Inspection information is uploaded to the EPA inspection database.]

Technical Inspections Handling

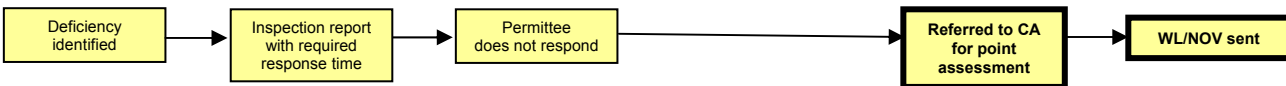
Technical Inspections – ICA – Response Satisfactory



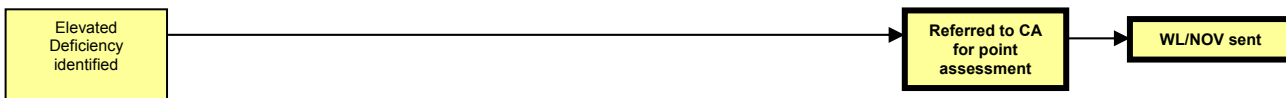
Technical Inspections – ICA – Response Not Satisfactory



Technical Inspections – ICA – No Response



Technical Inspections – Elevated Deficiency



J.2.2. Laboratory Inspections

Laboratory inspections are data audits that evaluate specific analytical methods and results reported for compliance monitoring. An inspection report listing the deficiencies is issued which includes a due date for completion of corrective actions.

J.2.2.1. Permitted Facility and Centralized Laboratory

A facility laboratory is located at the permitted facility and only performs analyses for a single permit. A centralized laboratory performs analyses for multiple permits that are issued to one legal entity such as a county, sanitation district, or company. [Note: If a centralized laboratory performs analyses for a facility that is part of another legal entity, it is treated as a commercial laboratory.] Facility and centralized laboratories are treated the same because a single legal entity is the responsible party.

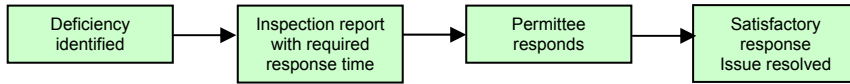
- i. An inspection report listing the observed deficiencies is sent to the permittee for facility laboratories and to the laboratory for the centralized laboratories. Included in the report is a due date for completion of corrective actions.
- ii. If an acceptable response is not received from the permittee/laboratory within an appropriate timeframe, the inspector should provide a list of affected permits and the basis

of violations to the CA via a Referral of Potential Violations Form.

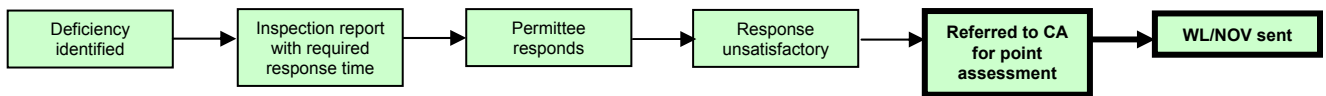
iii. Each month that deficiencies remain, the inspection staff should continue to provide the Referral of Potential Violations Form to the CA for point assessment and the WLs/NOVs to be sent.

Facility Laboratory Inspections Handling

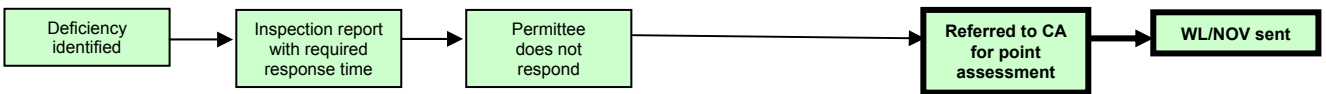
Facility Laboratory Inspections – ICA – Response Satisfactory



