

# COMMONWEALTH OF VIRGINIA

Department of Environmental Quality  
Division of Water Programs Coordination  
Larry G. Lawson, P.E., Director

---

Subject: Guidance Memorandum No. 02-2010 - Water Compliance Auditing Manual

To: Regional Directors

From: Larry G. Lawson, P.E., Director



Date: May 23, 2002

Copies: Martin Ferguson, Dale Phillips, Susan Tragesser, Mary Jo Leugers, Andrea Wortzel, Deputy Regional Directors, Regional Compliance Enforcement Managers, Regional Compliance Auditors

## **Summary:**

Attached is the Water Compliance Auditing Manual to provide the Compliance Auditors guidance for the VPDES, VPA, and VWP permit programs in carrying out their compliance auditing duties. There are a few sections that are reserved for future development and are noted in the table of contents.

## **Contact information:**

Should you have questions, please contact Martin Ferguson at (804) 698-4039 or Susan Tragesser at (804) 698 - 4203 .

## **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.**

## **INTRODUCTION**

The State Water Control Law authorizes the State Water Control Board to ensure compliance with the requirements of the Law, its associated regulations and any permits issued pursuant to those authorities (see §62.1-44.15 of the Code of Virginia). The Law also authorizes the Executive Director to require compliance with regulatory requirements, in certain circumstances (see §62.1-44.14 of the Code). In addition, the statute creating the Department of Environmental Quality invests the Department with separate authority to enforce the provisions of the State Water Control Law, any regulations of the Board, and any permit issued under the Law or regulations (see §10.1-1186 of the Code).

It is black letter law that an administrative agency's actions, to be defensible, must not be arbitrary or capricious. That is to say, agency decisions must be based on logic and consistent with prior decisions made on similar facts. It is the intent of this document to provide the agency with a defensible basis for its compliance auditing activities, which are the precursor to its enforcement activities, by:

providing compliance auditors with statewide procedures that promote Regional Office consistency when processing compliance information defining and setting benchmark standards for the timely Regional Office processing of compliance information; and providing a document that is a training tool for new staff in the correct procedures for administering the compliance auditing program.

The manual establishes procedures for processing compliance information from the Department's VPDES, VPA, VWPP, Groundwater, UST, AST and Pollution Complaint Investigation programs. The text of the manual will be revised periodically to reflect newly issued compliance auditing guidance memoranda. These revisions will also be posted on the agency's electronic network. Users should refer to the electronic version of the manual on the network if they are in doubt whether or not they have the latest version.

### **DISCLAIMER**

This document provides procedural guidance to the DEQ compliance auditor staff. This document is guidance only. It does not establish or affect legal rights or obligations. It does not establish a binding norm and is not finally determinative of the issues addressed.

# TABLE OF CONTENTS

	<b>Page</b>
Acronyms	4
<b>I. Compliance Auditing Procedures</b>	<b>5</b>
A. VPDES – DMRs	5
B. VPDES – Compliance Schedule Events	8
C. VPDES Permit Application Process	9
D. VPDES Data Review and Determination of Noncompliance	10
E. Virginia Pollution Abatement (VPA) Reports & Compliance Schedule Events	13
F. Virginia Water Protection Permit (VWPP) Reports & Compliance Schedule Events	18
G. Ground Water Reports & Compliance Schedule Events	21
H. VPDES – Overflows/Bypasses	24
I. Spills	26
J. Inspections	27
K. PREP	30
L. 95% Flow	31
<b>II. Enforcement</b>	<b>32</b>
A. Non-compliance Processing (WLs/NOVs)	32
B. Monthly Compliance/Enforcement Meeting	34
C. Referrals to Enforcement	35
D. Enforcement Actions	36
E. Reports	38
<b>III. Compliance Auditing Output</b>	<b>39</b>
A. Other Reports	39
B. Other	39
<b>IV. EPA Coding</b>	<b>40</b>
<b>V. CEDS Data Entry Rules</b>	<b>44</b>
(will be provided at a later date)	
<b>VI. CEDS Functions</b>	<b>45</b>
(will be provided at a later date)	

## ACRONYMS

AST – Aboveground Storage Tank  
BMP – Best Management Practices  
CA – Compliance Auditor  
CEDS – Comprehensive Environmental Data System  
CEM – Compliance Enforcement Manager  
CS – Compliance Schedule  
CSE – Compliance Schedule Events  
CSO – Consent Special Order  
CTO – Certificate to Operate  
DEC – Division of Enforcement Coordination  
DEQ – Department of Environmental Quality  
DMR – Discharge Monitoring Report  
DRD – Deputy Regional Director  
EA – Enforcement Action  
EPA – Environmental Protection Agency  
ER – Enforcement Representative  
FOIA – Freedom of Information Act  
LOA – Letter of Agreement  
NOV – Notice of Violation  
OIS – Office of Information Systems  
O&M – Operation and Maintenance  
PN – Public Notice  
PREP – Pollution Response Program  
PW – Permit Writer  
QA/QC – Quality Assurance/Quality Control  
QL – Quantification Level  
QNCR – Quarterly Non-Compliance Report  
RD – Regional Director  
RO – Regional Office  
SNC – Significant Non-Compliance  
ROMORT – Regional Office Monthly Report  
TMP – Toxics Monitoring Program  
TRC – Total Residual Chlorine  
TSS – Total Suspended Solids  
UST – Underground Storage Tank  
VAC – Virginia Administrative Code  
VPA – Virginia Pollution Abatement Program  
VPDES – Virginia Pollutant Discharge Elimination System Program  
VWPP – Virginia Water Protection Permit Program  
WL – Warning Letter  
WQS – Water Quality Standards

# I. COMPLIANCE AUDITING PROCEDURES

## A. VPDES - DMRs

Discharge Monitoring Reports (DMRs) are included with a permit when effluent monitoring by the permittee is required. These forms are the self-reporting tools by which data is transmitted from the permittee to the Department of Environmental Quality (DEQ). This data is reviewed and compared against the requirements of the permit.

1. DMRs are due to be submitted to DEQ by the 10<sup>th</sup> of each month. Once received at the Regional Office (RO), they are date stamped and routed to the appropriate staff member. Faxed DMRs are allowed but must be followed up with submittal of an original DMR.

2. Discharge Monitoring Report(s) (DMRs) may be separated from the following:

Best Management Practices (BMPs) Reports  
Toxics Management Program (TMP) Reports  
Water Quality Standards (WQS) Data  
Compliance Special Condition Items (i.e. soils monitoring, ground water monitoring, etc.)

The documents are routed to the appropriate staff member for entry of received, reviewed, and completed dates on the Compliance Schedule Event screen in the Comprehensive Environmental Data System (CEDS) and distribution to the appropriate staff member for any additional review and/or filing. (These documents, if separated, should be routed within a couple of days of receipt; entry of received dates should be no later than the 24<sup>th</sup> of each month.)

3. DMRs may include the following attached items:

Rain data  
Lab data  
Daily logs  
Explanation letter for any reported permit potential violation(s)  
Any other data pertaining to DMR values

4. DMR reports are logged as received in the Compliance Auditor's (CA's) tracking tool (a v and/or date received indicated).

CA should also maintain a tracking tool, based on information provided by the permitting staff, for changing DMR forms for the current month (i.e. any issued, reissued, modified permits, orders with interim limits, schedule with final limits, etc.).

DMR data potential violations are highlighted. Notations of "improper" category are made on DMR for proper entry into CEDS so points may be assessed.

4. DMRs are manually reviewed by the CA for the following:

- Potential effluent violations (reported values greater than average and maximum limit requirements or reported values less than minimum requirements)
- 95% flow (See page 24 of this document for 95% flow policy requirements)
- Unreported parameters
- Incorrect DMR form - determine by comparing hard copy DMR submittal to new DMR submittal tracking tool
- Improper DMR/Monitoring Report Potential Violations:

No signature, date, or telephone number

Non-original DMR

Numbers and/or decimal point illegible

Typographical or data entry error

DMR submitted on outdated form

Monitoring period not entered or incorrect Units, excursions, sample type, or sample frequency not entered or incorrect Letter of explanation for potential violations not received or inadequate

If possible, facilities with missing data and other improper DMR items are contacted by the CA by phone in order that they be given an opportunity to correct their DMR prior to the generation of the potential violation points assessment by DEQ's Office of Information Services (OIS), taking time restrictions into consideration.

6. DMR data shall be entered into CEDS by the appropriate staff member. DMR data shall be entered no later than the 24<sup>th</sup> of each month, and OIS will run the potential violation points assessment on or about the 25<sup>th</sup> of each month. (See Section V. CEDS Data Entry Rules Section of this document) DMR data entry staff should notify CA of discrepancies between the DMR and the parameters that populate. CA should ensure that the discrepancy is resolved.
7. Av and/or date entered is placed on the DMR copy in upper right hand corner noting initial review/CEDS data entry process has been completed. DMRs can then be routed to appropriate staff members as necessary.
8. QA/QC - comparing DMRs to CEDS entries shall be conducted by the appropriate staff member for majors and spotchecked for minors.
9. CA should run the Missing/Late DMR Report in CEDS and review it prior to the generation of potential violation points assessment by OIS. Check to make sure that the facilities that show up on the report have not submitted a DMR and are required to submit a report, or actually submitted a late report. For example, if a DMR has been received, but either the entire DMR has not been keyed or the received date of the DMR was not keyed in, the facility will show up on the report. This will give CA the opportunity to resolve discrepancies prior to the generation of the potential violation points assessment which will prevent the erroneous assessment of potential violation points.
10. DMRs with potential violations or improper reporting are compared against monthly CEDS reports by the CA.

- Violations/improper reporting items are highlighted in yellow on the original DMR.
  - Potential effluent violations will be addressed by CEDS when points are generated.
  - If an improper DMR is corrected in a timely manner, points may be zeroed out and a notation can be made in the (Potential) Violation screen “comments” that corrected DMR was received.
11. Copies of DMRs (Majors only) are required to be sent to EPA monthly by the appropriate staff member.
  12. Revised DMRs received follow the same process as original submittals noted above. Revised DMRs must be original. Revisions are made to DMR data entry, as necessary. Documentation should be made in the comments field on the DMR screen in CEDS indicating that a revised DMR was submitted. Revisions to reported parameter values may result in the addition/deletion of points for potential effluent violations; these adjustments shall be performed manually by the CA in the (Potential) Violation screen of CEDS.

If the permittee submits a revised DMR after the monthly processing of points or issuance of a WL or NOV, points for improper DMRs and unreported parameters shall remain. In cases where improper DMRs or unreported parameter potential violations, for which revised DMRs have been submitted, result in or contribute to enforcement referrals, regional discretion may be used to remedy the situation at that time.

DMR corrections/revisions/completions of previously omitted data shall be submitted as an original with proper signatures and date as required for the initial submittal.

13. Upon completion of DMR processing, DMRs shall be filed by the appropriate staff member.

## **B. VPDES – COMPLIANCE SCHEDULE EVENTS**

1. VPDES Permit special conditions are entered into the Compliance Schedule Events screen of CEDS at time of permit issuance or reissuance. Some conditions have “due dates” associated with them and some do not. CAs shall track only the items for which “due dates” have been assigned, to ensure receipt and compliance with permits issued.
2. Received, reviewed, and completed dates are entered into CEDS by the appropriate staff member. If the appropriate staff member determines that the item was complete on the date received, the “completed date” should be the same as the “received date”. If the appropriate staff member deems that the item is incomplete, the CA should be notified so that points can be manually assessed.
3. A monthly report of compliance schedule events, which denotes schedule items to be expected in the month, should be generated the 1<sup>st</sup> week of each month and routed to appropriate staff members.
4. A second copy of this report is generated no later than the 25<sup>th</sup> of each month and again routed to appropriate staff members indicating if no “date received” entered in CEDS by “xxx date” it will be deemed a “no show” of a specific item and a WL/NOV will be issued.



## **C. VPDES PERMIT APPLICATION PROCESS**

Permit Language: Duty to Reapply – If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Board. The Board shall not grant permission for applications later than the expiration date of the existing permit.

1. Requirement to submit a permit application is a compliance schedule event. The permit application condition will be entered into the Compliance Schedule Events screen in CEDS by the permit staff at the time the permit is issued or reissued.
2. Appropriate points will be assessed in CEDS when the monthly points assessments are generated by OIS on or about the 25<sup>th</sup> of each month, and will appear on the Monthly (Potential) Violation Summary Report generated by the CA. The CA will review and take appropriate action.
3. If a permit is administratively continued, permitting staff will flag the administratively continued field located on the CEDS permitting general information screen. CEDS should recognize this flag and should continue the limits population process for DMR data entry and system generated point assessment for potential DMR violations until the permit is reissued.

