


**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER PLANNING DIVISION**

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**Subject:**     **Guidance Memo No. 18-2010**  
                  Compliance and Auditing Procedural Guidance for the Office of Water Supply

**To:**            Office of Water Supply Staff

**From:**        Jutta Schneider, Director 

**Date:**         December 18, 2018

**Copies:**     James Golden, Jeff Steers, Division Directors, Regional Directors, CO and  
                  Regional VWP Program Managers

**Summary:**

This guidance document provides direction for processing cases under the Groundwater Withdrawal Regulations ([9VAC25-610-10 et seq.](#)), the Ground Water Management Act of 1992 ([Va. Code § 62.1-254 et seq.](#)), the Virginia Water Protection (VWP) Permit Program Regulation ([9VAC25-210-10 et seq.](#)) and the State Water Control Law ([Va. Code § 62.1-44.2 et seq.](#)) related to groundwater and surface water withdrawal activities. This document allows the Office of Water Supply (OWS) to consistently apply those compliance procedures.

This guidance supersedes the portions of Guidance Memo No. 02-2010, Water Compliance Auditing Manual, which refer to groundwater withdrawal activities. This guidance also supersedes the portions of Guidance Memo No. 10-2002, Virginia Water Protection Permit Program Noncompliance Determination and Enforcement Referral Guidance, which refer to surface water withdrawal activities. However, Guidance Memorandum No. 10-2002 will be applied for OWS related projects when alleged noncompliance is found that is not related to water withdrawals (e.g. unauthorized stream or wetland impacts, compensatory mitigation).

**Electronic Copy:**

An electronic copy of this guidance document in PDF format is available on DEQ's website at: <http://www.deq.virginia.gov/Programs/Water/Laws,Regulations,Guidance/Guidance/WaterSupplyGuidance.aspx>.

**Contact Information:**

Please contact the OWS Water Withdrawal Permitting & Compliance Manager 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 or prohibit any particular action not otherwise required or prohibited by law or regulation. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.**

# Office of Water Supply

## Compliance and Auditing Manual

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## **I. INTRODUCTION AND PURPOSE**

The State Water Control Board has delegated its authority to administer the Groundwater Management Act of 1992 (Va. Code § 62.1-254 et seq.) and the State Water Control Law (Va. Code § 62.1-44.2 et seq.) to the Virginia Department of Environmental Quality (DEQ). DEQ exercises this authority through implementation of its Office of Water Supply (OWS), Water Withdrawal Permitting & Compliance Program (WWP&C or Program) from its central office (CO).

This guidance establishes compliance procedures for addressing alleged noncompliance with:

- Groundwater and surface water withdrawal permits;
- Unpermitted withdrawals not otherwise excluded from permitting requirements by statute or regulation; and
- Water well registration.

The methods and tools contained in this document are for quantifying Permit, water well registration, and unpermitted withdrawal noncompliance in order to determine the appropriate compliance response and/or referral to the Division of Enforcement.

DEQ compliance staff play a key role in carrying out the Department's mission and achieving its compliance goals. Compliance staff are positioned within the Water Withdrawal Permitting and Compliance program and are the primary contact for the regulated community and the public. In most cases, Compliance staff are the first to identify alleged non-compliance and are responsible for initiating informal compliance action to guide permittees in returning to compliance. Issues of non-compliance that cannot be resolved through informal compliance can be elevated through a Notice of Violation (NOV) for formal compliance and/or enforcement. At this level, NOV's are often resolved through a negotiated Letter of Agreement (LOA) or a Special Order by Consent (Consent Order or CSO) to resolve the NOV and return to compliance. Enforcement activities will be conducted in accordance with the DEQ Civil Enforcement Manual. Program staff will support Enforcement staff in developing LOAs, CSOs, Corrective Action Plans or Agreements, Enforcement Recommendation Plans (ERPs), any meetings with the responsible party and any other related activities or correspondence.

## **II. COMPLIANCE TOOLS**

### **A. Compliance Workflow**

Attachment 1 presents the OWS Compliance Workflow flowchart that Compliance staff should follow.

After considering the nature and severity of each case and the availability of resources, the Department strives to address and resolve all cases in a timely fashion. Compliance staff should attempt to take the least adversarial approach allowable within the requirements or standards, utilizing tools, guidance, and timelines set forth to assist staff in processing and resolving cases.