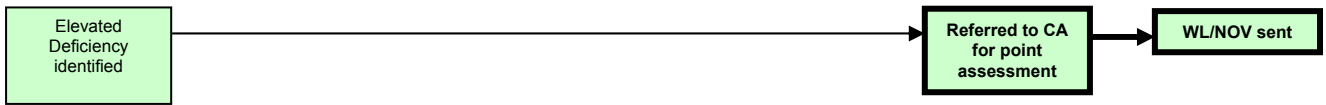
Facility Laboratory Inspections – ICA – Response Not Satisfactory



Facility Laboratory Inspections – ICA – No Response

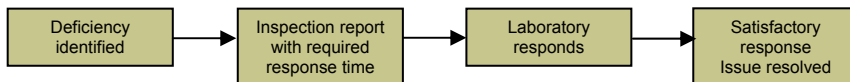


Facility Laboratory Inspections – Elevated Deficiency

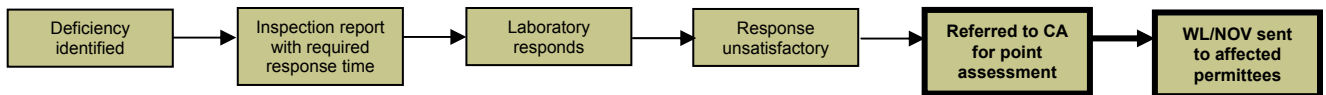


Centralized Laboratory Inspections Handling

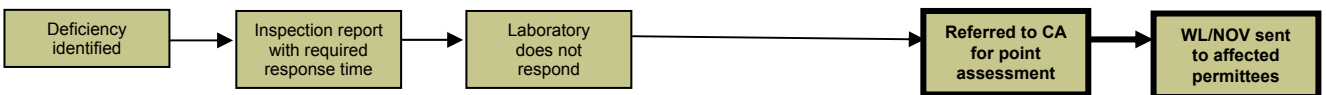
Centralized Laboratory Inspections – ICA – Response Satisfactory



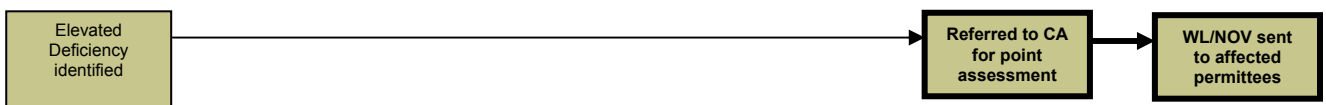
Centralized Laboratory Inspections – ICA – Response Not Satisfactory



Centralized Laboratory Inspections – ICA – No Response



Centralized Laboratory Inspections – Elevated Deficiency



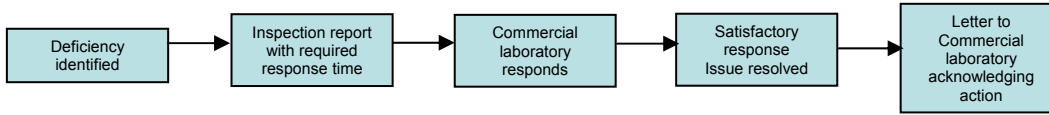
J.2.2.2. Commercial Laboratory

A Commercial laboratory is any laboratory doing work for a legal entity other than itself. Typically it is not regulated by DEQ. Many permittees have their compliance samples analyzed by a commercial (or contract) laboratory.