## D. VPDES DATA REVIEW AND DETERMINATION OF NONCOMPLIANCE

1. CA receives all monthly input via DMRs, compliance schedule events, inspection reports, printout of Monthly (Potential) Violation Summary Report from CEDS, etc. CA will make determination of noncompliance based on the information provided by permittee, and verified by DEQ permit, inspection, and enforcement staff. Before notifying permittee of potential violations, the CA shall verify the basis upon which the potential violation is based (i.e. verify compliance schedule events and permit limits).
2. Points will be assessed by the CA based on the Point Assessment Criteria (See Appendix 1).
3. CA enters any additional assessed potential violations/points into CEDS (i.e. overflows/bypasses, inspection problems, etc.). Information should be entered by the 24<sup>th</sup> of each month. DMR data shall be entered no later than the 24<sup>th</sup> of each month, and OIS will generate the potential violation points assessment on or about the 25<sup>th</sup> of each month.
4. The Monthly (Potential) Violation Summary Report is generated from CEDS and reviewed by the CA for the following:
  - Verify that potential violations appearing on the report match the potential violations noted on the DMRs during the manual review. Correct any errors.
  - Verify that points assessed by CEDS match the Point Assessment Criteria. Correct any errors.
  - Verify status of enforcement referrals (See Section II, D of this manual for specifics concerning relationship between enforcement action status and compliance auditing process).
  - Based on point assessments, determine appropriate action necessary to address potential violations. Guidance on the appropriate uses of Warning Letters (WLs) or Notices of Violation (NOVs) and sample letters extracted from Enforcement Manual may be found in Appendix 2 and 3. Prior to issuing letters review to ensure that the facility does not have other problems (i.e. inspection, overflows, etc.) that warrant inclusion in the letter. This would usually include only items that would have to be manually entered into CEDS. All other items should show up on the Monthly (Potential) Violation Summary Report.
  - If unsure of points assessment (potential) violation determination, CA should consult with other compliance/enforcement/permitting staff; either informally, at a formal meeting, or a combination of the two methods to verify that the potential violation actually exists.
5. Points are monitored for a rolling 6-period reporting window (6 months, 6 quarters, etc.). NOTE: At the present time, CEDS starts a new compliance cycle with any permit reissuance or modification.
6. Accumulation of all points is called “raw points” for any non-compliance items determined in a reporting period.

7. “Raw points” are rounded (or adjusted) based on the following:

In a given month, the total points that can accrue for a major facility will be two (2) points, unless there is a (higher) single event potential violation. In cases of single event potential violations, the greater of the highest number of points assigned will accrue. (Example of single event scenario for a given month for a major facility: exceeded TSS concmax = 1 pt; exceeded enforcement action interim limits = 4 pts; total raw/final points for the month = 5 pts; total round points for the month = 4 points.)

8. In a given month, the total points that can accrue for a minor facility will be one (1) point, unless there is a (higher) single event potential violation. In cases of single event potential violations, the greater of the highest number of points assigned will accrue. (Example of single event scenario for a given month for a minor facility: fish kill = 4 pts; exceeded ammonia concmax = 1 pt; total raw/final points for the month = 5 points; total round points for the month = 4 points).

“Final points” are the result of raw numbers assessed which have been rounded (or adjusted). The final points column on the CEDS (Potential) Violation screen allows the CA to make adjustments to the raw points assessed for each individual potential violation as the actual raw points field data cannot be adjusted. The accumulated final (raw) points are rounded based on the process outlined in #7 above.

9. “Total Monthly Points” indicate the accumulated number of final raw points (points after rounding or adjusting) for a reporting period. On the (Potential) Violation screen, these points will be found in the “rounded points” field.

10. “6-Period points” as on the Monthly (Potential) Violation Summary Report indicate total number of points for the 6-period reporting window.

11. Graduated Point Scale – where multiple point values are shown in the Point Assessment Criteria (.5, .5, 1, 2) the first value (.5) is assigned for the first potential violation in a given six reporting period window, the second value (.5) is assigned for the second potential violation in the same period, the third value (1) is assigned for the third potential violation in the same period, etc. Where the same potential violation is continuing, such as not meeting a compliance schedule date, the first value is generally assigned in one-month periods after the first. For potential effluent violations this applies only to the same parameter at the same pipe. For the schedule milestones and report due dates, each month overdue results in additional or increased point assessment.

12. Permit Modification

When a permit is modified to reflect a change in ownership, all accumulated points are automatically voided. However, this voidance of points will not apply if the previous owner has already been referred to regional enforcement staff or if the modification reflects only a name change or an attempt to hide behind a parent corporation. Points follow owner during permit “type” change.

13. Excusing of Points

Points may be excused by the CA, upon concurrence of the Compliance Enforcement Manager (CEM), Deputy Regional Director (DRD), or Regional Director (RD), for infrequent potential violations and noncompliance where the permittee/owner has demonstrated to the satisfaction of the staff that such occurrence or noncompliance was due to an upset as defined by the Board's Permit Regulation (for potential violations of technology-based limits only), was not due to a lack of proper operation and maintenance, or was caused by earthquake, flood, or other acts of God. Excusing of points for potential violations caused by other exceptional circumstances alleged to be solely beyond the control of the permittee/owner may additionally require the approval of the Director of Enforcement. Note: Notation should be made in the comments field of the (Potential) Violation screen for any points adjustments made by the CA.

14. Review of Permits

The permitting staff provides the CA with a copy of each new, modified, or reissued permit, as well as any modified DMRs that are sent to the permittee. DMRs resulting from any of these instances shall be tracked by the CA.

Prior to the issuance of a WL/NOV, the appropriate staff member shall ensure the accuracy of the potential violation. Responsibility for Quality Assurance (QA) of permit data entry shall be at regional discretion.

The CA receives a copy of each VPDES permit that is issued, modified or reissued as well as any modified reporting forms that are sent to the permittee. The permits are reviewed at the appropriate time for the following:

- verify due date of submittal of first DMR (add to tracking list for appropriate month and check CEDS)
- look for compliance schedule events (items with specific due dates) and review CEDS Compliance Schedule Events screen
- compare attached DMR form to actual limits contained in the permit
- note any unusual items that may require special reviewing
- note typos or other items that can not be clearly understood
- if problems are found, contact the Permit Writer (PW)

## **E. VIRGINIA POLLUTION ABATEMENT (VPA) REPORTS & COMPLIANCE SCHEDULE EVENTS**

Facilities issued this type of permit are considered as “no-discharge” of pollutants. Reporting may be required and the form(s) examples are provided with the permit at the time of issuance. These forms are the self-reporting tools by which data is transmitted from the permittee to DEQ. This data is reviewed and compared against the requirements of the permit.

1. VPA Permit special conditions are entered into the Compliance Schedule Events screen of CEDS by the permit staff at the time of permit issuance or reissuance. Some conditions have due dates associated with them and some do not.

The CA receives a copy of each VPA permit that is issued, modified or reissued. The permits are reviewed for the following:

- verify due date of submittal of first monitoring report (add to tracking list for appropriate month and check CEDS)
  - look for compliance schedule events (items with specific due dates) and review CEDS Compliance Schedule Events screen
  - compare attached monitoring report form to actual limits contained in the permit
  - note any unusual items that may require special reviewing
  - note typos or other items that can not be clearly understood
  - if problems are found, contact the Permit Writer (PW)
2. VPA data/reports are due to be submitted to DEQ by the 10<sup>th</sup> of each month. Once received in the RO, they are date stamped. CA should maintain a tracking tool, based on information provided by the permitting staff, for changing reporting forms for the current month (i.e. any issued, reissued, modified permits, orders that require monitoring other than that stipulated in their permit).
  3. The documents are routed to the appropriate DEQ staff member for entry of received date on the Compliance Schedule Events screen in CEDS and distribution to the appropriate staff member(s) for any additional review and/or filing. (These documents should be routed within a couple of days of receipt; entry of received dates should be no later than the 24<sup>th</sup> of each month.).
  4. Reporting forms are manually reviewed for the following:
    - Potential monitoring violations (reported values greater than average and maximum limit requirements or reported values less than minimum requirements)
    - Unreported parameters
    - Ensure permittee is submitting appropriate reporting form - by comparing hard copy report submittal to new report submittal tracking tool
    - Improper Reporting/Monitoring Potential Report Violations:

No signature or date  
Original Report

Numbers and/or decimal point illegible  
Typographical or data entry error  
Report submitted on outdated form  
Monitoring period not entered or incorrect  
Units, sample type, or sample frequency not entered or incorrect Letter  
of explanation for potential violations not received or inadequate

If possible, facilities with missing data and other improper reporting items are contacted by the CA by phone in order that they be given an opportunity to correct their report prior to the running of the potential violation points assessment by OIS, taking into consideration time restrictions.

5. A v and/or date entered is placed on the report copy in upper right hand corner noting initial review/CEDS data entry process has been completed. Reports can then be routed to the appropriate staff member(s) as necessary.
6. Received, reviewed and completed dates are entered into CEDS by the appropriate staff member. Reports containing monitoring requirements/results for soils, ground water, wastewater land application, etc. are reviewed manually by the appropriate staff member. If the appropriate staff member determines that the item was complete on the date received, the “completed date” should be the same as the “received date”. If the appropriate staff member deems that the item is incomplete, the CA should be notified so that points can be manually assessed.
7. A monthly report of compliance schedule events, which denotes schedule items to be expected in the month, should be generated the 1<sup>st</sup> week of each month and routed to appropriate staff members.
8. A second copy of this report is generated no later than the 25<sup>th</sup> of each month and again routed to appropriate staff members indicating if no “date received” entered in CEDS by “xxx date” it will be deemed a “no show” of a specific item and a WL/NOV will be issued.
9. Revised reporting forms received follow the same path as original submittals noted above. Revisions are made to data entry as necessary. Documentation should be made in the comments field on the Compliance Schedule Events screen in CEDS indicating that a revised reporting form was submitted. Revisions to reported parameter values may result in the addition/deletion of points for potential violations; these adjustments shall be performed manually by the CA in the (Potential) Violation screen in CEDS. If the permittee submits a revised reporting form after the monthly processing of points or issuance of a WL or NOV, points for improper reporting and unreported parameters shall remain. In cases where improper reports or unreported potential parameter violations, for which revised reporting forms have been submitted, result in or contribute to enforcement referrals, regional discretion may be used at that time. Report corrections/revisions/completions of previously omitted data shall be submitted as an original with proper signatures and date as required for the initial submittal.
10. Upon completion of VPA reporting processing, documents shall be filed by the appropriate staff member.

11. VPA Permit Application Process

- a. Permit Language: Duty to Reapply – Any permittee with an effective VPA permit shall submit a new application at least 180 days before the expiration date of the effective VPA permit unless permission for a later date has been granted by the Board. Permission shall not be granted to submit an application later than the expiration date of the existing VPA permit.
- a. Requirement to submit a permit application is a compliance schedule item. The permit application condition will be entered into the Compliance Schedule Events screen in CEDS by the permit staff at the time the permit is issued or reissued.
- a. Appropriate points will be assessed in CEDS when the monthly points assessment is generated by OIS on or about the 25<sup>th</sup> of each month, and will appear on the Monthly (Potential) Violation Summary Report generated by the CA. The CA will review and take appropriate action.

12. VPA Data Review And Determination Of Noncompliance

- a. CA receives all monthly input via reported data, compliance schedule events, inspection reports, printout of the Monthly (Potential) Violation Summary Report from CEDS, etc. CA will make determination of noncompliance based on the information provided by permittee, and verified by DEQ permit, inspection, and enforcement staff. Before notifying permittee of potential violations, the CA needs to verify the basis upon which the potential violation is based (i.e. verify compliance schedule events and permit limits).
- a. Points will be assessed by the CA based on the Point Assessment Criteria (See Appendix 1).
- a. Enter any additional assessed potential violations/points into CEDS (i.e. inspection problems, etc.). All data is to be entered no later than the 24<sup>th</sup> of each month, and OIS will generate the potential violation points assessment on or about the 25<sup>th</sup> of each month.
- a. The Monthly (Potential) Violation Summary Report is generated from CEDS and reviewed by the CA for the following:
  - 1. Verify that potential violations appearing on the report match the potential violations noted on the DMRs during the manual review. Correct any errors.
  - 1. Verify that points assessed by CEDS match the Point Assessment Criteria. Correct any errors.
  - 1. Based on point assessment determine appropriate action necessary to address potential violations. Guidance on the appropriate uses of Warning Letters (WLs) or Notices of Violation (NOVs) and sample letters extracted from Enforcement Manual may be found in Appendix 2 and 3. Prior to issuing letters review to ensure that the facility does not have other problems (i.e. inspection problems, overflows, etc.) that

warrant inclusion in the letter. This would usually include only items that would have to be manually entered into CEDS. All other items should show up on the report.

1. If unsure of points assessment potential violation determination, CA should consult with other compliance/enforcement/permitting staff members; either informally, at a formal meeting, or a combination of the two methods to verify that the potential violation actually exists.
    - a. Points are monitored for a rolling 6-period reporting window (6 months, 6 quarters, etc.). NOTE: At the present time, CEDS starts a new compliance cycle with any permit reissuance or modification.
13. VPA Non-Compliance Processing (WLS/NOVS)

Accumulation of 1 point (per regulated activity) justifies a Warning Letter (WL) which provides notice of specific potential violation(s) and requests a written response (if not already provided or inadequate) identifying the problem and how it is being corrected. If a regulated activity accumulates enough points to justify issuance of a WL and the facility has potential violations at additional regulated location(s) which do not individually total one (1) point, these potential violations should still be cited in the WL. Copies of letters are routed to appropriate staff members. (See WL guidance and WL format extracted from Enforcement Manual in Appendix 2).

Accumulation of 4 points justifies a Notice of Violation (NOV). The first NOV issued is the referral NOV. After referral, NOVs shall be issued for continuing potential violations which resulted in the referral or for new potential violations, as long as the total monthly points assessed equal at least one (1) point. Copies of letters are routed to appropriate staff members. (See NOV guidance and NOV letter format extracted from Enforcement Manual in Appendix 3.)

WLs and NOVs are assigned numbers generated by CEDS through the Compliance Activity screen, whenever possible. These numbers are included in the letters and entered into the CEDS (Potential) Violation screen for the appropriate month in order to track the letters sent out and to track which potential violations were summarized in each particular letter. Once the letters are mailed the sent date needs to be added to the Compliance Activity screen. Date sent is the trigger for the NOV data to be uploaded to EPA. Documentation should also be made in the comments field on the Compliance Activity screen if for any reason a WL/NOV number is generated but the letter is not sent. Unpermitted facilities cannot currently be entered into CEDS. The letters for these facilities must be generated and tracked outside of CEDS.

Withdrawal of NOVs – NOT ALLOWED.