Cases that may not be able to be resolved informally due to the nature or severity of the issues, or cases that have gone through the established Compliance Workflow (including the Point Assessment), that have reached set point values to issue a NOV, and that have not been resolved are referred to the Division of Enforcement via the Water Planning Division Director.

## **B. VAHYDRO Compliance Modules**

VAHYDRO is a computer system that serves as the primary tool for tracking compliance for all OWS programs. VAHYDRO is comprised of several compliance modules for tracking and auditing a responsible party's compliance at a facility. VAHYDRO Administrators maintain and update the compliance modules.

Through VAHYDRO, Compliance staff track and audit a responsible party's compliance using the following modules:

- Compliance Menu;
  - Compliance Reporting
  - Compliance Annual Limit
  - Compliance Monthly Limit
  - Group Monthly Limit
  - Group Annual Limit
  - Milestone Compliance
  - Expired Permits-Active Status
  - Special Conditions Compliance Tracking
  - Compliance/Reporting
- Reporting Data Entry;
- Compliance Reporting: All Wells (*includes water level, quality & withdrawals*); and
- Compliance & Enforcement.

With the exception of Case Closure (see Section II.F below), all other tracking associated with formal compliance and/or enforcement is performed by the Division of Enforcement.

Compliance staff also creates a Monthly Compliance Summary Report through the VAHYDRO Compliance Modules. The Monthly Compliance Summary Report includes following:

- Withdrawal Monitoring Report (WMR) Compliance Past Due (Monthly/Annual/Quarterly);
- Limit Compliance (Annual/Monthly);
- Milestone Compliance; and
- Compliance Schedule Events (Permit Conditions).

For permitted facilities, the facility, well and permit records (standard and special conditions) must be created by Permit staff in order for Compliance staff to routinely evaluate compliance with permit conditions. Unpermitted facilities will either be entered into VAHYDRO as a result of a pre-application meeting, existing registered VWUDS facility, or a compliance referral. Withdrawals covered under a regulatory or statutory exclusion generally report monthly

withdrawals to DEQ through the annual withdrawal reporting program (VWUDS). This data is also stored for each facility in VAHYDRO.

### **C. Point Assessment Guidance**

The Point Assessment Guidance, Guidance Memo No. 18-2011, is a document that was developed for Compliance staff to quickly evaluate alleged noncompliance with the Groundwater Withdrawal Regulations or the VWP Permit Program Regulation. The document provides a point system which was established for quantifying alleged noncompliance in order to determine the appropriate compliance response, including when staff should refer cases to the Division of Enforcement.

When alleged noncompliance issues surface, Compliance staff will utilize the procedures placed in the Point Assessment Guidance for groundwater and surface water withdrawal alleged noncompliance activities.

Points assessed are dependent upon factors such as type of violation, the severity of environmental harm, the effect on the Program, and the compliance history. The Point Assessment Criteria (PAC) are structured such that more serious instances of alleged noncompliance receive more points.

The first step is determining the nature of the alleged noncompliance. The second step is determining the potential or actual harm to human health or the environment. Following this two-step process allows a more pragmatic and simplified table for compliance auditing and allows staff to more accurately categorize and identify Responsible Parties (RPs)..

The point assessment procedure should be implemented as follows:

- Points will be assessed when alleged noncompliance is first discovered based on an inspection, file review, or other observation.
- For each incident of alleged noncompliance, points will be assessed and calculated and/or accumulated and the appropriate action will be determined after the assessment has been made;
- A total points value less than 2 points warrants a Request for Corrective Action (RCA); a total points value greater than or equal to 2 and less than 4 points warrants a Warning Letter (WL); a points value greater than or equal to 4 points warrants a Notice of Violation (NOV);
- Additional points will be assessed if the Responsible Party (RP) has not corrected noncompliance or has not provided an adequate response (i.e., appropriate or no response or a schedule of corrective action that is to take place or may have already taken place) within the timeframes given by the written notice; and

- For repeat occurrences of the same infraction(s) or other occurrence of different infraction(s) within a 12-month rolling period points will continue to be accumulated over the 12-month rolling period and the appropriate action will be determined.
- A 12-month rolling period for an alleged noncompliance issue begins on the date of discovery. Example: If an alleged noncompliant issue is discovered on January 1, the points assessed for this infraction will drop off January 1 of the following year. Then the point or points are no longer accumulated or used by the DEQ when determining future compliance actions.
- Compliance determinations are based on the individual facility, using the permit issued to the specific facility, and the conditions/requirements of that permit. Points assessed for a specific facility/permit do not transfer to different facility no matter how many facilities a RP may oversee.