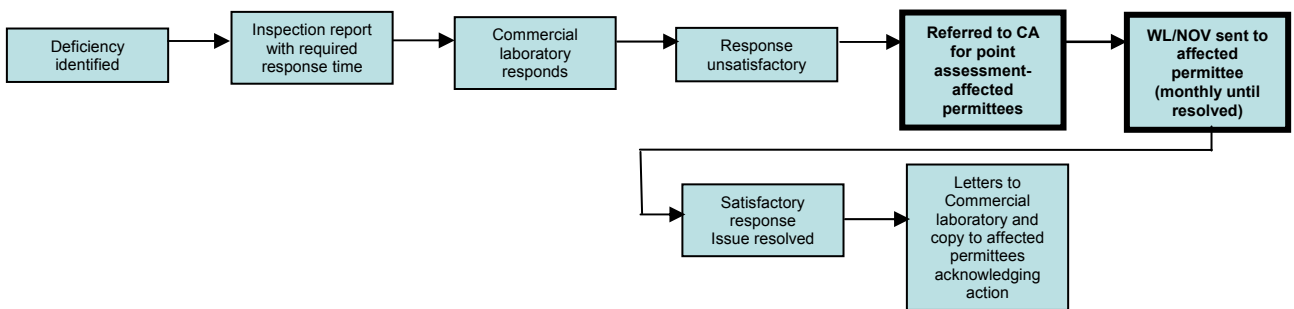
- i. Inspections are conducted in accordance with DEQ's October 27, 2004 Guidance Memo No. 04-2019 *Revised Commercial Laboratory Inspection Procedures* or its successor.
- ii. The cover letter for the inspection report will state that the WLs/NOVs will be sent to permittees who contract the laboratory to perform the analysis which DEQ staff has noted as deficient if corrective action is not implemented within 15 days after receipt of the inspection report.
- iii. If an acceptable response is not received from the laboratory within an appropriate timeframe, the inspection staff will provide a list of affected permittees and the basis of violations to the CA via a Referral of Potential Violations Form.
- iv. Each month that deficiencies remain, the inspection staff should continue to provide the Referral of Potential Violations Form to the CA for point assessment and the WLs/NOVs to be sent.
- v. For laboratories that serve multiple regions, the region conducting the inspection should forward the affected permittees list and pertinent information to the appropriate regional inspection program supervisor/manager for coordination of information required for point assessment and mailing of the WLs/NOVs.

Commercial Laboratory Inspections Handling

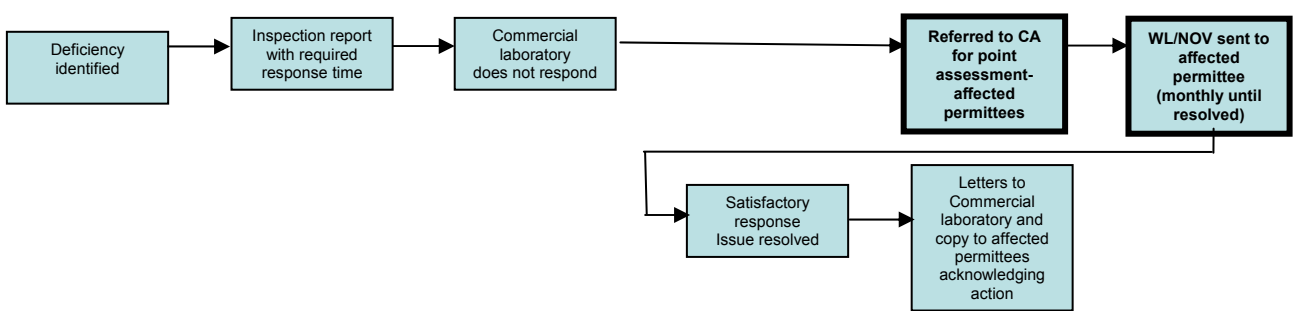
Commercial Laboratory Inspections – ICA – Response Satisfactory



Commercial Laboratory Inspections – ICA – Response Not Satisfactory



Commercial Laboratory Inspections – ICA – No Response



J.2.3. Sampling Inspections

Sampling Inspections are conducted and field measurements obtained by DEQ staff during some inspections. Field measurement results are determined on-site by DEQ staff.