Erroneously sent WLs/NOVs. If later - discovered facts indicate that the WLs or NOVs was sent in error then that information will be entered into CEDS, by the CA, in the comment field for the Compliance Activity screen in CEDS which documents the letter or notice and, also, in the comment field for the (Potential) Violation screen. In addition, written confirmation may be provided to the



recipient of the WL or NOV that later - discovered facts indicate that it was sent in error.

WLs and NOVs issued may (an explanation for the situation has not already been received) or may not (an explanation for the situation may have already been received) require a response. Receipt of a response is tracked and the response is reviewed by the appropriate staff members and determined to be acceptable or unacceptable in the explanation of achieving compliance. The number of letters (WLs, NOVs, informal correction actions) issued in a month and the number of responses received, which indicate a return to compliance by a facility, is counted in the monthly ROMORPT sent to the DEQ Central Office (CO) in Richmond, VA.

Responses to WLs and NOVs and requests for informal corrections may be tracked and evaluated to determine if the facility has returned to compliance or if further enforcement action is necessary.

## **F. VIRGINIA WATER PROTECTION PERMIT (VWPP) REPORTS & COMPLIANCE SCHEDULE EVENTS**

This type of permit is issued for construction or operation of facilities (impacts to wetlands, dredge and fill activities) which may result in any discharge into state waters. Reporting may be required and information submitted will be reviewed and compared against the requirements of the permit.

1. Permit special conditions (which may include due dates, effluent limitations and Monitoring requirements) are entered into the Compliance Schedule Events screen in CEDS at the time the permit is issued or reissued. Some conditions have due dates associated with them and some do not. CAs are to track only the items for which due dates have been assigned, to ensure receipt and compliance with permits issued. (Tracking of VWPP items is currently on the list to add to CEDS.)
1. Received, reviewed and completed dates are entered into CEDS by the appropriate staff member. Reports containing monitoring requirements/results for water quality sampling, pre- and post-dredge surveys, mitigation plans etc. are reviewed manually by the appropriate staff member. If the appropriate staff member determines that the item was complete on the date received, the “completed date” should be the same as the “received date”. If the appropriate staff member deems that the item is incomplete, the CA should be notified so that points can be manually assessed.
3. A monthly report of compliance schedule events, which denotes schedule items to be expected in the month, should be generated the 1<sup>st</sup> week of each month and routed to appropriate staff members.
4. A second copy of this report is generated no later than the 25<sup>th</sup> of each month and again routed to the appropriate staff members indicating if no “date received” entered in CEDS by “xxx date” it will be deemed a “no show” of a specific item and a WL/NOV will be issued.
5. VWPP Data Review And Determination Of Noncompliance
  - a. CA receives documentation to review (i.e. site inspection memo, chronology of events, etc.). CA will make determination of noncompliance based on the information provided by permittee, and verified by DEQ permit, inspection, and enforcement staff. Before notifying permittee of potential violations, the CA needs to verify the basis upon which the potential violation is based.
  - b. Points will be assessed by the CA based on the Point Assessment Criteria (See Appendix 1).
  - b. Enter any additional assessed potential violations/points into CEDS (i.e. inspection problems, etc.). All data is to be entered no later than the 24<sup>th</sup> of each month, and OIS will generate the potential violation points assessment on or about the 25<sup>th</sup> of each month.

Note: See VWP Permit Manual for further reference.

6. VWPP Non-Compliance Processing (WLS/NOVS)

Accumulation of 1 point (per individual activity) justifies a Warning Letter (WL) which provides notice of specific potential violation(s) and requests a written response (if not already provided or inadequate) identifying the problem and how it is being corrected. If an activity accumulates enough points to justify issuance of a WL and the facility has potential violations at additional activity(s) which do not individually total one (1) point, these potential violations should still be cited in the WL. Copies of letters are routed to the appropriate staff members. (See WL guidance and WL format extracted from Enforcement Manual in Appendix 2).

Accumulation of 4 points justifies a Notice of Violation (NOV). The first NOV issued is the referral NOV. After referral, NOVs shall be issued for continuing potential violations which resulted in the referral or for new potential violations, as long as the total monthly points assessed equal at least one (1) point. Copies of letters are routed to the appropriate staff members. (See NOV guidance and NOV letter format extracted from Enforcement Manual in Appendix 3.)

WLs and NOVs are assigned numbers generated by CEDS through the Compliance Activity screen, whenever possible. These numbers are included in the letters and entered into the (Potential) Violation screen in CEDS for the appropriate month in order to track the letters sent out and to track which potential violations were summarized in each particular letter. Once the letters are mailed the sent date needs to be added to the Compliance Activity screen. Date sent is the trigger for the NOV data to be uploaded to EPA. Documentation should also be made in the comments field on the Compliance Activity screen if for any reason a WL/NOV number is generated but the letter is not sent. Unpermitted facilities cannot currently be entered into CEDS. The letters for these facilities must be generated and tracked outside of CEDS.

Withdrawal of NOVs – NOT ALLOWED.

Erroneously sent WLs/NOVs. If later - discovered facts indicate that the WL or NOV was sent in error then that information will be entered into CEDS, by the CA, in the comment field for the Compliance Activity screen in CEDS which documents the letter or notice and, also, in the comment field for the (Potential) Violation screen. In addition, written confirmation may be provided to the recipient of the WL or NOV that after-discovered facts indicate that it was sent in error.

WLs and NOVs issued may (an explanation for the situation has not already been received) or may not (an explanation for the situation may have already been received) require a response. Receipt of a response is tracked and the response is reviewed by the appropriate staff member and determined to be acceptable or unacceptable in the explanation of achieving compliance. The number of letters (WLs, NOVs, informal correction actions) issued in a month and the number of responses received, which indicate a return to compliance by a facility, is counted in the monthly ROMORPT sent to CO.

Responses to WVs and NOV's and requests for informal corrections may be tracked and evaluated to determine if the facility has returned to compliance or if further enforcement action is necessary.

## **G. GROUND WATER REPORTS & COMPLIANCE SCHEDULE EVENTS**

These types of permits are issued under the Ground Water Management Act of 1992 which limit the amount of ground water withdrawn for management and control of ground water resources.

1. Permit special conditions (which may include due dates, effluent limitations and monitoring requirements) are entered into the Compliance Schedule Events screen in CEDS at the time the permit is issued or reissued. Some conditions have due dates associated with them and some do not. CAs are to track only the items for which due dates have been assigned, to ensure receipt and compliance with permits issued. (Tracking of Ground Water items is currently on the list to add to CEDS.)
2. Received, reviewed and completed dates are entered into CEDS by the appropriate staff member. Reports containing monitoring requirements (i.e. results for ground water quality data, ground water level data, surface water usage, ground water withdrawals, etc.) are reviewed manually by the appropriate staff member. If the appropriate staff member determines that the item was complete on the date received, the “completed date” should be the same as the “received date”. If the appropriate staff member deems that the item is incomplete, the CA should be notified so that points can be manually assessed.
3. A monthly report of compliance schedule events, which denotes schedule items to be expected in the month, should be generated the 1<sup>st</sup> week of each month and routed to the appropriate staff members.
4. A second copy of this report is generated no later than the 25<sup>th</sup> of each month and again routed to the appropriate staff members indicating if no “date received” entered in CEDS by “xxx date” it will be deemed a “no show” of a specific item and a WL/NOV will be issued.
5. Ground Water Data Review And Determination Of Noncompliance
  - a. CA receives documentation to review (i.e. site inspection memo, chronology of events, etc.). CA will make determination of noncompliance based on the information provided by permittee, and verified by DEQ permit, inspection, and enforcement staff. Before notifying permittee of potential violations, the CA needs to verify the basis upon which the potential violation is based.
  - b. Points will be assessed by the CA based on the Point Assessment Criteria (see Appendix 1).
  - b. Enter any additional assessed potential violations/points into CEDS (i.e. inspection problems, etc.). All data is to be entered no later than the 24<sup>th</sup> of each month, and OIS will generate the potential violation points assessment on or about the 25<sup>th</sup> of each month.

Note: See Ground Water Permit Manual for further reference.

6. Ground Water Non-Compliance Processing (WLS/NOVS)

Accumulation of 1 point (per withdrawal point) justifies a Warning Letter (WL) which provides notice of specific potential violation(s) and requests a written response (if not already provided or inadequate) identifying the problem and how it is being corrected. If an outfall accumulates enough points to justify issuance of a WL and the facility has potential violations at additional withdrawal point(s) which do not individually total one (1) point, these potential violations should still be cited in the WL. Copies of letters are routed to appropriate staff members. (See WL guidance and WL format extracted from Enforcement Manual in Appendix 2.)

Accumulation of 4 points justifies a Notice of Violation (NOV). The first NOV issued is the referral NOV. After referral, NOVs shall be issued for continuing potential violations which resulted in the referral or for new potential violations, as long as the total monthly points assessed equal at least one (1) point. Copies of letters are routed to appropriate staff members. (See NOV guidance and NOV letter format extracted from Enforcement Manual in Appendix 3.)

WLs and NOVs are assigned numbers generated by CEDS through the Compliance Activity screen, whenever possible. These numbers are included in the letters and entered into the CEDS (Potential) Violation screen for the appropriate month in order to track the letters sent out and to track which potential violations were summarized in each particular letter. Once the letters are mailed the sent date needs to be added to the Compliance Activity screen. Date sent is the trigger for the NOV data to be uploaded to EPA. Documentation should also be made in the comments field on the Compliance Activity screen if for any reason a WL/NOV number is generated but the letter is not sent. Unpermitted facilities cannot currently be entered into CEDS. The letters for these facilities must be generated and tracked outside of CEDS.

Withdrawal of NOVs – NOT ALLOWED.

Erroneously sent WLs/NOVs. If later - discovered facts indicate that the WL or NOV was sent in error then that information will be entered into CEDS, by the CA, in the comment field for the Compliance Activity screen in CEDS which documents the letter or notice and, also, in the comment field for the (Potential) Violation screen. In addition, written confirmation may be provided to the recipient of the WL or NOV that later - discovered facts indicate that it was sent in error.

WLs and NOVs issued may (an explanation for the situation has not already been received) or may not (an explanation for the situation may have already been received) require a response. Receipt of a response is tracked and the response is reviewed by the appropriate staff member and determined to be acceptable or unacceptable in the explanation of achieving compliance. The number of letters (WLs, NOVs, informal correction actions) issued in a month and the number of responses received, which indicate a return to compliance by a facility, is counted in the monthly ROMORPT sent to CO.

Responses to WVs and NOV's and requests for informal corrections may be tracked and evaluated to determine if the facility has returned to compliance or if further enforcement action is necessary.

## H. VPDES – OVERFLOWS/BYPASSES

Bypass means the intentional diversion of waste streams from any portion of a treatment facility (9 VAC 25-31-10).

Overflow means the unpermitted discharge, other than bypassing, from any portion of a treatment facility.

(9 VAC 25-31-190, subsection M)

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the following provisions.

Notice.

- Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
- Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in 9 VAC 25-31-190, subsection L 7 (24-hour notice)

Prohibition of bypass.

- Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:
  - Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; 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 judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and the permittee submitted notices as required under “Notices” above.
- The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above.

### a. 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.

- b. Overflows and/or bypasses will be treated as unpermitted discharges (not authorized by a permit). Reporting of these incidents should follow the requirements noted above. Point assessments for overflows and bypasses are also based on reported vs. unreported.

If an overflow/bypass reaches “state” waters, points will be assessed by the CA based on the Point Assessment Criteria. (See Appendix 1 on Point Assessment Criteria) The concerns regarding volume, type of discharge (toxic/nontoxic; treated/untreated) will not affect the assessment of points unless a fish kill has occurred. This information will be necessary to prepare a NOV.

Overflows/bypasses that do not reach state waters (they are contained and cleaned up) will not be assessed points.

Permitted facilities should reflect any overflow/bypass information on the DMR submitted for that time period. CA may want to review required 5-day letter explaining the occurrence, a plan for correction of the problem and prevention of future problems.

- c. Overflow/Bypass Data Review and Determination of Noncompliance
  1. CA receives documentation to review (i.e. inspection report, Prep report, etc.). CA will make determination of noncompliance based on the information provided by permittee, and verified by DEQ permit, inspection, and enforcement staff. Before notifying permittee of potential violations, the CA needs to verify the basis upon which the potential violation is based.

Points will be assessed by the CA based on the Point Assessment Criteria (See Appendix 1).
  2. Enter any additional assessed potential violations/points into CEDS (i.e. inspection problems). All data is to be entered no later than the 24<sup>th</sup> of each month, and OIS will generate the potential violation points assessment on or about the 25<sup>th</sup> of each month.

# I. SPILLS

## Definitions/example:

Need to address petroleum spills are to be addressed under Article 11 - any spill of petroleum onto land or into state waters will receive 4 pts. – (issues: volume of spill or type of petroleum make a difference; cleanup time may be allowed; if cleanup not done, issue NOV at that point).

Petroleum falls under Article 11 and does not have to reach State waters.

### a. 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.

- b. CA receives documentation to review (i.e. site inspection memo, chronology of events, etc.). CA will make determination of noncompliance based on the information provided by permittee, and verified by DEQ permit, inspection, and enforcement staff. Before notifying permittee of potential violations, the CA needs to verify the basis upon which the potential violation is based.
- c. Points will be assessed by the CA based on the Point Assessment Criteria (See Appendix 1).
- d. Enter any additional assessed potential violations/points into CEDS (i.e. inspection problems). All data is to be entered no later than the 24<sup>th</sup> of each month, and OIS will generate the potential violation points assessment on or about the 25<sup>th</sup> of each month.

## J. INSPECTIONS

Inspections are conducted in accordance with DEQ's inspection strategy. The goal of the inspections group is to 'resolve noncompliance issues at the lowest level possible'. These are classified as 'informal actions' and if they are not resolved at the lowest level within the time allowed, the matter will then be referred to the CA for review and assessment of points based on the point assessment criteria.