#### **D. Boilerplates**

Boilerplates have been developed as tools for staff to use for a uniform and timely response when processing compliance issues. These boilerplates have been developed consistent with other programs throughout the Department. Boilerplates contain standard formal and informal language to include specific groundwater or surface water program requirements; citations from the Code of Virginia and/or the Virginia Administrative Code; specific permit conditions; observations; timeframes for responses; DEQ's Process for Early Dispute Resolution and staff contact information.

The boilerplates are available on the OWS shared drive at the following location: [\\deqfile1\wrcommon\\$\OWS\Compliance\2-Boilerplates-Compliance](\\deqfile1\wrcommon$\OWS\Compliance\2-Boilerplates-Compliance), until such time they are incorporated into the DEQ Civil Enforcement Manual.

#### **E. Internal Compliance Meetings**

Monthly compliance meetings are scheduled with the appropriate staff members to discuss new and/or ongoing cases that may require an RCA, WL or NOV. This discussion allows input from appropriate staff members to provide status updates on permit applications, permit conditions, compliance with CSOs or LOAs, and/or deferrals from Permitting staff. An agenda is utilized listing items to be discussed. Agendas are prepared in advance of the meeting and routed to appropriate staff members to allow for preparation. After the meeting has concluded there may be follow up action items by specific staff members.

#### **F. Case Closure**

Cases are considered "Closed" once the responsible party has completed all necessary corrective action(s) to the alleged noncompliance issue(s), responded timely and accordingly to any letters or correspondence issued by DEQ, and the Department has determined corrective actions are adequate and complete, and no further actions are required by the responsible party to be placed back in to a compliant status.

If a case has been determined to be “Closed”, Compliance staff should notify the responsible party in writing via email or letter stating the responsible party has met the necessary requirements and has been returned to a compliant status.

The alleged noncompliance should then be closed in the Compliance & Enforcement module in VAHYDRO.

With the exception of Case Closure, all other tracking associated with formal compliance and/or enforcement is performed by the Division of Enforcement.

### **G. Signatory Authority**

Compliance and/or enforcement documents will be signed as follows:

- Inspection Reports – Compliance staff and Program Manager (or higher)
- RCAs – Compliance staff
- WLs – Program Manager (or higher)
- NOVs – Program Manager (or higher)
- Referral to Division of Enforcement – OWS Director and Division Director
- LOAs – Enforcement Director
- CSOs – Enforcement Director
- Case closure after NOV, LOA or CSO – Program Manager (or higher) and Enforcement Director

## **III. ONSITE INSPECTIONS**

To ensure that the regulated community (permitted and unpermitted) is complying with applicable state and federal regulations, Compliance staff plan and conduct onsite inspections. Some inspections are initiated as a result of a complaint being reported with DEQ. To ensure a uniform inspection process the Compliance staff will conduct the onsite inspection using the current permit issued to the facility, or regulatory requirements for unpermitted facilities. An inspection report should be generated after the onsite inspection and a copy of the report should be sent to the facility for their records.

The information below outlines the general approach to implementing the Risk Based Inspection Strategy (RBIS) and Onsite Inspection procedures for WWP&C. Using a RBIS will allow Compliance staff to effectively prioritize and target facilities for annual inspections. The onsite inspection process will provide guidance to inspectors to apply a consistent approach for identifying issues of alleged noncompliance at OWS permitted facilities.

### **A. Risk Based Inspection Strategy**

The OWS RBIS assesses and prioritizes potential risk factors at the facility to establish the annual inspection plan. Each year Compliance staff assigns points for each active permit containing the criteria listed:

- 1<sup>st</sup> Time Permittee (1 point assessed) – This includes New and Existing User permits but



will not include expanded, renewed or modified permits;

- Never Inspected (1 point assessed);
- Compliance PAC Value (Total points assessed during previous 12 months) – The PAC value will allow for a realistic view of recalcitrant behaviors and eliminates the need to delineate compliance from enforcement or the need to include a multiplier for each compliance or enforcement action. The PAC values will be for the previous 12 months. This will include items such as withdrawal limit exceedances, late reporting and not meeting permit special conditions;
- Maintenance Issues (1 point assessed) – This is to capture facilities that have reported leaks and meter/gauge or equipment failures; and
- Exceeding Withdrawal Limit and/or Flow Requirements by more than 10% (1 point assessed).