Wet chemistry samples collected are analyzed by the Division of Consolidated Laboratory Services (DCLS). In some cases DEQ field measurements and sampling results can be used directly to assess compliance with permit limitations, conditions in administrative orders, and conditions of judicial orders as well as to determine whether additional follow up inspection activity is warranted. The inspection supervisor/manager must be consulted prior to referral of potential violation to the CA based on DEQ field measurements or sampling analysis to ensure all aspects of Part I.A.1 permit requirements have been properly considered in development of the compliance assessment.

J.2.3.1 DEQ Field Measurements

- i. If DEQ field measurements match or exceed the permit (Part I.A.1) or enforcement action's monitoring frequency and sample type the results may be used to assess compliance with the permit instantaneous minimum or maximum limits or enforcement action instantaneous minimum or maximum limits. If a permit (Part I.A.1) minimum or maximum limit is expressed as a Minimum Daily Discharge or Maximum Daily Discharge the permittee's data must be averaged with DEQ data prior to assessment. There are other permit conditions which may prevent DEQ field measurements from being used to assess compliance (e.g., hourly or daily temperature average, pH limits expressed with exceedance time, etc.) For TRC taken after chlorine contact tank (parameter code

157), it should not be cited as potential noncompliance as the number of excursions reported on the Discharge Monitoring Report (DMR) will be the basis for assessing potential noncompliance. For final effluent TRC monthly average or weekly average maximum requirements please refer to section J.2.3.2.ii.

ii. Should field measurements determine that a minimum or maximum instantaneous discharge limitation or interim limit was not met; the inspector should advise the CA of these potential violations via a Referral of Potential Violations Form.

J.2.3.2 DEQ Sampling

i. Parameters such as BOD₅, TSS, nutrients and other wet chemistry parameters generally have permit limitations or interim limits expressed as monthly average and weekly average (max) concentration or loading for municipal permits, and as monthly average and maximum daily concentration or loading for industrial permits. Split sample results (if conducted) must be averaged prior to evaluating compliance with permit limitations or interim limits. Evaluation of compliance with loading limits requires flow data from the date of sample collection.

ii. Wet chemistry results for permit limitations or interim limits expressed as a monthly average or weekly average (max) must be evaluated together with permittee sampling results obtained during the relevant monitoring period. Only DEQ sampling that matches or exceeds the permit or enforcement action's sample type requirements may be averaged with the permittee's daily, weekly, and monthly results (as applicable) for compliance assessment. If the averaged DEQ and permittee results for the monitoring period do not meet a permit limitation or interim limit, the inspector should advise the CA of these potential violations via a Referral of Potential Violations Form. When assessing potential noncompliance demonstrated by both DEQ sampling and the facility's DMR data the CA must avoid 'double jeopardy' point assessment.

Note: The permittee should not report any DEQ measurements or sampling results on the DMR. The DMR is solely for self reporting purposes and only includes data obtained by the permittee.

J.2.4. Compliance Inspections

Compliance inspections are to be conducted in association with the issuance of a WL/NOV. Typically compliance inspections are conducted at facilities with continued noncompliance problems or with DMR potential effluent violation(s), or to follow up with permittees to verify whether previously identified problems have been corrected.

J.2.5. Reconnaissance Inspections

Reconnaissance inspections are risk based inspections and may be conducted to verify whether previously identified problems or deficiencies have been corrected. These inspections may also be conducted when the permittee has accumulated "partial points" (prior to the issuance of a WL) in order to assess compliance.

J.3. Referral of Potential Violations

If the permittee does not respond to the request for informal corrective action and/or the follow up inspection indicates previous deficiencies have not been addressed, the inspection staff should refer the potential violations to the CA for point assessment. As discussed earlier, some potential violations may need to be referred to the CA immediately after the inspection. In either case, the Referral of Potential Violations Form should be used for documentation purposes.

If the permittee continues to be non-responsive, the inspection staff should send additional referrals for point assessment each month until the issue is resolved. The same potential violations and citations should be used in the follow-up referrals which should also include any new violations documented in the interim. The fact that no response is received may be mentioned in the WL/NOV, but it should not be the sole reason for the follow-up WL/NOV.