Problems found during inspections generally fall into one of two categories; either Operation and Maintenance (O&M) Manual potential violations or Certificate to Operate (CTO) potential violations. [Note: This applies to CTO requirements currently in permits previously issued prior to the Virginia Department of Health (VDH) taking over all CTO functions.] Any type of inspection that appears to warrant a Warning Letter may be referred to the CA by the inspector or the supervisor of the inspectors. Points should be assessed in accordance with the Point Assessment Criteria, Section 1.b.vii. (See Appendix 1) and manually entered into CEDS. When the Warning Letter point is reached and the situation has been referred to the CA, the potential violation should also be marked on the (Potential) Violation screen in CEDS by the CA for uploading to the Environmental Protection Agency (EPA).

VPDES permits contain the following language:

Proper Operation and Maintenance – The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures.

### 1. Facility Laboratory Inspections

A failed/unsatisfactory lab inspection will be identified by the inspector and a copy of the report will be transmitted to laboratory personnel for correction of any problems noted. Response time back to DEQ regarding how and when items are corrected is 15-30 days. Follow-up to corrections is conducted by the inspections group. If a second laboratory inspection is conducted and the lab fails again, referral will be made to the CA and a Warning Letter will be issued.

### 2. Technical Inspections

a. Technical Inspections are conducted in accordance with DEQ's Inspection Strategy.

a. An inspection report will be generated and copied to the permittee, and appropriate staff members. Response time back to DEQ regarding how and when items are corrected is 15-30 days (varies based on nature of noncompliance). Follow-up to corrections are conducted by inspections group. (Note: 'Scheduled' inspections information is uploaded to PCS.)

- a. Noncompliance items noted via the technical inspection report will be handled through the inspectors as noncompliance issues that need to be corrected with time allowed to do so – if corrections are not made, then the matter may be referred to the CA for review and assessment of points.

3. Commercial Laboratory Inspections

Commercial laboratories are not permitted by DEQ, but are laboratories used by some of the DEQ permitted facilities to analyze their samples. See March 6, 2001 Guidance Memo No. 01-2006 on Revised Commercial Laboratory Inspection Procedures (Appendix 4).

4. Compliance Inspections

- a. May accompany delivery of a WL/NOV.
- b. Typically these inspections are conducted on sites with continued noncompliance problems or with DMR potential effluent violation(s) or to follow-up with facilities to verify problems have been corrected.

5. Sampling Inspections

- a. If a split sampling inspection (DEQ has 50% of the sample analyzed and the facility has the other 50% analyzed) is conducted and potential effluent violations are found, these should be reported by the facility on the DMR and processed accordingly. VPDES permits contain the following language: “The permittee shall submit the results of the monitoring required by this permit not later than the 10<sup>th</sup> day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by 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.”
- a. If a sampling inspection that is not a split sampling is conducted and potential effluent violations are found, a follow-up sampling inspection may be conducted. If possible, this should be a split sampling, because the potential effluent violations would appear on a DMR.
- a. If a second sampling inspection that is not a split sampling is conducted and potential effluent violations are found, the facility may be referred to the CA and a Warning Letter issued.

6. Reconnaissance Inspections

Reconnaissance inspections are conducted by an inspector for a site that had problems previously – viewed as a “in the neighborhood, will stop and see how things are going” type of inspection. These inspections are a followup method to verify problems are getting corrected.

7. Inspection Data Review and Determination of Noncompliance
  - a. CA receives documentation to review (i.e. site inspection memo/reports, etc.). CA will make determination of noncompliance based on the information provided by permittee, and verified by DEQ permit, and enforcement staff. Before notifying permittee of potential violations, the CA needs to verify the basis upon which the potential violation is based.
  - a. Points will be assessed by the CA based on the Point Assessment Criteria (See Appendix 1).
  - a. Enter any additional assessed potential violations/points into CEDS (i.e. inspection problems, etc.). All data is to be entered no later than the 24<sup>th</sup> of each month, and OIS will generate the potential violation points assessment on or about the 25<sup>th</sup> of each month.

Note: Refer to the Water Inspection Strategy Guidance Memoranda.

## **K. PREP**

### 1. Introduction (extracted from PREP manual)

DEQ's Pollution Response Program (PREP) shall provide timely and effective responses to air, water, and waste pollution incidents where a response is needed to protect human health, to protect the natural environment, to promote effective investigations as to the source and impacts of pollution, or to assist local, state or federal agencies in managing incidents that involve pollution.

DEQ staff shall act as pollution incident investigators in coordinating and directing cleanup activities, as technical, logistical and financial resource support to on-scene first responders, and as natural resource damage assessors. When appropriate, PREP staff shall plan and coordinate incident responses with other state, local, and federal responders. The DEQ staff shall not act as emergency responders. Staff shall only respond when it is safe to do so, and in no event shall staff knowingly place themselves, or others, in harms way.

Potential violations of laws and regulations under the purview of DEQ shall be dealt with in accordance with agency guidance in the respective programs and the Point Assessment Criteria (See Appendix 1).

### 1. PREP Data Review and Determination of Noncompliance

Prep Form will be completed by the appropriate staff member upon receipt of a pollution complaint or notification by permittee of a bypass or spill. A PREP number will be assigned to that complaint/bypass/overflow/spill. A site inspection may be conducted with a written report generated containing the findings.

If a bypass/overflow is reported during a month by a permitted facility, this information should also be documented on the DMR form when submitted (See 'bypasses and overflows' section of the DMR).

- a. CA receives documentation to review (i.e. PREP report; site inspection Memo, 5-day letter, DMR, etc.). CA will make determination of noncompliance based on the information provided by permittee, and verified by DEQ permit, inspection and enforcement staff. Before notifying permittee of potential violations, the CA needs to verify the basis upon which the potential violation is based.
- a. Points will be assessed by the CA based on the Point Assessment Criteria (See Appendix 1).
- a. Enter any additional assessed potential violations/points into CEDS (i.e. other inspection problems, etc.). All data is to be entered no later than the 24<sup>th</sup> of each month, and OIS will generate the potential violation points assessment on or about the 25<sup>th</sup> of each month.

## L. 95% FLOW

### 95% Design Capacity

The permit language states: Treatment Plant Flows – A written notice and plan of action for ensuring continued compliance with the terms of this permit shall be submitted to DEQ, (Regional office address), when the monthly average flow influent to the sewage treatment plant reaches 95 percent of the design capacity authorized in this permit for each month of any three consecutive month period. The written notice shall be submitted within 30 days and the plan of action shall be received at the Regional Office no later than ninety (90) days from the third consecutive month for which the flow reached 95 percent of the design capacity. The plan shall include the necessary steps and a prompt schedule of implementation for controlling any current or reasonably anticipated problem resulting from high influent flows. Failure to submit an adequate plan in a timely manner shall be deemed a violation of the permit.

### Compliance Auditing Responsibilities:

- Manually check average flow rate (Parameter 001, Quantity/Loading Average) against the design capacity (limit) during manual review of DMR data and flag those that are greater than or equal to 95% of the design capacity. Formula =  $0.95 \times \text{Quantity/Loading Average Limit} = Y$ . Is Y greater than OR equal to the reported amount reported on the DMR for Quantity/Loading Average?
- If yes, enter this information manually onto the CEDS potential violation screen for the appropriate month, but do not enter any potential violation points. This is not an actual potential violation, but is being used as a tracking tool.
- When a facility has 3 consecutive months of average flow greater than or equal to 95% of the design capacity, DEQ should notify the facility that a plan must be submitted in accordance with permit requirements. CA notifies appropriate staff member (i.e. enforcement officer, PW) that 95% letter needs to be sent when applicable.
- It then becomes a compliance special condition and a due date can be entered into the Special Conditions screen in CEDS.

## II. ENFORCEMENT

### A. NON-COMPLIANCE PROCESSING (WLS/NOVS)

1. Accumulation of 1 point (per individual outfall) justifies a Warning Letter (WL) which provides notice of specific potential violation(s) and requests a written response (if not already provided or inadequate) identifying the problem and how it is being corrected. If an outfall accumulates enough points to justify issuance of a WL and the facility has potential violations at additional outfall(s) which do not individually total one (1) point, these potential violations should still be cited in the WL. Copies of letters are routed to the appropriate staff members. (See WL guidance and WL format extracted from Enforcement Manual in Appendix 2.)
1. Accumulation of 4 points justifies a Notice of Violation (NOV). The first NOV issued is the referral NOV. After referral, NOVs shall be issued for continuing potential violations which resulted in the referral or for new potential violations, as long as the total monthly points assessed equal at least one (1) point. Copies of letters are routed to the appropriate staff members. (See NOV guidance and NOV letter format extracted from Enforcement Manual in Appendix 3.)
1. WLs and NOVs are assigned numbers generated by CEDS through the Compliance Activity screen, whenever possible. These numbers are included in the letters and entered into the (Potential) Violation screen in CEDS for the appropriate month in order to track the letters sent out and to track which potential violations were summarized in each particular letter. Once the letters are mailed the sent date needs to be added to the Compliance Activity screen. Date sent is the trigger for the NOV data to be uploaded to EPA. Documentation should also be made in the comments field on the Compliance Activity Screen if for any reason a WL/NOV number is generated but the letter is not sent. Unpermitted facilities cannot currently be entered into CEDS. The letters for these facilities must be generated and tracked outside of CEDS.
4. Withdrawal of NOVs – NOT ALLOWED.

Erroneously sent WLs/NOVs. If later - discovered facts indicate that the WL or NOV was sent in error then that information will be entered into CEDS, by the CA, in the comment field for the Compliance Activity screen in CEDS which documents the letter or notice and, also, in the comment field for the (Potential) Violation screen. In addition, written confirmation may be provided to the recipient of the WL or NOV that later - discovered facts indicate that it was sent in error.

WLs and NOVs issued may (an explanation for the situation has not already been received) or may not (an explanation for the situation may have already been received) require a response. Receipt of a response is tracked and the response is reviewed by the appropriate staff member and determined to be acceptable or unacceptable in the explanation of achieving compliance. The number of letters (WLs, NOVs, informal correction actions) issued in a month



and the number of responses received, which indicate a return to compliance by a facility, is counted in the monthly ROMORPT sent to CO.

5. Responses to WLs and NOVs and requests for informal corrections may be tracked and evaluated to determine if the facility has returned to compliance or if further enforcement action is necessary.

## **B. MONTHLY COMPLIANCE/ENFORCEMENT MEETING**

### Compliance/Enforcement Meetings/Agenda/Report Preparation

1. Enforcement meetings are scheduled monthly with the appropriate staff members to discuss new and/or ongoing cases referred to enforcement or facilities that may require a WL or NOV.
1. This discussion allows input from staff members to provide updates on the status of a consent special order (was it signed, etc.), issuance of a Letter of Agreement, dereferral of a case or possibly additional reasons for a referral, etc. These meetings may be utilized by sections: Permits, VWP, Remediation, or PREP.
1. A Compliance/Enforcement Agenda is utilized (format varies by Region) as a tool for the items to be listed for discussion. This Agenda is prepared in advance of the meeting and routed to appropriate staff members, prior to actual meeting date, for their review.
1. After the meeting has concluded, there may be follow-up required by specific staff members. These items are handled by each region as deemed appropriate.

## **C. REFERRALS TO ENFORCEMENT**

1. A NOV letter issued for accumulation of 4 points is considered a “referral to enforcement”.
2. Potential violations after referral to enforcement are addressed in a NOV.

## D. ENFORCEMENT ACTIONS

1. There are several options for a referral made to enforcement – dereferral, issuance of a letter of agreement (LOA), Consent Special Order (CSO), etc. (See Chapter 2 of the Enforcement Manual for examples).

Effect of Owner Signing Order or Decree:

Once an owner has signed an enforcement action (EA) and the enforcement representative (ER) has received the original signed document the ER shall notify the CA. NOVs will no longer be issued for those past or future potential violations for which the EA is executed provided that the EA recognizes, and provides correction for, the deficiencies which led to the potential violation. However, points for past potential violations, will remain in the auditing system, and points for future potential violations will accrue until the enforcement action becomes effective (i.e. date action is signed by RD or Judge).

Once the enforcement action becomes effective the ER shall notify the CA. Where a facility is subject to an EA to eliminate certain potential violations and is demonstrating satisfactory progress under the action, points may be excused by the Deputy Regional Director (DRD) or the Compliance and Enforcement Manager (CEM) for potential violations the enforcement action was designed to correct.

If the points are excused, the CA will remove (zero) all points for the current six period window for violations covered in the EA. Points for potential violations not covered in the EA shall remain. Points are not zeroed for LOAs.

2. Tracking of Enforcement Items – “enforcement referrals” are assigned an enforcement action number by the appropriate staff member. This number will identify the enforcement action that has been taken with respect to the facility. The status of the enforcement action (i.e. Order Active, Order Cancelled, etc.) can be found on the Enforcement Action screen in CEDS. Requirements and due dates are entered into CEDS by the appropriate staff member. Status of enforcement referral is entered into CEDS at time of status change (i.e. draft order, PN, etc.) beginning with the assignment of EA number. EA numbers shall be assigned by the 24<sup>th</sup> of the month in which the case is referred.
3. CSO special condition schedules are entered into CEDS at the time of CSO issuance (after signed into effect by DEQ) by the enforcement staff. CAs are to track only the items for which due dates have been assigned, to ensure receipt and compliance with CSOs issued. The enforcement staff also enters interim limits, contained in CSOs, into CEDS.
4. Received, reviewed, and completed dates are entered into CEDS by the appropriate staff member. If the appropriate staff member determines that the item was complete on the date received, the completed date should be the same as the received date. If the appropriate staff member deems that the item is incomplete, the CA should be notified so that points can be manually assessed.

