M E M O R A N D U M

Department of Environmental Quality
Division of Water Permit Coordination

SUBJECT: Guidance Memo No. 99-2001
Confined Animal Feeding Operations General Permit

TO: Regional Directors

FROM: Larry G. Lawson, P.E.

DATE: January 13, 1999

COPIES: Regional Compliance and Enforcement Managers, Regional Permit Managers, Regional Water Permit Managers, Martin Ferguson, OWPP Staff, Mary Jo Leugers, Russ Perkinson (DCR)

Senate Bill 661, enacted by the 1998 General Assembly, amended the State Water Control Law as it pertains to the Water Control Board's regulation of confined animal feeding operations (§ 62.1-44.17:1). The purpose of this memo is to identify what the General Assembly changed in the law and how we are going to implement the changes. Each numbered point is a separate requirement of the new law. Some of these statutory mandates were incorporated into the revisions to the VPA general permit for confined animal feeding operations. These revisions to the general permit regulation and the modification of the general permit itself were effective on December 1, 1998.

1. DEQ shall inspect every animal feeding operation once per year.

We're hiring more inspectors to do this job. The regions should have revised their inspection schedules to accomplish the statutory mandate.

2. DEQ animal feeding operation inspectors shall be certified by the Department of Conservation and Recreation (DCR) nutrient management planners.

Our new inspectors are certified. We're encouraging existing staff to take the DCR training and be certified.

3. Farmers must submit a copy of the DCR approved nutrient management plan (NMP) with their registration statement.

Registration statements for coverage under the VPA animal feeding operation general permit should not be accepted as complete without an approved NMP. When the NMP is revised every 3 years, the revised version should be copied to DEQ. New NMPs and DCR approval letters should come in whenever a registration statement is submitted for an expansion. The general permit regulation, the registration statement form and the instructions for the registration statement were revised to include this requirement.

4. Farmers must certify that they have notified all owners or residents of property that adjoins the property on which the proposed operation will be located of (i) the type and maximum number of animals to be confined and (ii) the address and phone number of the DEQ regional office to which comments may be submitted.

The certification on the registration statement has been revised to include the notification requirement. If the farmer signs the certification, that satisfies the legal mandate. He doesn't have to send us anything else.

The notification is required whenever a new registration statement is required. This means: for all new operations; or for operations converting from individual VPA permits to the general permit; or any operation where the farmer builds a new structure; or increases the animal units above the maximum stated on the previous registration statement; or adds new land application sites.

A new LGOF should accompany all registration statements, since the operation has not been permitted previously under the general permit or in the form or magnitude that is proposed. Operations which have previously been issued a VPA permit or IW-ND certificate are not required to submit the LGOF, unless the operation is being expanded to add new structures, new waste storage facilities, new land application sites or more animals than were previously listed as the maximum number.

5. DEQ must accept public comments for 30 days after the registration statement is filed by the owner. If the comments show that the proposed operation will not comply with the general permit, the Director shall require an individual permit. The DEQ has 45 days from the registration statement filing date to make a decision on general permit coverage or an individual permit. The region can take up to 60 days if the Director decides additional time is needed.

Regions will have to track receipt of registration statements, evaluate public comments received during the following 30 days and then decide on issuing general permit coverage within 15 days thereafter. The 45 day period allowed to DEQ for making a decision on coverage should begin on the date the completed registration statement is received by the regional office. Having the registration statement date stamped upon receipt will document the start of this 45 days. If the region needs up to 60 days to decide on coverage, some documentation of the extension beyond 45 days should be in the file. This extension should be granted only by the Director or someone in the regional office with delegated program authority.

Note that the law does not anticipate public participation in the region's decision beyond the 30 day comment period. There is no provision for a public hearing based on the comments received on the general permit registration statement. The region should review the public comments on the basis of whether or not the operation to be covered can comply with the requirements of the general permit. If the decision is to require an individual permit, then a public hearing may be granted following public notice of the draft individual permit.

6. Nutrient management plans must include a plan for waste utilization in the event the operation is discontinued.

This provision of the law was added to the list of minimum information for an NMP in Special Condition 7 of the general permit. DCR is adding a lagoon closure section to all of their NMPs that should cover this requirement.