Once all facilities are ranked based on the risk scoring, they are then divided by Withdrawal Category (Major, Moderate, Minor). Identifying and grouping facilities by withdrawal categories will ensure that facilities withdrawing large amounts of water that generally employ more sophisticated systems do not outrank those smaller facilities that may need compliance assistance or more frequent visits to maintain compliance.

The facility withdrawal categories are as follows:

- Major – Greater than or equal to 1 billion gallons per year;
- Moderate – Less than 1 billion gallons per year and greater than or equal to 10 million gallons per year; and
- Minor – Less than 10 million gallons per year.

The annual inspection plan is then derived from the list. The annual inspection plan will include 20% of all Major Facilities, 20% of all Moderate Facilities and 20% of all Minor Facilities. If a responsible party currently has an active CSO involving violations of the Water Withdrawal Permitting programs, at any facility, an annual inspection is required. All permittees should be inspected at least once during the permit term. Also, at least one inspection should be conducted in each DEQ region per year.

## **B. Onsite Inspection Process**

Onsite inspections of permitted facilities are performed based on the risk-based inspection strategy outlined above. Inspections can also take place within the unpermitted community due a complaint being registered with DEQ, or if an unpermitted facility is subject to a CSO.

Compliance staff must be familiar with the specific groundwater or surface water regulatory requirements; citations from the Code of Virginia and/or the Virginia Administrative Code; and

specific permit conditions in order to conduct a thorough onsite inspection and to apply that knowledge to evaluate compliance.

Before visiting a facility, Compliance staff should first conduct a review of all relevant information from the facility file as well as VAHYDRO, and educate themselves about the facility, the history of the facility or other information to prepare for a thorough onsite inspection. Staff should discuss the facility with other OWS, VWP, and VPDES staff, and also notify the Water Compliance Manager in the DEQ region where the facility is located.

#### **IV. FILE AND RECORDS INSPECTIONS**

Water Withdrawal Permitting Programs include Virginia Water Protection (VWP) permits and Groundwater withdrawal permits. VWP permits are issued for the construction and operation of facilities (impacts to wetlands, surface water withdrawals, dams, dredge and fill activities) which may result in impacts to state waters. Groundwater withdrawal permits are issued for the construction and/or operation of facilities (groundwater withdrawals, water wells) which may result in impacts to the Commonwealth's groundwater resources. Reporting may be required under these permits and information submitted is reviewed and compared against permit requirements.

VWP permit conditions (which may include due dates, annual and monthly limits, dredged management plans, drought management plans and flow monitoring requirements) are entered into the VWP permit conditions modules in VAHYDRO at the time the permit is issued or reissued. Some conditions have due dates associated with them and some do not. Compliance staff will track only the items for which due dates have been assigned, to ensure receipt and compliance with the permits.

##### **A. Withdrawal Monitoring Reports (WMRs)**

Withdrawal Monitoring Reports (WMRs) are reports required under the conditions of the permit. These reports are the self-reporting tools by which data are transmitted from the permittee to DEQ. This data must be reviewed and compared against permit requirements.

- Withdrawal reporting frequencies can be quarterly, bi-annual or annual depending on permit conditions. Once received, WMRs are date stamped and routed to the appropriate Compliance staff member. Emailed WMRs are allowed and may be sent to the OWS email address ([Withdrawal.Permittting@deq.virginia.gov](mailto:Withdrawal.Permittting@deq.virginia.gov)). The email administrator should route emailed WMRs to the appropriate Compliance staff member for processing.
- WMRs are to be separated from the following reports:
  - Water Conservation and Management Plan/Report/Audit;
  - Construction and Compensatory Mitigation Plan/Report;
  - Well Completion Reports (GW-2 Forms), Geophysical Logs, Aquifer Test Reports, Flow Test Reports, etc.; and
  - All plans and/or reports requiring DEQ approval prior to implementation.