5. A monthly report of compliance schedule events, which denotes schedule items to be expected in the month, should be generated the 1<sup>st</sup> week of each month and routed to appropriate staff members.
6. Second copy of this report is generated no later than the 25<sup>th</sup> of each month and again routed to appropriate staff members indicating if no “date received” entered in CEDS by “xxx date” it will be deemed a “no show” of a specific item and a WL/NOV will be issued.

## **E. REPORTS**

1. Quarterly Non-Compliance Report (QNCR) should be generated by appropriate staff member. Significant Non-Compliance (SNC) is determined and noted on this report.
2. Federal Facilities Report - should be generated by Central Office and updated by CAs quarterly.

### **III. COMPLIANCE AUDITING OUTPUT**

#### **A. OTHER REPORTS**

- Monthly Potential Violation Summary Report is a canned report which is generated after points are generated.
- Missing/Late DMRs Report is a canned report to show DMRs not received and/or were received late.

#### **B. OTHER**

1. FOIA (See agency FOIA policy)
1. Subpoena
1. Confidentiality (AG advice/requirements of confidentiality)

## IV. EPA CODING

Coding data for upload to EPA's Permit Compliance System (PCS) is a process that has been added to the CA's job duties since the implementation of CEDS. Seven columns have been added to the potential violation screen to accommodate this requirement.

In order to appropriately code data for the upload to EPA the CAs must understand EPA's Permit Compliance System (PCS) database capabilities.

### PCS Automatic Detection and Resolution of Data

PCS is capable of detecting, resolving, and updating Compliance Schedule Events (CSEs) that DEQ automatically uploads. Appendix 6 contains the list of CSEs that are automatically uploaded to PCS. (Majors and minors)

PCS is able to determine the status of Reportable Noncompliance (RNC) for DMR incomplete (unreported parameters), DMR nonreceipt, and measurement violations. There is a PCS production update that resolves DMR non-receipt violations when the DMR is received. This production job also recognizes changes to the measurement data and reevaluates the data. (Majors)

Violations of both permit or enforcement action limits will appear on the PCS QNCR if they meet the RNC criteria. Once an enforcement action with an extended compliance schedule is entered into CEDS and uploaded to PCS the potential effluent and CSE violations will be set to resolved pending on the PCS QNCR. The potential violations will automatically be resolved by PCS when the enforcement action is formally closed. (Majors)

If an enforcement action does not contain interim enforcement action limits, the CA must manually code the data to change the status of resolved pending to resolved. The potential violations should not be coded as resolved until the enforcement action is formally closed. The resolution date is the date the enforcement action is formally closed. (Majors)

### Manual Coding of Data for Upload

Manual coding is required for:

- Improper DMR occurrences (Majors)
- Single event violations (Majors and minors)
- Any CSEs determined by the Region to be of substantial concern that are not included in the group of CSEs that are automatically uploaded to EPA by DEQ. (Majors and minors)

PCS cannot automatically detect and resolve potential violations for the above situations; therefore, the CA must code potential violations by selecting the appropriate description from the EPA Violation column list of values (LOV) on the CEDS Violation Screen. Appropriate description selection is outlined in #3 below. Coding the data with an EPA violation code will ensure that the data is uploaded to EPA.

In addition, for potential violations that the Agency determines to be RNC for QNCR purposes, the CA shall code each violation with a EPA violation code and date, detection code and date, and resolution code and date.



## Resolving Errors or Updating QNCR Status by Manual Override

If there are potential violations that appear on EPA's QNCR inappropriately, the CA can manually resolve these by coding the appropriate potential violations with a detection code and date and resolution code and date. These codes will manually override the codes in PCS that caused the potential violations to appear on the QNCR.

**WL/NOV column** – The CA shall link each potential violation with the appropriate WL/NOV number. This will tell PCS which potential violations are covered in the NOV.

**EA number column** – Once and enforcement action is effective (RD has signed), the CA shall link all potential violations covered by the enforcement action with the appropriate EA number. This will tell PCS which potential violations are covered in the enforcement action.

### **EPA Codes**

1. Violation codes
  - Compliance Schedule Violation – Achieved Late – This selection is used to manually code or override a PCS code for compliance schedule events achieved late. These are milestone events such as start construction, complete construction, meet final limits, etc.
  - Compliance Schedule Violation – Reported Late – This selection is used to manually code or override a PCS code for compliance schedule event submittals that are reported late.
  - Compliance Schedule Violation – Unachieved – These selection is used to manually code or override a PCS code for compliance schedule events that are unachieved. These are milestone events such as start construction, complete construction, meet final limits, etc.
  - Compliance Schedule Violation – Not received – This selection is used to manually code or override a PCS code for compliance schedule event submittals that have not been received.
  - Determine Compliance
  - DMR Quality Assurance – This selection is used to code improper DMR occurrences as these potential violations cannot be automatically detected by PCS.
  - ENF – Limit Violation – Potential violations of enforcement action limits are automatically detected by PCS. However, if for some reason, the automatic detection does not occur this selection can be used to manually code the potential violation for upload. This selection can also be used to manually override a PCS code.
  - ENF – Other Violation – If a potential violation of an enforcement action is determined to be RNC, this selection is used to code potential violations of enforcement actions that are neither effluent or compliance schedule potential violations which cannot automatically be detected by PCS.
  - ENF – Schedule Violation – This selection is used to manually code or override a PCS code for compliance schedule events in an enforcement action.
  - Fish Kill – Single Event Violation
  - Discharge w/o a Valid Permit – Single Event Violation
  - Stormwater Violation – Single Event Violation
  - Unauthorized Bypass – Single Event Violation
  - Unpermitted Discharge Via Collection System – Single Event Violation

- Violation Detected During Inspection – Single Event Violation

PCS does not automatically detect RNC for single event violations. RNC for single event violations is manually entered; however, PCS automatically resolves single event violations listed as “resolved pending” by the closure of a formal enforcement action.

2. Resolution Codes – For single event violations, this is a PCS code which indicates the RNC resolution status of a PCS violation. These codes are used to manually resolve RNC that was uploaded into PCS by manual detection and to override inaccuracies. These codes are defined on page 8-24 of the PCS manual and are included in Appendix 7 of this manual.

- NC-Unresolved RNC
- RE-Back into Compliance
- RP-Due to Formal EA
- RP-In Compliance Last Qtr
- RE-Resolved by RP by EA W/CL
- RE-Manual RES by EA w/CL
- RP-Manual RP – In Compliance W/ADM Limit
- RP-Manual due to formal EA
- RE-Manual by back into Compliance

3. Resolution Date – Date resolution occurs

4. RNC Detection Codes – These codes are defined in a chart on pages 8-22 and 8-23 of the PCS manual and are included in Appendix 8 of this manual. The chart indicates which violations PCS is automatically capable of detecting and which require manual coding. The chart also indicates if the RNC falls into QNCR Category I or Category II noncompliance. The CAs shall use these codes to manually set RNC violations that appear on the QNCR. In order to override data appearing on the QNCR, the CA shall link the appropriate detection code with a resolution code to resolve the issue.

- ENF-Administrative Order
- DIS-Manual 2A4 – Pass – Through
- CHR – Chronic Violation
- DIS – Manual Other
- DIS – Manual 2F – Permit Narrative
- DIS – Manual 2G – Violation of Concern
- DIS – Manual 2A1 – Effluent Volume
- CHR – Chronic Vio, Non-month Average
- DIS – Manual 2A2 – Unauthorized Bypass
- RPT – Manual 2A3 – Unpermitted Discharge
- RPT – Nonreceipt of DMR/CS Report
- RPT – Nonrec Vio, Non-month Average
- ENF – Admin order, Non-month Average
- DIS – Manual 2B – Pretreatment
- TRC – TRC Violated, Non-month Average
- SCH – Compliance Schedule Violation
- TRC – TRC Limits Exceedance

- EFF – Other Vio w/TRC Non-month Average
- EFF – Other Vio w/TRC
- DIS – Manual 2E – Deficient Rpt
- EFF – Manual other viol w/TRC
- TRC – Manual TRC
- CHR – Manual Chronic

5) Detection Date – Date RNC is detected

**V. CEDS DATA ENTRY RULES**  
(RESERVED – to be inserted at a later date)

## **VI. CEDS FUNCTIONS**

(RESERVED – to be inserted at a later date)

## **INDEX OF APPENDIXES**

Appendix 1	Point Assessment Criteria
Appendix 2	Warning Letter
Appendix 3	Notice of Violation
Appendix 4	Revised Commercial Lab Inspections Procedures
Appendix 5	CSEs – Automatic Upload to PCS
Appendix 6	PCS Resolution Codes
Appendix 7	PCS RNC Detection Codes
Appendix 8	Violation Summary Report
Appendix 9	Missing/Late DMR Report
Appendix 10	Regional Enforcement Agenda
Appendix 11	Federal Facilities Report
Appendix 12	<QL Advice/Guidance Memo and Instructions

# 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>
------------------------------	------------------------

### 1) PERMIT VIOLATIONS

a) VPDES (including General Permits)

i) Effluent Limits

**(1) TOXIC Parameters (Except Cl<sub>2</sub> and ammonia)**

**(a) Value equal or greater than 1.2 x Limit**

Major.....	2
Minor .....	1

**(a) Value less than 1.2 x Limit**

Major.....	.5, .5, 1, 2
Minor .....	.2, .2, .5, 1

**(a) WET** ..... 2

**(1) NONTOXIC Parameters (including ammonia)**

**(a) Value equal or greater than 1.4 x Limit**

Major.....	2
Minor .....	1

**(a) Value less than 1.4 x Limit**

Major.....	.5, .5, 1, 2
Minor .....	.2, .2, .5, 1

**(1) Dissolved Oxygen, pH, Temperature, All Exceptions, Except Cl<sub>2</sub> (Major and minor)**

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

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

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

**(a) Value greater than 0.8 x minimum limit** ..... .2, .2, .5, 1

**(1) Chlorine**

**(a) Cl<sub>2</sub>-Inst. Resid. Tech. Max and Inst. Min. Tech Limit  
(Parameters 166 and 213)**

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

**(a) All Other Cl<sub>2</sub> Including Exceptions (Major & Minor)**

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

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

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

**(i) Value greater than 0.8 x minimum limit** ..... .2, .2, .5, 1

<b>(1) Quarterly Reporting</b>	
Major.....	1, 1, 2
Minor .....	1
<b>i) Pretreatment Violations</b>	
Major.....	1, 1, 2
Minor .....	1
<b>i) Toxics Monitoring Program (Major and minor)</b>	
(1) Failure to report under TMP/TRE .....	1, 1, 2
(1) Inadequate reporting under TMP/TRE, 1st submittal .....	1, 1, 2
(1) Inadequate reporting under TMP/TRE, subsequent submittals .....	1, 1, 2
<b>i) Unsatisfactory Inspection (Major and minor)</b>	
(1) Overall unsatisfactory rating .....	.5, 1, 1, 2
(1) Overall unsatisfactory rating with evidence of falsification.....	4
<b>i) Bypasses and Overflows (through permanent outfalls, points assessed per discharge, per day) (Major and minor)</b>	
(1) Unreported.....	2
(1) Reported.....	.2, .2, .5, 1
<b>a) VPDES and VPA</b>	
<b>i) Compliance schedules/due dates</b>	
Major.....	1, 1, 2
Minor .....	1, 1, 2
<b>i) Late DMR/monitoring report (Major and minor)</b>	
(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
<b>i) 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)</b>	
Major.....	2
Minor .....	1
<b>i) Incomplete DMR (Normally less than 25 per cent of required parameter values missing) (Maximum points per DMR/monitoring report) .....</b>	1
<b>i) Improper DMR/monitoring report (Major and minor) (.2 total points per DMR/monitoring report to be assessed regardless of improper items) .....</b>	.2
<i>Examples of Improper DMR/Monitoring Report Violations:</i>	
• <i>No signature, no date, or no telephone number.</i>	
• <i>Number(s) and/or decimal point illegible.</i>	
• <i>Typographical or data entry error.</i>	
• <i>DMR submitted on outdated form.</i>	
• <i>Monitoring period not entered.</i>	
• <i>Sample type or sample frequency not complete or incorrect.</i>	
• <i>Letter of Explanation for violations not received.</i>	
• <i>Letter of Explanation for violations not adequate.</i>	
<b>i) Application Process Violations (Major/minor/no permit)</b>	
(1) Failure to (Re)Apply in Timely Manner .....	1, 1, 2
(1) Improper or incomplete application/reapplication .....	1, 1, 2
(1) Construction/modification of facilities without application (New or existing) .....	1, 1, 2



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

- i) Failure to report a release or suspected release ..... 4
- a) Aboveground 011 storage tank (Article 11: AST and LAST) violations
  - i) Failure to submit Contingency Plan, or operation without approved Contingency Plan..... 1
  - i) 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
  - i) Failure to demonstrate financial responsibility ..... 1, 1, 2
  - i) Failure to maintain on-site facility records..... 1, 1, 2
  - i) Failure to operate in accordance with approved Contingency Plan..... 1, 1, 2
  - i) Reportable oil spill with no approved Contingency Plan, or inadequate response to oil spill.. 4
  - i) Failure to remediate..... 2, 2
- a) Tank Vessels (Article 11)
  - i) All violations..... 4
- a) Oil Discharge Violations (Article 11)
  - i) Discharge or Release of Oil Resulting in Environmental Damage or Loss of Beneficial Uses (If there is a clear responsible party) ..... 4
  - i) Failure to immediately report discharge of oil that reaches, or that may reasonably be expected to reach, state waters, state lands or storm drains..... 4

**1) 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
  - i) All other spills
    - (1) Not Reported..... 4
    - (1) Reported ..... 1
- a) Refusal to reimburse for collectible cost recovery ..... 2, 2
- a) Violations of regulations and laws not stated above..... Case by Case

**1) 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
- a) Potential for adverse impact or loss of beneficial use ..... 2
- a) Violations resulting in exceedences of water quality standards violations ..... 2
- a) Suspected falsification ..... 4
- a) Suspected willful violation ..... 4
- a) Violation due to clear indifference ..... 4
- a) 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
- a) 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
  - i) 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.