J.4. Determination of Noncompliance

The CA receives documentation to review (i.e. Referral of Potential Violations Forms, site inspection memo/reports, etc.). The CA will make a determination of noncompliance based on the information provided by the inspection staff and, if appropriate, verified by permit and enforcement staff.

Points are to be assessed based on the Point Assessment Criteria (Appendix 1) and the CA should consult with the inspection supervisor/manager to ensure points are properly assessed. The points schedule under Section 1 (a) (iv) (1) of the Point Assessment Criteria applies to any deficiency of egregious, severe or substantial repetitive nature. The points schedule under Section 1 (a) (iv) (2) applies to any deficiency of minor nature that was not corrected by a due date established through the ICA process. In all cases, the CA will enter any assessed potential violations/points into CEDS Violations screen (i.e. inspection deficiencies) starting the month the deficiency was detected (i.e., the date of discovery – typically the inspection date) and continuing on to the month the referral is received. When a deficiency is discovered after the inspection date (e.g., during data review it was determined that last year's DMRs were completed incorrectly) it is suggested that the inspection date is to be used as the "date of discovery". Points should be recalculated, if appropriate, and a WL/NOV should be sent based on the points accrued up to the current month. Additional points schedules listed under Section 5 "Aggravating Factors" may be used for other violations detected as a result of an inspection, i.e., adverse environmental impacts, potential for adverse impacts, gross negligence, suspected falsification, and site access violations, etc.

These potential violation items are considered as single event violations and they should be properly marked on the Violations screen in CEDS by the CA for uploading to EPA. All data are to be entered prior to the monthly CEDS evaluation of data (usually the 25th of each month). In cases where the potential violation is determined based on the field measurements, the CA will enter the results of the field measurements in the Comments field on the DMR screen.

Appendix 1 POINT ASSESSMENT CRITERIA

Points assessed using these Point Assessment Criteria are used as a management-ranking tool to determine the best use of costly resources. Points are assigned when there is evidence that a violation has occurred, but the assignment of points and/or issuance of Warning Letters (WLs) (issued between cumulative, rounded point assessments of 1 and 3) or Notices of Violation (NOVs) (issued when point assessment reaches 4 cumulative, rounded points) are neither agency determinations (i.e., case decisions) nor adjudications. The purpose of the WL and the NOV is to advise that the Board may consider taking or seeking action, and that the facts therein could provide a basis for civil proceedings under Code 62.1-44.15(8), 62.1-44.23, 62.1-44.32(a), 62.1-44.34:20 and 10.1-1186(10), or others. Further evaluations are made to determine if and when a violation has occurred and that an enforcement action should be initiated.

<i>VIOLATION DESCRIPTION</i>	<i>POINTS ASSESSED</i>
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1) PERMIT VIOLATIONS

a) VPDES (including General Permits)

i) Effluent Limits

(1) TOXIC Parameters (Except Cl₂ and ammonia)

(a) Value equal or greater than 1.2 x Limit

Major.....	2
Minor	1

(b) Value less than 1.2 x Limit

Major.....	.5, .5, 1, 2
Minor2, .2, .5, 1

(c) WET..... 2

(2) NONTOXIC Parameters (including ammonia)

(a) Value equal or greater than 1.4 x Limit

Major.....	2
Minor	1

(b) Value less than 1.4 x Limit

Major.....	.5, .5, 1, 2
Minor2, .2, .5, 1

(3) Dissolved Oxygen, pH, Temperature, All Exceptions, Except Cl₂ (Major and minor)

(a) Value less or equal to 0.8 x minimum limit5, .5, 1, 2

(b) Value greater or equal to 1.2 x maximum limit..... .5, .5, 1, 2

(c) Value less than 1.2 x maximum limit..... .2, .2, .5, 1

(d) Value greater than 0.8 x minimum limit2, .2, .5, 1

(4) Chlorine

(a) Cl₂-Inst. Resid. Tech. Max and Inst. Min. Tech Limit (Parameters 166 and 213)