All reports are to be submitted to Compliance staff for the entry of received dates. Compliance staff will conduct the compliance review of WMRs. Reports that have been

separated are to be routed to the Permitting staff for technical review after Compliance staff enters the received dates into VAHYDRO.

- WMRs may include the following parameters:
  - Water Use/Withdrawal Monitoring;
  - Water Level Monitoring;
  - Water Quality Monitoring;
  - Flow Monitoring; and
  - Other data pertaining to the parameters noted above.
  
- WMRs are to be logged as received in VAHYDRO by Compliance staff.
  
- WMRs (*as applicable to each permit*) are to be reviewed by Compliance Staff for the following:
  - The date, exact place and time of sampling or measurements;
  - The name of the individuals who performed the sampling or measurements;
  - The date the analyses were performed;
  - The name of the individuals who performed the analyses;
  - The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
  - The results of such analyses;
  - Chain of custody documentation;
  - Total Year to Date from Previous Month/Quarter (ensure previous meter reading consistent with present reading from last month of previous quarter);
  - DEQ Well Numbers (consistent with permit);
  - Meter readings/parameters from month to month (ensure previous meter reading consistent with present reading from prior month);
  - Monthly totals reported (spot check accuracy in meter readings);
  - Correct units (gallons, MG, ft., mg/l, etc.);
  - Signed certification statement;
  - Laboratory certifications;
  - Laboratory methodologies;
  - Limit exceedances;
  - Flow noncompliance;
  - Unreported parameters;
  - Incorrect and/or incomplete form.

If possible, facilities with missing data and other improper WMR items are to be contacted by Compliance staff via phone or email and given the opportunity to correct their WMR prior to the assessment of alleged violation points, taking time restrictions into consideration (usually within 5 business days).

- WMR data shall be entered into VAHYDRO by the appropriate Compliance staff member. WMR data shall be entered no later than 45 days following the date received. Compliance staff will run the Missing/Late WMR report the 1<sup>st</sup> week of the month that follows the WMR due date.

- Initials are placed on the WMR copy in the upper right hand corner indicating that the compliance review and VAHYDRO data entry process has been completed.
- Compliance staff should run the Missing/Late WMR report in VAHYDRO and review it prior to calculating any alleged violation points. Make sure that the facilities on the report in fact have not submitted a WMR, are required to submit a report under an active permit, administratively continued permit, or consent order, or haven't submitted a late report. This will give Compliance staff the opportunity to resolve discrepancies prior to assessing any points for alleged noncompliance.
- WMRs with potential noncompliance or incomplete reporting are compared against monthly compliance reports by Compliance staff.
  - Noncompliant reporting items are highlighted in yellow on the original WMR.
  - Potential permit limit exceedances will be addressed when VAHYDRO limit compliance reports are generated.
  - If an incorrect/incomplete WMR is corrected in a timely manner, points may be zeroed out and a notation shall be made in the "Compliance Milestones" comment field that a corrected WMR was received.
- The review of revised WMRs should follow the same process as original submittals. It should be noted in the comments field on all related VAHYDRO records that a revised WMR was received. Revised WMR values may result in the addition/deletion of points for potential limit exceedances; any adjustments should be performed manually by Compliance staff in VAHYDRO.
- Upon completion of WMR processing, WMRs should be filed (in ECM) as necessary.

## **B. Compliance Scheduled Events (CSEs)**

Groundwater and surface water withdrawal permits issued by OWS require routine monitoring and reporting. Information submitted will be reviewed and compared against permit requirements.

Limit Compliance represents the withdrawal/flow limits entered into VAHYDRO as permit conditions that are placed on a well, group of wells, surface water source, or flow conditions at a facility. Withdrawal/flow limits are tracked as CSEs. Permitted withdrawal/flow limits can be daily, monthly, annual or permit-term. The permit conditions containing these limits are entered by the Permitting staff into VAHYDRO at the time of permit issuance or reissuance.

Permit special conditions are entered into the Permit Conditions screen of VAHYDRO by Permitting staff at time of issuance or reissuance. Some special conditions have due dates associated with them and some do not. Compliance staff are responsible for tracking the items for which due dates have been assigned, to ensure receipt and compliance with Permit conditions.