### Warning Letter

Extraction from 12/1/1999 Enforcement Manual, Pages 2-2 – 2-3

#### **B. WARNING LETTERS**

This level of enforcement action is initiated by DEQ staff, upon staff recommendation, to clarify the nature of the alleged violation for the benefit of the facility and to address alleged violations that can usually be corrected within 90 days or less. A Warning Letter is not a case decision or determination that violations have in fact occurred, which would require administrative process to be afforded to the facility prior to such a decision or determination being made.

Do not use a Warning Letter for:

- Priority Cases (see Chapter Three).
- When the alleged violations would trigger the issuance of a Notice of Violation.
- Where it is anticipated that corrective action will take longer than 90 days.

If corrective action cannot or will not be achieved within 90 days, the staff should instead consider using a Letter of Agreement or Consent Order to resolve the alleged noncompliance.

##### **1. General**

This action requires a written confirmation that the suspected violation was addressed, a follow-up site visit, or both. Follow-up site visits must be documented in the file. Compliance assistance decisions at this level should be made with broad staff participation.

The Warning Letter must be provided in a timely manner to the operator of the facility, with a copy sent to the owner. A Compliance Inspection (“CI”) should usually be conducted to determine or verify the cause of the reported alleged violation(s), to ascertain if there are other potential violations, and to provide compliance assistance to the facility.

Tracking and follow-up are critical to the success of the agency’s effort to emphasize compliance assistance. Every deadline for corrective action should be checked within 15 working days after the deadline date. If the deadline has not been met, follow-up action should be initiated at the next highest level so that the compliance effort increases until compliance is achieved.

##### **2. Content of Warning Letters**

The following must be included in a Warning Letter:

- Statement of facts – not opinions, conclusions, or conjecture – as the Department knows them to be.
- Citations to applicable standards or regulation for each fact. A Warning Letter must not state that a facility “has violated” or “is in violation of” a standard or regulation because that may imply incorrectly that a case decision has been made.
- Statement of statutory authority and enforcement options available to the agency.
- Notice that failure to solve the suspected problem may result in further enforcement activity.
- Request for correction action to include a compliance plan and schedule, if necessary.

- Suggestion of a reasonable date-certain for performance.
- Statement that this matter is being tracked by compliance staff.
- Statement explaining how compliance will be verified.
- Disclaimer that the Warning Letter is neither a case decision under the Administrative Process Act, Code § 9-6.14:1 et seq., nor an adjudication.
- Department contact person.

### **3. Boilerplate Warning Letter**

A boilerplate Warning Letter is found at Attachment 2A-1. This boilerplate is to be used for the issuance of all Warning Letters except where a specific Warning Letter boilerplate has been developed and approved by the Office of Enforcement Coordination for a particular category. Specific Warning Letter boilerplate has been approved for:

- The UST program. See Attachment 2A-11.

If the boilerplate does not address a particular situation, the Office of Enforcement Coordination staff must be contacted before proceeding further.

### **4. Additional Warning Letters**

Additional Warning Letters must be issued for each additional suspected violation unless other, more serious enforcement action is taken. Additional Warning Letters are issued in the Water Program for each additional point in the CAS unless other, more serious enforcement action is taken.

### **5. Inability to Meet Compliance Deadline**

If a facility is unable to meet a compliance deadline, the facility should immediately notify DEQ and provide it with documentation supporting the inability to do so. A compliance date may be extended by DEQ if the delay is caused by circumstances beyond the facility's control and not due to lack of good faith or diligence on its part and if the facility has notified the Department as soon as those circumstances became apparent. Any extension shall be in writing and shall specify the reason for the extension. Failure to meet the deadline without just cause or a failure to notify DEQ of the inability to meet the deadline should result in an escalation in the type of enforcement pursued.

(Sample Warning Letter)  
[LETTERHEAD]  
[Date]

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Facility Contact]  
[Facility Name]  
[Street Address]  
[City, State, Zip Code]

### WARNING LETTER

Re: [Facility Name]  
Permit No. \_\_\_\_\_  
[DEQ Identification Number]

Dear [Facility Contact]:

The Department of Environmental Quality (“DEQ”), [Specific] Regional Office, has reason to believe that [Facility Name] may be in violation of [State Water Control Law/Air Pollution Control Law/Waste Management Act]. An inspection at your facility revealed the following:

[Give details of factual observations only; do not describe them in terms of violation(s) or conclusions of law. Then, for each fact, state specifically the applicable statutory or regulatory provision that you think applies. This section should refer to the inspection summary or inspection checklist. Use numbered paragraphs for each factual condition being addressed.]

Please review the above and submit a written explanation within 20 days of receipt of this letter regarding the corrective actions your facility intends to take or has taken to correct the situation. Also, a time schedule for these corrective actions should be included.

Your letter will assist our staff in maintaining a complete and accurate record of the compliance status of your facility. Compliance may be verified by on-site inspection or other appropriate means. If corrective action will take longer than 90 days, please submit a plan and schedule for inclusion in a Letter of Agreement or Consent Order. Failure to respond may result in enforcement action by DEQ.

[Facility Name  
Warning Letter  
Page 2]

This Warning Letter is not an agency proceeding or determination which may be considered a case decision under the Virginia Administrative Process Act, Va. Code § 8-5,14:1 et seq. Your point of contact for resolution of these deficiencies will be [DEQ staff member] at (XXX) XXX-XXXX. Please contact [him/her] if you have any questions about the content of this letter or need additional guidance.

Sincerely,

[Responsible DEQ Staff]  
[Title]

cc: Enforcement/Compliance File

Notice of Violation

Extraction from 12/1/1999 Enforcement Manual, Pages 2-4 – 2-5

**C. NOTICES OF VIOLATION**

A Notice of Violation (“NOV”) is a written notice to a facility informing it of facts that suggest a possible violation of the law or regulations may have occurred, coupled with an invitation to respond. An NOV is not a “case decision” or determination that violations have in fact occurred, which would require some type of administrative process – like an Informal Factfinding or Formal Hearing – to be afforded to the facility prior to such a decision or determination being made. For a more thorough discussion of case decisions and these types of proceedings, see Chapter Six (of the Enforcement Manual).

Once an NOV is issued, the Regional Office enforcement staff initiates talks with the facility, if it has not done so already, to achieve compliance as expeditiously as possible.

**1. Appropriate Uses of NOVs**

NOVs are to be used whenever the staff has facts giving it reason to believe that one of the following situations may exist. This is not an exhaustive list.

- Suspected violations at any facility meeting the criteria for a Priority Case (see Chapter Three).
- Repeated and/or continuing suspected violations despite previous informal actions.
- Suspected violations which appear to have caused potential or demonstrated adverse human health or environmental impacts.
- Suspected violations which appear to present an imminent and substantial hazard to human health or the environment.
- Suspected significant violations of administrative orders or judicial mandates and decrees.
- Failure to report violations when required by law.
- Failure to pay civil charges.
- Failure to take timely and appropriate required action in response to a spill or other release to the environment.
- Suspected falsification of certifications, reports, or other documents submitted to the Department [since such actions may be criminal, NOVs are issued only after consultation with the Criminal Investigation Unit, Office of Enforcement Coordination (see Section I.I.2, Criminal Prosecution)].
- Suspected violations that appear to include gross negligence and/or that appear to be knowing or willful [since such actions may be criminal, NOVs are issued only after consultation with the Criminal Investigation Unit, Office of Enforcement Coordination (see Section I.I.2, Criminal Prosecution)].
- Cumulative violations of the Water Program requirements, not necessarily repeated or continuing for a single parameter or type that trigger action under CAS.
- In the Solid Waster Program, for multiple non-major minor alleged violations of a regulation or permit for which no previous informal action has been taken.
- In the Water Program where four points are accrued based on the Point Assessment Criteria shown in Chapter Four.
- In the UST Program where a facility fails to sign a Letter of Agreement (“LOA”) within the time allowed, fails to comply with a condition of the LOA (i.e., does not secure a contractor within 90 days), or the facts require the initiation of enforcement at the NOV stage.



## **2. Content of NOVs**

The following must be included in an NOV:

- Statement of facts – not opinions, conclusions, or conjecture – as the Department knows them to be.
- Citations to applicable standards or regulation for each fact. An NOV must not state that a facility “has violated” or “is in violation” of a standard or regulation because that implies a case decision has been made.
- Statement of statutory authority and enforcement options available to the Department.
- Request that the facility respond to the NOV and provide (1) any corrections to the record and (2) a statement of its position on whether the proposed enforcement is necessary.
- Request for corrective action.
- A disclaimer that the NOV is neither a case decision under the Administrative Process Act, Code § 9-6.14:1 et seq., nor an adjudication.
- Department contact person.
- If not already provided, the NOV should also include a copy of the inspection report, other documentation, or a summary of documentation of the alleged deficiency.

## **3. Boilerplate NOVs**

A boilerplate NOV form is found at Attachment 2A-2. The boilerplate is to be used for the issuance of all NOVs except where a specific NOV has been developed and approved by the Office of Enforcement Coordination for a particular category or situation. Specific NOV boilerplates have been approved for:

- The UST program. See Attachment 2A-12
- An alternate form that can be used, but is not required, for alleged violations of Discharge Monitoring Reports (“DMRs”). See Attachment 2A-16.

If the boilerplate does not address a particular situation, the Office of Enforcement Coordination staff must be contacted before proceeding further.

SAMPLE NOV  
(LETTERHEAD)

(Date)

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

[Facility Contact]  
[Facility Name]  
[Street Address]  
[City, State, Zip Code]

NOTICE OF VIOLATION

RE: NOV No. \_\_\_\_\_  
[Facility name]  
[DEQ Identification Number]

Dear [Facility Contact]:

This letter notifies you of information upon which the Department (“DEQ”) may rely to institute an administrative or judicial enforcement action. It is neither a case decision under the Virginia Administrative Process Act, Code § 9-6.14:1 et seq., nor an adjudication. I also request that you respond to this letter within 10 days.

**FACTS AND LEGAL REQUIREMENTS**

**Option 1 (Inspections)**

On [date], Department of Environmental Quality (“DEQ”) Regional Office Staff conducted an inspection of [Facility name]. The inspection summary [or checklist] is attached. Based on this inspection, DEQ staff has reason to believe that [Facility name] may be in violation of [State Water Control Law/Air Pollution Control Law/Waste Management Act]. The following contains the staff’s factual observations and identifies the applicable law and regulations.

[Give details of factual observations only; do not describe them in terms of violation(s) or conclusions of law. Then, for each fact, state specifically the applicable statutory provision that you think applies. This section should refer to the inspection summary or inspection checklist. Use numbered paragraphs for each factual condition being addressed.]

**Option 2 (DMR/air reporting/file review)**

The DEQ Regional Office has reason to believe the [Facility Name] may be in violation of [State Water Control Law/Air Pollution Control Law/Waste Management Act] and regulations based upon a review of [the Discharge Monitoring Report for [month(s)]/your performance test of [date]/your excess emission report of [date]/agency files/DEQ inspection report dated [date] correspondence dated [date]/other documentation as appropriate].

[Give details of factual review only; do not describe them in terms of violation(s) or conclusions of law. Then, for each fact, state specifically the applicable statutory or regulatory provision that you think applies. This section should refer to the inspection

summary or inspection checklist. Use numbered paragraphs for each factual condition being addressed.]

**ENFORCEMENT AUTHORITY**  
**For the Water Law, include the following:**

Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the Act, any State Water Control Board rule or regulation, order, permit condition, standard, or any certificate requirement or provision. Section 62.1-44.32 provides for a civil penalty up to \$25,000 per day of such violation. Code § 62.1-44.15(8a) authorizes the Board to issue special orders to persons for such violations. In addition, Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Act and regulations, and to impose a civil penalty of not more than \$10,000.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

**FUTURE ACTIONS**

The staff must make a recommendation about how to proceed with this matter and whether to initiate an enforcement action based upon these facts. Before taking any further action, however, we would like to discuss this matter with you.

Your point of contact is [DEQ staff member] at (XXX) XXX-XXXX. Please contact [her/him] within ten days of the date of this letter if you dispute any of the facts I have stated or if there is other information you believe DEQ should consider. At the same time, please inform {DEQ staff member} of any corrective action you have instituted or plan to institute and the schedule for doing so.

A meeting to discuss resolution of this matter will be arranged when you talk with [DEQ staff member]. During this meeting, all aspects of the situation will be discussed. You may be asked to enter into a Consent Order with the Department to formalize your plan and schedule for corrective action and to settle any outstanding issues regarding this matter, including the payment of civil charges.

Sincerely,

[Name]  
Regional Compliance and Enforcement Manager

cc: CASE FILE  
SPECIALIST  
MEDIA MANAGER

Revised Commercial Lab Inspections Procedures

MEMORANDUM

DIVISION OF WATER PROGRAM COORDINATION

Office of Water Permit Support

Department of Environmental Quality

SUBJECT: Guidance Memo No. 01-2006  
Revised Commercial Laboratory Inspection Procedures

TO: Regional Directors

FROM: Larry G. Lawson, P.E., Director  
Division of Water Program Coordination

DATE: March 6, 2001

COPIES: Regional Permit Managers, Regional Compliance & Enforcement Managers,  
Regional Water Permit Managers, Mary Jo Leugers, Kathleen O'Connell, Bill  
Hayden, Martin Ferguson, Richard Ayers, Bill Purcell, Betsy Ziomek

The following procedures are intended to make inspection of commercial laboratories mirror as closely as possible the procedures currently employed inspecting permittee operated laboratories and to keep permittees informed regarding the status of their respective commercial laboratories. These procedures are effective from the date of this memorandum.