Major.....	1
Minor.....	.5

(b) All Other Cl₂ Including Exceptions (Major & Minor)

(i) Value less than or equal to 0.8 x minimum limit5, .5, 1, 2

(ii) Value greater or equal to 1.2 x maximum limit5, .5, 1, 2

(iii) Value less than 1.2 x maximum limit2, .2, .5, 1

(iv) Value greater than 0.8 x minimum limit2, .2, .5, 1

(5) Quarterly Reporting

Major.....	1, 1, 2
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Minor	1
ii) Pretreatment Violations	
Major	1, 1, 2
Minor	1
iii) Toxics Monitoring Program (Major and minor)	
(1) Failure to report under TMP/TRE	1, 1, 2
(2) Inadequate reporting under TMP/TRE, 1st submittal	1, 1, 2
(3) Inadequate reporting under TMP/TRE, subsequent submittals	1, 1, 2
iv) Inspection Deficiencies (Major and minor)	
(1) Egregious, severe or substantial repetitive inspection deficiency	2, 2
(2) Deficiency not corrected by an established due date or acceptable response to address deficiency not received by an established due date	1, 1, 2
(3) Failure to develop the Storm Water Pollution Prevention Plan (SWPPP).....	4
(4) Failure to maintain the SWPPP on site or failure to implement the SWPPP.....	1, 1, 2
v) Bypasses and Overflows (through permanent outfalls, points assessed per discharge, per day) (Major and minor)	
(1) Unreported	2
(2) Reported.....	.2, .2, .5, 1
b) VPDES and VPA	
i) Compliance schedules/due dates	
Major	1, 1, 2
Minor	1, 1, 2
ii) Late DMR/monitoring report (Major and minor) (Received after 10th of month, but not if postmarked by U. S. Post Office by 10th of month or documented received on 10th of month by commercial courier for delivery).....	.5, 1
iii) No DMR/monitoring report (Not received in month due) and deficient DMR/monitoring report (Omissions or errors so great as to prohibit a determination of compliance or 25 percent of values missing)	
Major	2
Minor	1
iv) Incomplete DMR (Normally less than 25 per cent of required parameter values missing) (Maximum points per DMR/monitoring report)	1
v) Improper DMR/monitoring report (Major and minor) (.2 total points per DMR/monitoring report to be assessed regardless of improper items)2
<i>Examples of Improper DMR/Monitoring Report Violations:</i>	
<ul style="list-style-type: none"> • No signature, no date, or no telephone number. • Number(s) and/or decimal point illegible. • Typographical or data entry error. • DMR submitted on outdated form. • Monitoring period not entered. • Sample type or sample frequency not complete or incorrect. • Letter of Explanation for violations not received. • Letter of Explanation for violations not adequate. 	
vi) Application Process Violations (Major/minor/no permit)	
(1) Failure to (Re)Apply in Timely Manner	1, 1, 2
(2) Improper or incomplete application/reapplication	1, 1, 2
(3) Construction/modification of facilities without application (New or existing)	1, 1, 2
vii) Minor violations (Other than any of above)	