Received and technically complete dates are entered into VAHYDRO by the appropriate staff member. Reports containing surveys, audits, plans, construction information, mitigation information, aquifer test information or other reports that require DEQ approval prior to implementation should be reviewed by the assigned Permitting staff member. This is referred to as the technical review. Permitting staff may issue a technical review letter notifying the facility that the requirements have been met. Compliance staff should be copied on the correspondence. The technical review letter may also serve as the compliance notification. For incomplete reports, Permitting staff may send a technical deficiency letter notifying facilities that the submitted report was deficient and allow the facility time to resubmit. Reapplication for a new permit is a special CSE which is discussed in the next section.

Compliance staff will run a monthly report of the CSEs due. This report should be generated the 1<sup>st</sup> week of the month and routed to Permitting staff. The monthly report of CSEs is then run a second time no later than the last week of the month. Points are then assessed and the appropriate action will be taken based on the PAC.

### **C. Permit Applications**

The requirement to submit a new permit application is also a CSE. In general, OWS does not pursue compliance for failing to reapply. If upon expiration the facility did not meet the duty to reapply and continues to operate, the activity is then considered an unpermitted withdrawal.

Compliance staff will run the annual report of expiring permits. This report should be generated the 1<sup>st</sup> week of every January and routed to Permitting staff. The report contains 3 years of all groundwater and surface water withdrawal permits nearing expiration. Compliance staff will report in monthly Compliance Meetings the expiring permits so that Permitting staff can send a reissuance reminder notification.

### **D. Milestone Compliance**

The Compliance Milestone module in VAHYDRO is used for tracking compliance milestones in response to compliance or enforcement actions taken.

Compliance staff creates the milestone compliance records under the facility, entering an Action Type, Sub-Type, Action Date, and the Response Due Date (if necessary). Once received, response received dates should be entered within 5 days.

With the exception of Case Closure (see Section II.F above), all other tracking associated with formal compliance and/or enforcement is performed by the Division of Enforcement.

### **E. Data Review and Determination of Alleged Noncompliance**

Compliance staff will make determinations of alleged noncompliance based on the information provided by permittee, audit reports, and permit conditions. Before notifying a permittee of potential noncompliance, Compliance staff should verify the permit condition (e.g. compliance scheduled event, permit limit, etc.).

Points are to be assessed by Compliance staff based on the PAC. Compliance staff should enter the points assessed into VAHYDRO per alleged violation (e.g., failure to submit WMR, limit exceedance, past due compliance scheduled event).

A quarterly (Alleged) Noncompliance Summary Report is prepared containing any WMRs Past Due, Milestone Compliance, Compliance Schedule Events Past Due, Limit Compliance, and Point Assessment for the previous calendar quarter. This report is then reviewed by Compliance staff for the following:

- Verify that alleged noncompliance appearing on the report matches the WMRs;
- Verify that points assessed in VAHYDRO match the PAC for the alleged violation; and
- Based on points assessed, determine the appropriate corrective action (RCA, WL or NOV) according to PAC guidance. Prior to issuing letters, ensure that the facility does not have other issues that warrant inclusion in the letter (e.g., expiring permits, pre-application meeting needed, etc.).

## **F. VEEP Compliance**

The Office of Pollution Prevention manages the Virginia Environmental Excellence Program (VEEP). Pollution Prevention staff coordinates with Compliance staff for VEEP application compliance reviews.

VEEP application compliance reviews submitted for Permitted facilities are reviewed by Compliance staff for “record of sustained compliance” per Va. Code § 10.1-1187.1.

*“Record of sustained compliance” means that the person or Facility (i) has no judgment or conviction entered against it, or against any key personnel of the person or Facility or any person with an ownership interest in the Facility for a criminal violation of environmental protection laws of the United States, the Commonwealth, or any other state in the previous five years; (ii) has been neither the cause of, nor liable for, more than two significant environmental violations in the previous three years; (iii) has no unresolved notices of violations or potential violations of environmental requirements with the Department or one of the Boards; (iv) is in compliance with the terms of any order or decree, executive compliance agreement, or related enforcement measure issued by the Department, one of the Boards, or the U.S. Environmental Protection Agency; and (v) has not demonstrated in any other way an unwillingness or inability to comply with environmental protection requirements.”*

Compliance staff makes the sustained compliance determination through the review of the following facility records:

- Electronic and hardcopy compliance files (including point assessment forms);
- Electronic and hardcopy permitting files;
- VAHYDRO compliance modules; and
- Any interim/temporary data tracking tools.