Commercial Laboratory Inspection

Scheduling

Major commercial laboratories should be inspected annually and minor commercial laboratories should be inspected every other year. Inspections should be unannounced and scheduled randomly each year.

Right of Entry

Authority to enter and inspect commercial laboratories is indirect through VPDES and VPA permits, but is very clear. The inspection and entry section of VPDES and VPA permits state:

“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;

Have access to copy, at reasonable times, any records that must be kept under the conditions of this permit;

Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, and or operations regulated or required under this permit.”

Guidance issued from Office of the Attorney General on June 8, 2000 confirms that inspection staff does have authority to enter and inspect commercial laboratories that are performing permit related analyses. If an inspector is refused access to a commercial laboratory they are to ask why and attempt to gain access through negotiations. Under no circumstances is the inspector to do or say anything that can be construed to be hostile or threatening if refused access to the laboratory. If negotiations fail, make sure that the laboratory management understands that warning letters will be sent to their clients explaining that analytical results from their commercial laboratory will not be accepted for permit compliance because access to their records was denied.

#### Entrance Interview

During introductions before the initial interview, exchange business cards and present credentials. The entrance interview is the inspector’s opportunity to set a professional tone for the inspection and to facilitate an open exchange of information. The following points are key elements of an entrance interview:

1. Explain how the inspection will be conducted and what the objectives of the inspection are,
1. Identify records needing photocopying to avoid delays completing the site visit. At a minimum the laboratory should be asked for a list of their VPDES and VPA clients and a month’s worth of data for several VPDES clients for DMR verification.
1. Discuss any VPDES/VPA testing contracted out to other commercial laboratories.
1. Tell the laboratory management that if deficiencies are identified during the inspection, and are not corrected within 15 days after receipt of the inspection report, warning letters and summaries of the inspection report will be forwarded to affected clients.
1. Answer any questions the laboratory staff might have regarding the inspection.

#### Inspection

Inspecting a commercial laboratory is no different than inspecting a permittee operated laboratory other than a permittee operated laboratory will not have a sample receiving area and the volume and variety of parameters analyzed. Due to the size of some laboratories it is advisable to conduct inspections with teams of inspectors to avoid lengthy stays. Inspect in an orderly fashion and whenever possible analysts should be observed running samples. If this is not possible, ask the analyst to walk through the analysis. The practice of simply reading the checksheet questions is to be avoided because having analyst respond “yes” to a list of questions is not very informative. Use the checksheets as a guide to evaluate the procedures observed during the inspection. When evaluating the sample receiving area make sure sample preservations are checked and recorded. Samples are to be stored in a secure area free from potential contamination and at the proper temperature. Sample containers are to be clearly labeled with a unique sample identification and an indication of the analyses to run. Review a number of chains of custodies to insure that holding times are being met. Note whether field activities such as fiels filtration of dissolved metals samples are documented on the chain of custody form. While onsite, review original benchsheets for each parameter evaluated. A more detailed examination can be conducted of the photocopied documentation back at the office.

#### Exit Interview

Following completion of the inspection discuss the finding with the laboratory management including any deficiencies found. Stress that corrective actions implemented before the inspection report is written will be included in the report. Clarify that more deficiencies may

be found during the data audit phase of the inspection and that these deficiencies will be reflected in the final inspection report. Make sure any questions the laboratory staff has are answered before leaving.

#### Website Posting

A listing of all commercial laboratories inspected and the inspection date will be maintained on the DEQ website within 45 days of the inspection. Timely submittal of inspection reports to the Central Office will be necessary in order to accomplish this goal.

#### Laboratory Inspection – No Deficiencies

Compile the inspection report and mail to the commercial laboratory within 30 days of the site visit.

#### Laboratory Inspection – Deficiency Found

Compile the inspection report incorporating any corrective action taken by the laboratory and mail to the laboratory within 30 days of the site visit. The report cover letter will state that warning letters will be sent to clients impacted by uncorrected deficiencies if corrective action is not implemented within fifteen days after receipt of the inspection report and will continue to be sent each month that deficiencies remain uncorrected. If uncorrected deficiencies remain or if no response is received from the commercial laboratory within the required deadline, warning letters and copies of the laboratory inspection report summary will be sent to all clients affected. Warning letters will state that letters will continue to be sent each month that deficiencies remain until there sufficient points for the issuance of an NOV. Clients of the laboratory who are not directly affected by the deficiencies will not be contacted. For laboratories with clients located in multiple regions, the region conducting the inspection will forward the client list and the pertinent information to the appropriate region for mailing. If deficiencies are corrected within the 15 day deadline send the commercial laboratory a letter confirming the corrective actions. If a reinspection is necessary to verify the corrective actions, send the commercial laboratory a revised inspection report.

#### Disclaimer

This document provides procedural guidance to the Water Division staff. This is guidance only. It does not establish or effect legal rights or obligations. It does not establish a binding norm and is not finally determinative of the issues addressed. Agency decisions in any particular case will be made by applying the State Water Control Law and the implementation regulations on the basis of site specific facts.

## Appendix 5

### CSEs – Automatic Upload to PCS

#### COMPLIANCE SCHEDULES REPORTABLE TO PCS

CONDITION	SCHEDULE
Compliance with final event	
CTC, CTO, and O&M requirements	Obtain CTO
End Construction 1	
End Construction 2	
End Construction 3	
End Construction 4	
End Construction 5	
End Construction 6	
End Construction 7	
End Construction 8	
End Construction 9	
End Construction 10	
End Construction 11	
End Construction 12	
End Construction 13	
End Construction 14	
End Construction 15	
ENF	ENF - Begin Construction 1
ENF	ENF - Begin Construction 2
ENF	ENF - Begin Construction 3
ENF	ENF - Begin Construction 4
ENF	ENF - Begin Construction 5
ENF	ENF - Begin Construction 6
ENF	ENF - Begin Construction 7
ENF	ENF - Begin Construction 8
ENF	ENF - Begin Construction 9
ENF	ENF - Begin Construction 10
ENF	ENF - Begin Construction 11
ENF	ENF - Begin Construction 12
ENF	ENF - Begin Construction 13
ENF	ENF - Begin Construction 14
ENF	ENF - Begin Construction 15
ENF	ENF- Complete Construction 1
ENF	ENF- Complete Construction 2
ENF	ENF- Complete Construction 3
ENF	ENF- Complete Construction 4
ENF	ENF- Complete Construction 5
ENF	ENF- Complete Construction 6
ENF	ENF- Complete Construction 7
ENF	ENF- Complete Construction 8
ENF	ENF- Complete Construction 9
ENF	ENF- Complete Construction 10
ENF	ENF- Complete Construction 11
ENF	ENF- Complete Construction 12

ENF	ENF- Complete Construction 13
ENF	ENF- Complete Construction 14
ENF	ENF- Complete Construction 15
ENF	ENF - Comply with final limits
ENF	ENF - Comply with permit conditions
ENF	ENF - Obtain CTO
Final compliance with effluent limits	
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Develop enforcement response plan
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Develop local limits
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Submit financial program & personnel
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Submit industrial user response plan
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Submit legal authority
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Submit monitoring program
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Submit plan of study to develop program
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Submit request to approve program
Pretreatment - Developing Programs	Pretreatment - Developing Programs: Submit significant dischargers waste survey
Start construction 1	
Start construction 2	
Start construction 3	
Start construction 4	
Start construction 5	
Start construction 6	
Start construction 7	
Start construction 8	
Start construction 9	
Start construction 10	
Start construction 11	
Start construction 12	
Start construction 13	
Start construction 14	
Start construction 15	



## Appendix 6

### PCS Resolution Codes

Extracted from EPA's PCS Guidance Manual (7/12/2000)

#### 8.4.8.2 RNC Resolution Codes

When a reportable noncompliance violation is resolved, one of the following code values will be assigned to the QNCR resolution code field (SRCC, SRCE, or SRCS) associated with that record.

Code	Resolution Code	Setting Type
Space	No RNC	Automatic
1	Unresolved RNC	Automatic
2	Back into compliance	Automatic
3	Resolved pending due to formal enforcement action	Automatic
4	Resolved pending of an administrative limit by DMR compliance for the last three DMRs before the RNC parameter date	Automatic
5	Resolution by close-out of a formal enforcement action	Automatic
6	Manual Resolution by closeout of a formal enforcement action	Manual
7	Manual resolved pending of an administrative limit	Manual
8	Manual resolved pending due to formal enforcement action	Manual
9	Manual resolution by back into compliance	Manual
A	Unresolved RNC	Manual
B	Manual resolution by EPA action	Manual
W	Waiting RNC Resolution	Automatic

Table 8-4. RNC Resolution Codes

#### 8.4.9 RNC Detection and Resolution Dates

Every value entered in the QNCR detection code data elements (SNCC, SNCE, or SNCS) will have a date associated with it in the QNCR detection date (SNDC, SNDE, or SNDS). Depending on the coded value entered in the SNCC, SNCE, or SNCS field, the values for this will vary as follows:

SNCC/SNCE/SNCS	Value of Dates of SNDC/SNDE/SNDS
A, P	Measurement/Violation Monitoring Period End Date (MVDT) of the measurement
C, H, R, T, U, V	Date representing end of six-month date range
B, D, E, F, G, I, J, Q, W, X, Y, Z	Manually entered date
K, N	Date 30 days past the submission date for DMR non-receipt RNC violations, Measurement/Violation Monitoring Period End Date (MVDT) for incomplete DMRs, and 30 days past schedule date for other reporting violations.
S	Date 90 days past schedule date.

Table 8-5. RNC Detection and Resolution Dates

The values entered in the QNCR resolution code date element (SRCC, SRCE, or SRCS) will also have a date associated with these data elements in the QNCR resolution date data elements (SRDC, SRDE or SRDS) Depending on the coded value in the QNCR resolution code data element, the value of the resolution date data element will vary as follows:

<u>Value for SRCC/SRCE/SRCS</u>	<u>Value for Dates SRDC/SRDE/SRDS</u>
1, A	No date
2	Date representing end of six-month date range for effluent violations and DMR incomplete violations (SNCE equal to C, H, K, N, T, U, or V)  Compliance Schedule Actual Date (DTAC) for compliance schedule and compliance schedule reporting violations (SNCC equal to S or N)  Current date or DMR Received Date for DMR non-receipt violations (SNCE Equal to N)
3	Enforcement Action Date (ENDT)
4	Date representing end of six-month date range
5	Enforcement Action Status Date (ESDT)
6, 7, 8, 9	Manually entered date

Table 8-6. RNC Dates that are generated from RNC Codes

## Appendix 7

### PCS RNC Detection Codes

Extracted from EPA's PCS Guidance Manual (6/12/2000)

The following codes and their definitions are used for reportable noncompliance:

Code	Definition of QNCR	Setting Type	QNCR Category
A	Measurement exceeded administrative monthly average limit set by a formal enforcement action.	Automatic	I (A)
B	Discretionary or manual entry of a violation of a pass-through of pollutants	Manual	II (A)(4)
C	Chronic violation of four or more violations of the monthly average occurring within a consecutive six month time frame.	Automatic	I (C)
D	Discretionary or manual entry of violation of condition in enforcement orders except compliance schedules and reports.	Manual	I (A)
E	Discretionary or manual entry of a permit narrative violation.	Manual	II (F)
F	Discretionary or manual entry of a permit violation of concern to the Director or Regional Administrator.	Manual	II (G)
G	Discretionary or manual entry of Category II permit limit violation.	Manual	II (A)(1)
H	Chronic violation of four or more violations of the non-monthly average occurring within a consecutive six month time frame.	Automatic	II (A)(1)
I	Discretionary or manual entry of violations or an unauthorized by-pass.	Manual	II (A)(2)
J	Discretionary or manual entry of violations of an unpermitted discharge.	Manual	II (A)(3)
K	Reporting violation was 30 days overdue for the non-monthly average or the DMR was incomplete where the non-monthly average was missing.	Automatic	II (A)(1)
N	Reporting violation was 30 days overdue for the monthly average or the DMR was incomplete where the monthly average was missing.	Automatic	I (D)
		For DMR Non-reporting & Cat. I non-reporting for	

			compliance schedules; or II (D) for Cat. II non-reporting for compliance schedules; or II (E) for incomplete DMRs.
O	Discretionary or manual entry of permit pretreatment.	Manual	II (B)
P	Measurement exceeded administrative non-monthly average limit set by a formal enforcement action.	Automatic	II (A)(1)
R	TRC limitations were exceeded for two violations of non-monthly averages within a consecutive six month time frame or chronic violations.	Automatic	II (A)(1)
S	Compliance schedule violations were 90-days overdue.	Automatic	I (B) for Cat. I, or II(C) for Cat. II
T	TRC limitations were exceeded for two violations of monthly averages within a consecutive six month time frame or chronic violations.	Automatic	I (C)
U	Effluent violations of the non-monthly average occurring within a consecutive six month time frame associated with TRC RNC	Automatic	II (A)(1)
V	Effluent violations of the monthly average occurring within a consecutive six month time frame associated with TRC RNC	Automatic	I (C)
W	Discretionary or manual entry of deficient report violations.	Manual	II (E)
X	Discretionary or manual entry of effluent violations occurring within a six-month time frame associated with TRC RNC	Manual	I (C)
Y	Discretionary or manual entry of TRC limitations that were exceeded for two violations of monthly averages within a six-month time frame or chronic violations exceeding TRC limitations.	Manual	I (C)
Z	Discretionary or manual entry of four or more violations occurring within a six-month time frame.	Manual	I (C)

Table 8-3. RNC Detection Codes

## **Appendix 8**

Violation Summary Report  
(Each Region may insert a Sample Report)