(1) Violation without adverse environmental impact	5
(2) Failure to Correct Minor No-Impact Violation	1
<i>(Examples: failure to submit O/M manual; failure to operate in accordance with O/M manual; violation of CTO condition)</i>	
c) VPA and Land Application	
i) Adverse environmental impact, or presenting an imminent and substantial danger	4
ii) Violation which causes discharge to state waters.....	1, 3
iii) Violation With No Discharge to State Waters5
iv) Failure to submit complete, original application.....	1, 1, 2
v) Application Process Violations	
(1) Failure to (Re)Apply in Timely Manner.....	1, 1, 2
(2) Improper or incomplete application.....	1, 1, 2
(3) Construction/modification of facilities without application (New or existing)	1, 1, 2
d) Virginia Water Protection Permit Program (VWPP)	
i) Any violation causing major adverse environmental impact, including but not limited to fish kills or loss of other beneficial uses	4
ii) Improper or incomplete application	1, 1, 2
iii) Unpermitted activity, without major adverse environmental impact	2
iv) Noncompliance with water protection permit without major adverse environmental impact ..	2
v) All other violations.....	1, 1, 2
e) Groundwater Withdrawal Permit Violations	
i) Violation of annual withdrawal limit	2
ii) Violation of monthly withdrawal limit.....	1
iii) Withdrawal without permit or certificate	1
iv) Violation of permit or certificate conditions	1
v) Failure to comply with/correct any standard or special conditions other than limits	1
vi) Failure to mitigate adverse impacts of withdrawal as required by mitigation plan.....	4
2) ENFORCEMENT ACTION VIOLATIONS	
a) Judicial actions, all violations (Major and minor)	4
b) Administrative actions	
i) Special Orders	
(1) Failure to pay civil charge in accordance with consent order (major and minor).....	4
(2) Compliance schedules/due dates (except routine progress reports)	
(a) Majors.....	2
(b) Minors	1, 1, 2
(3) Progress reports (Not including study, sample data submittal) (Major and minor)1
(4) Effluent limits less stringent than permit	
(a) Major	4
(b) Minor.....	2
(5) Effluent limits equal to or more stringent than permit (same as points for permit violations)	
3) PETROLEUM STATUTE VIOLATIONS	
a) Underground oil storage tank (Article 9: UST and LUST) program violations	
i) No adverse environmental impact.....	.5, .5, 1
ii) Potential adverse environmental impact.....	1
iii) Adverse environmental impact or presenting an imminent and substantial danger	4

iv) Failure to report a release or suspected release	4
b) Aboveground 011 storage tank (Article 11: AST and LAST) violations	
i) Failure to submit Contingency Plan, or operation without approved Contingency Plan	1
ii) Failure to respond in 30 days after violator is notified by OSRR of inadequate Contingency Plan (1st point on 1st day late)	1, 1, 2
iii) Failure to demonstrate financial responsibility	1, 1, 2
iv) Failure to maintain on-site facility records.....	1, 1, 2
v) Failure to operate in accordance with approved Contingency Plan	1, 1, 2
vi) Reportable oil spill with no approved Contingency Plan, or inadequate response to oil spill .	4
vii) Failure to remediate.....	2, 2
c) Tank Vessels (Article 11)	
i) All violations	4
d) Oil Discharge Violations (Article 11)	
i) Discharge of oil of \geq 500 gallons, if any portion of the discharge reaches state waters (Note: See CA Manual Section I.2 for exclusions).....	4
ii) Discharge of oil (regardless of the amount and whether it reaches state waters) that is the result of willful or grossly negligent actions or part of a pattern of chronic behavior, that impairs beneficial uses or adversely impacts human health, or that the responsible party refuses to clean up	4
iii) Failure to immediately report such discharges of oil that reach, or that may reasonably be expected to reach state waters, state lands, or storm drains.....	4
iv) Discharge of oil of \geq 150 gallons but <500 gallons, if the discharge reaches state waters	1
4) OTHER VIOLATIONS	
a) Spills into state waters and discharge to state waters not authorized by permit	
i) Adverse environmental impact, or presenting an imminent and substantial danger	4
ii) All other spills or unpermitted discharges	
(1) Not Reported.....	4
(2) Reported.....	1
b) Refusal to reimburse for collectible cost recovery	2, 2
c) Violations of regulations and laws not stated above	Case by Case
5) AGGRAVATING FACTORS (not withstanding the above, any violation with following characteristics)	
a) Adverse environmental impact, loss of beneficial use, or presenting an imminent and substantial danger	4
b) Potential for adverse impact or loss of beneficial use	2
c) Violations resulting in exceedences of water quality standards violations.....	2
d) Suspected falsification	4
e) Suspected willful violation	4
f) Violation due to clear indifference or gross negligence	4
g) Any violation when the owner or operator is insolvent or bankrupt; where the facility is, or is about to be, abandoned; or when ownership of the facility is or is about to be transferred.....	4
h) Site access violations	
i) Failure to provide reasonable access otherwise required by statute or permit to any facilities where there is adverse environmental impact or an imminent and substantial danger.....	4
ii) Other site access violations	1, 3