## Appendix 9

### Missing/Late DMR Report

Missing/Late VPDES DMR Report for SWRO  
Between 01-APR-02 and 30-APR-02

Permit	Facility Name	Outfall	PCS Param	DEQ #	DMR Due Date	DMR Received Date	DMR Eval Date	# Days Old
VA0099999	ABC Co.	001	50050	001	10-APR-02			21
VA0099999	ABC Co.	001	00400	002	10-APR-02			21
VA0099999	ABC Co.	001	00310	004	10-APR-02			21
VA0033333	XYZ Co.	001	50050	001	10-APR-02			21
VA0033333	XYZ Co.	001	00400	002	10-APR-02			21

## **Appendix 10**

Regional Enforcement Agenda  
(Each Region may insert a Sample Report)

## Appendix 11

### Federal Facilities Report

DEPARTMENT OF ENVIRONMENTAL QUALITY			
OFFICE OF ENFORCEMENT			
STATUS OF CHESAPEAKE BAY/FEDERAL FACILITY COMPLIANCE			
October 30, 2001			
(VIOLATIONS NOTED 1/01 THROUGH 9/01)			
MAJOR ARMY FACILITIES			
Radford Army Ammunition, VA0000248	WCRO	NO	No letters issued since April 2001
			Warning Letter No. W2001-12-W-1009 issued December 2001 for failure to submit Compliance schedule 5th QTR Progress Report (Outfall 026) due 10/01/2001; Report Received 12/17/2001- <b>RESOLVED</b>
			Warning Letter No. W2002-01-W-1014 issued January 2002 for an Unpermitted Discharge from Outfall 007 discovered during inspection on November 28, 2001 (discharge through this outfall only authorized during river flooding). Failure to notify DEQ of the discharge.
MAJOR NAVY FACILITIES			
Norfolk Naval Shipyard, VA0005215	TRO	YES	WL issued 3/01 - failed to sample outfall 040
Sewells Point Naval Complex, VA04421	TRO	YES	WL issued 3/01 for failure to evaluate stormwater management practices (toxics screening) and violation of zinc effluent limit (outfall 924).
USMC/Quantico Industrial, VA0002151	NRO	YES	No WLS or NOV's issued.
USMC/Quantico Mainside STP VA0028363	NRO	YES	No WLS or NOV's issued.
MINOR ARMY FACILITIES			
COE/Longwood, VA0068501	SCRO	NO	No WLS or NOV's issued.
COE/Longwood South, VA0081787	SCRO	NO	No WLS or NOV's issued.
COE/Morris Hill, VA0032115	WCRO	YES	No letters issued since January 1999...DMR due 07/10/2001 parameter 165 CONCAVG
			<b>Nothing to report.</b>



COE/Philpott Dam, VA0090310	WCRO	NO	OUTFALL 003-WL-W2001-12-W-1008 issued for DMR due 11/10/2001 parameter 004 CONCMAx; parameter 500 CONCMAx; DMR due 09/10/2001 parameter 500 CONCMAx; DMR due 8/10/2001 parameter 004 CONCMAx; DMR due 07/10/2001 parameter 004 CONCMAx; WL W2001-06-W-1023 issued for DMR due 03/10/2001 parameter 500 CONCMAx
			OUTFALL 001-WL-W2002-01-W-1010 issued for DMR due 12/10/2001 Parameter 500 CONCMAx; NOV-W2001-04-W-0016 issued for DMR due 02/10/2001 parameter 500 CONCMAx; FTS Compliance schedule: Concept engineering report due 09/02/2000
			OUTFALL 002-NOV-W2001-01-W-0016 issued for DMR due 02/10/2001 Parameter 500 CONCMAx
Labor Department/Old Dominion VA0027618 (NOW SCRO FACILITY)	SCRO	YES	No WLs or NOVs issued.
COE/Rudd Creek, VA0067148	SCRO	NO	No WLs or NOVs issued.
COE/Rudd Creek South, VA0074098	SCRO	NO	No WLs or NOVs issued.
Ft. Belvoir WTP, VA0073784	NRO	YES	No WLs or NOVs issued.
Ft. Eustis, VA0025216	TRO	YES	WL issued 4/01 for violation of compliance schedule (failure to complete plant upgrade by 3/28/01).
Ft. A.P. Hill/Wilcox, VA0032034	NRO	YES	WL issued for violation of ammonia CONC AVG and CONC MAX 1/01 and FTS progress report 1/01.
Ft. Lee WTP, VA0059161	PRO	YES	No WLs or NOVs issued.
Ft. Monroe/Bethel WTP, VA0005924	TRO	YES	WL issued 6/01 for failure to meter plant flow.
Ft. Pickett WTP, VA0005827	PRO	NO	No WLs or NOVs issued.
Ft. Story, VA0031917	TRO	YES	No WLs or NOVs issued.
North Bend State Park, VA0086762	SCRO	NO	WL issued 10/22/01 for incomplete DMR's for the month of July and August. They also violated parameter 157 CL2 Total Contact Minimum Concentration. They reported 1.5 mg/l and their permit limit is 2.0 mg/l.
Vint Hill Farms, VA0020460	NRO	YES	No WLs or NOVs issued.
<b>MINOR NAVY FACILITES</b>			
Cheatham Annex, VA0024287	TRO	YES	No WLs or NOVs issued.
Craney Island Fuel Terminal, VA0005487	TRO	YES	WL issued for TSS violation (outfalls 003, 006 and 008).
Little Creek Amphibious Base VA0079928	TRO	YES	No WLs or NOVs issued.
Naval Auxillary Landing Field, Fentress VPA01003	TRO	NO	NOV issued 1/01 for failure to submit application for reissuance. NOV issued 4/01 for unpermitted discharge. WL issued 10/01 - exceeded

			application rate
Navy Public Works Center Oily WTP VA0089605	TRO	YES	WL issued 2/01 for failure to submit annual & semiannual water quality monitoring (outfall 001).
Naval Security Group NW, VA0024244	TRO	NO	No WLs or NOVs issued.
Naval Weapons Center, VA0073636	NRO	YES	No WLs or NOVs issued.
Naval Weapons Center, VA0021067	NRO	YES	No WLs or NOVs issued.
Naval Weapons Station, Yorktown VA0087408	TRO	YES	No WLs or NOVs issued.
Naval Weapons Station, Yorktown VAR550168	TRO	YES	WL issued 3/01 for FTS during 7/00 to 12/00 monitoring period.
Oceana Air Station, VAG833006	TRO	YES	WL issued 4/01--exceeded naphthalene max conc, offl 104 (2 qtrs)
Oceana Air Station, VA0005266	TRO	YES	No WLs or NOVs issued.
St. Julien's Creek Annex, VA0089761	TRO	YES	No WLs or NOVs issued.
USMC/Quantico Upshur STP, VA0028371	NRO	YES	No WLS or NOVs issued
<b>MINOR NATIONAL PARK FACILITIES</b>			
Shenandoah, Big Meadows, VA0024406	VRO	YES	No WLs or NOVs issued.
Shenandoah, Loft Mountain, VA0024414	VRO	YES	No WLs or NOVs issued.
Shenandoah, Mathews Arm, VA0024431	VRO	YES	No WLs or NOVs issued.
Shenandoah, Panorama, VA0024449	VRO	YES	No WLs or NOVs issued.
Shenandoah, Skyland, VA0024422	VRO	YES	No WLs or NOVs issued.
<b>MINOR AIR FORCE FACILITIES</b>			
Langley Air Force Base, VA0083194	TRO	YES	WL issued for FTS (outfall 007), violation of Cl2 limits (outfalls 027 and 032); temp (outfall 032).
NASA Langley Research Center VA0024741	TRO	YES	No WLs or NOVs issued.
NASA Wallops Flight Center, VA0024457	TRO	YES	No WLs or NOVs issued.
<b>MINOR USDA FACILITIES</b>			
Bolar Mountain Complex, VA0032123	VRO	YES	No WLs or NOVs issued.
Flatwood CCC, VA0023027	SWRO	NO	WL issued for 1/02 TSS violation. In process of issuing NOV for operational problems found during an inspection and TSS & BOD5 violations for 3/02.
Grindstone Recreation Area, VA0022993	SWRO	NO	No WLs or NOVs issued.
<b>MINOR MISCELLANEOUS FEDERAL</b>			
Bellwood Defense Supply, VA0005754	PRO	YES	No WLs or NOVs issued.
Coast Guard, Group Eastern Shore VA0087327	TRO	YES	No WLs or NOVs issued.
Coast Guard, Milford Haven, VA0022373	PRO	YES	No WLs or NOVs issued.
Defense Department/Pentagon Reservation VA003200	NRO	YES	NOV issued 10/01 for FTS DMR and for violation of compliance schedule

			FTS progress report.
District of Columbia/Lorton, VA0030163	NRO	YES	WL issued for 1/01 and 2/01 FTS progress reports.
FEMA, VA0024759	NRO	YES	No WLs or NOVs issued.
Labor Department/Old Dominion VA0027618 (NOW SCRO FACILITY)	SCRO	YES	No WLs or NOVs issued.
US Department of Energy Thomas Jefferson Nat. Accelerator Fac. VA0089320	TRO	YES	No WLs or NOVs issued.
US Maritime Administration No Permit	TRO	YES	No WLs or NOVs issued.
<b>WL = Warning Letter</b>			
<b>NOV = Notice of Violation</b>			
<b>DO = Dissolved Oxygen</b>			
<b>CL = Chlorine</b>			
<b>O&amp;G = Oil and Grease</b>			
<b>TSS = Total Suspended Solids</b>			
<b>TPH = Total Petroleum Hydrocarbons</b>			
<b>TMP = Toxics Monitoring Program</b>			
<b>DMR = Discharge Monitoring Report</b>			
<b>CON = Concentration</b>			
<b>AV = Average</b>			
<b>MAX = Maximum</b>			
<b>LOAD = Loading</b>			
<b>FTS = Failure to Submit</b>			
<b>BOD = Biochemical Oxygen Demand</b>			
<b>PCB = Polychlorinated Biphenols</b>			
<b>TRE = Toxics Reduction Evaluation</b>			
<b>IMP = Improper</b>			
<b>RES = Residual</b>			
<b>CER = Concept Engineering Report</b>			
<b>P&amp;S = Plans and Specifications</b>			
<b>CAP = Corrective Action Plan</b>			
<b>UPD = Unpermitted Discharge</b>			

<QL Advice/Guidance Memo and Instructions

MEMORANDUM

Subject: QL related update to guidance #00-2011, Amendment #2  
To: Regional Directors  
From: Larry G. Lawson  
Date: October 3, 2001  
Copies: Regional Permit Managers, Regional Water Permit Managers, Regional Enforcement/Compliance Managers, Martin Ferguson, Richard Ayers, Dale Phillips, George Cosby, Alison Kittle, Phani Eturu, Alan Pollock

This amendment modifies amendment #1 by revising the requirements for reporting average results. The previous amendment made provisions for reporting monthly and weekly averages as <QL. Further, discussions among the staff have resulted in the recommendation to report the average as calculated. The changes are in the special condition for compliance reporting.

Background:

Data requirements for CEDS and PCS make it necessary for us to achieve consistency in the way permittees report data that are below the quantification level. We currently have permits that have a variety of reporting requirements in this regard. A review of existing and past guidance reveals that there is also inconsistency there. It has also come to our attention that, in order to provide the proper data to EPA, the staff must modify the data reported on the DMR. This is not appropriate and this update will correct the situation.

The Update:

The update simply recommends having the permittee report data that is less than the quantification level as "<QL". CEDS will be programmed so that data will be properly uploaded to EPA, The person entering the data will not have to modify it and violation will not be reported in the QNCR if "<QL" is entered. Any other entry will result in a violation being reported if it is higher than the limit.

The attachment contains the revised language and replaces page 110 in guidance #00-2011.

Implementation:

Please implement this immediately in all new or reissued permits.

Permits that have different requirements than those in the attached condition for reporting data that are less than the quantification level can be corrected as a minor modification by simply sending the owner a revised special condition for his permit. In order to correct the current problems, we would suggest that major permits that contain this special condition be modified immediately. Minor permit may be modified as time and resources allow.

Note: the disclaimer in the original guidance applies to this update.

Please contact Dale Phillips @ 804-698-4077 if you have any questions about this revision to the guidance.

## SPECIAL CONDITION FOR COMPLIANCE REPORTING

A special condition should be included in all permits that include limits for materials that have identified quantification levels. An example follows:

### Compliance Reporting Under Part I.A.

1. The quantification levels (QL) shall be as follows:

<u>Effluent Characteristic</u>	<u>Quantification Level</u>
Chlorine	0.1 mg/l
Ammonia-N	0.2 mg/l
Total Recoverable Cadmium	0.8 µg/l
Total Recoverable Copper	7.2 µg/l
Total Recoverable Nickel	13 µg/l
Total Recoverable Zinc	52 µg/l

1. Reporting

- a. Monthly Average – Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in Part I.B.1. shall be determined as follows: All data below the QL listed above shall be treated as zero. All data equal to or above the QL listed in 1. above shall be treated as it is reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, for the month. This arithmetic average shall be reported on the DMR as calculated. If all data are below the QL then the average shall be reported as <QL.

### **EITHER**

- a. Weekly Average (for municipal effluents) – Compliance with the weekly average limitations and/or reporting requirements for the parameters listed in Part I.B.1. shall be determined as follows: All data below the QL listed in 1. above shall be treated as zero. All data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each complete calendar week and contained within the reporting month. The maximum value of the weekly averages thus determined shall be reported on the DMR. If all data are below the QL then the average shall be reported as <QL.

### **OR**

- b. Daily maximum (for industrial effluents) – Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I.B.1. shall be determined as follows: All data below the QL listed in 1. Above shall be treated as zero. All data equal to or above the QL shall be treated as reported. An arithmetic average of the values shall be calculated using all reported data, including the defined zeros, collected for each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL then the average shall be reported as <QL.
- c. Any single datum required shall be reported as “<QL” if it is less than the QL listed in 1. above. Otherwise the numerical value shall be reported.