NOTES:

- “Adverse Environmental Impact” includes, but is not limited to, fish kills, loss of drinking water supply, or loss of other beneficial uses. Any allegation of adverse environmental impact due to spills, bypasses, unpermitted discharges, and other violations of state law and regulations shall be reported to the enforcement staff with documentation that shall conclude that either there was a resulting adverse environmental impact or there was no adverse environmental impact.
- “Industrial Major Facility” - Facilities which have been defined as significant on the basis of permitted effluent characteristics and receiving stream quality and which are redefined yearly by agreement between the Board and EPA.
- “Industrial Minor Facility” - Facility not on EPA's list of Major Industrial facilities.
- “Municipal Major Facility” - Any municipal treatment facilities with flow equal to or greater than 1.0 MGD, and which are redefined yearly by agreement between the Board and EPA.
- “Municipal Minor Facility” - Any municipal treatment facility with flow less than 1.0 MGD.

Appendix 2

REFERRAL OF POTENTIAL VIOLATIONS FORM

FACILITY NAME		IR #	
ADDRESS		PERMIT #	
LOCATION		PHONE #	
FACILITY OWNER(S)		CONTACT	
REFERRED BY		DATE REFERRED	
		REGION	
POTENTIAL VIOLATION(S) START DATE:		POTENTIAL VIOLATION(S) END DATE:	
		RESPONSE DUE DATE (IF APPLICABLE):	
CATEGORIES OF POTENTIAL VIOLATIONS (CHECK ALL THAT APPLY): <input type="checkbox"/> ENFORCEMENT ACTION VIOLATION <input type="checkbox"/> DISCHARGE WITHOUT A VALID PERMIT <input type="checkbox"/> UNAUTHORIZED BYPASS <input type="checkbox"/> PREP <input type="checkbox"/> DMR QUALITY ASSURANCE <input type="checkbox"/> UNPERMITTED DISCHARGE VIA COLLECTION SYSTEM <input type="checkbox"/> UST <input type="checkbox"/> FISH KILL OR OTHER OVERFLOWS <input type="checkbox"/> OTHER (PLEASE SPECIFY) <input type="checkbox"/> STORM WATER VIOLATION <input type="checkbox"/> VIOLATION DETECTED DURING INSPECTION			
DESCRIPTION OF POTENTIAL VIOLATIONS AND RELEVANT CITATIONS:			
EVIDENCE (Attach pertinent document or identify location of document)			
ENVIRONMENTAL IMPACT NO <input type="checkbox"/> YES <input type="checkbox"/> (If yes describe below and attach report)		LIST STATE WATER(S) IMPACTED:	
REGIONAL OFFICE CONCURRENCE (Check appropriate staff for concurrence routing)			DATE
<input type="checkbox"/> PERMIT WRITER:		Comments	
<input type="checkbox"/> WATER PERMIT MANAGER:		Comments	
<input type="checkbox"/> WATER COMPLIANCE MANAGER/INSPECTION SUPERVISOR:		Comments	
<input type="checkbox"/> DEPUTY REGIONAL DIRECTOR AND/OR <input type="checkbox"/> REGIONAL DIRECTOR:		Comments	
CA CONCURRENCE		CA Initial:	DATE:
Comments:			WL OR NOV. # (IF ISSUED)