7. DEQ and DCR may include in the permit or NMP more frequent or additional monitoring of waste, soils or ground water.

Right now, DCR is taking the lead on this. They're adding monitoring based on the site-specific situation. In order for DEQ to implement this provision, we would have to go through the APA to modify the general permit itself. When the permit is reissued in 2004, we will consider changes to its monitoring requirements. Inspectors should make sure that the monitoring records reflect all monitoring required by the NMP, not just the minimum required by the permit.

8. Farmers must keep monitoring records for 5 years.

The previous time frame for recordkeeping was 2 years. The regulation and the general permit have both been changed to require records be held for 5 years. Inspectors should look for 5 years worth of records if the operation has been permitted that long.

9. A Professional Engineer or another appropriate engineering authority shall certify that the siting, design and construction of the waste storage facility complies with the permit requirements.

Special Condition 3 of the general permit has been changed to reflect this new statutory mandate. Inspectors should ask for this certification when they inspect. The permit requirements that should be included in this certification are: adequate storage capacity for waste and runoff (up to and including the 25-year, 24-hour storm); storage for inclement weather; location outside the 100-year flood plain; and adequate liner thickness or permeability for earthen structures.

This certification requirement applies <u>only</u> to waste structures built after July 1, 1998. Earthen structures built prior to July 1, 1998 only need to certify that the liner meets the permit's thickness or permeability specifications. Structures made of steel or concrete built prior to July 1, 1998 are exempt from the certification requirement, but still must meet the capacity requirement and be either located outside the 100-year flood plain or be protected from inundation.

The permit requirements for adequate freeboard for all structures and minimum depth of waste for earthen structures built into the water table are operational criteria, not design or construction issues. Therefore, the certification statement need not address them.

10. New waste storage facilities cannot be built in the 100-year flood plain. Previously, waste storage facilities could be in the 100-year flood plain if they were protected from inundation.

Special Condition 2 of the general permit was changed to conform to this change in the law. This may be covered in the NMP, but it should be verified by the inspector on site. Any waste storage facilities built after December 1, 1998 must meet this requirement.

11. The farmer must notify DEQ at least 14 days before bringing animals into a new facility.

This requirement was added as Special Condition 10 of the general permit. The intent of this is to give DEQ time to go out and inspect the buildings and other structures before they get filled with animals or waste. The regions should make an effort to get out there during this 14 days.

12. All farmers covered by the general permit have to take a DCR approved training course by January 1, 2000. All farmers permitted after 7/1/99 have one year to be trained. All farmers must take a refresher course every 3 years.

This is included in the modified general permit as Special Condition 11. It applies to everyone currently covered, therefore, DEQ will have to send notices to them telling them that they have until 1/1/00 to take the course. This notice should go out as soon as we have a training schedule from DCR.

13. DCR, in consultation with DEQ and the Extension Service, will develop the training course for farmers.

DCR is working to get this up and running by the summer of 1999. James Golden from PRO is on the committee developing the training course.

14. Individual VPA permits for animal feeding operations have to be at least as stringent as the general permit.

There is no apparent reason why DEQ would go to the trouble of issuing an individual permit except to make it more stringent, but we need to remember that this is in the law.

15. After July 1, 2000, all animal feeding operations with 300 animal units and liquid waste systems must have either an individual VPA permit or be covered under the general permit.

While the law does not require DEQ to scour the countryside to find those operations that aren't permitted, field personnel should make unpermitted farms aware of this requirement when the opportunity arises. Note that animal feeding operations with less than 300 animal units are not eligible for the general permit and if they need a permit, they must be issued an individual permit. An appeal for assistance in getting the word out will be made by my office to the various associations that represent farmers' interests.

16. The maximum civil penalty for violation of this part of the law was lowered to $2,500.

This is 1/10 of the maximum allowed under the Water Control Law. Enforcement has interpreted the fine as applying on a per violation, per day basis, not a forever maximum.

CHANGES TO PERMIT FORMAT

The revised versions of the general permit, the registration statement and the regulation are attached to this memo. Copies of the general permit sent to authorize coverage after December 1, 1998 must show that date as a modification date on the cover page and must include the revised permit language. Applicants for coverage after December 1, 1998 should file the new registration statement so that they certify that the land owner notification was made.

If you have any questions regarding this guidance, please contact Richard Ayers at 804-698-4075.

DISCLAIMER

This document provides procedural guidance to the permit 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. Agency decisions in any particular case will be made by applying the State Water Control Law and the implementation regulations on the basis of the site specific facts when permits are issued.

ATTACHMENT 1

MODIFIED VPA GENERAL PERMIT FORMAT

General Permit No.: VPG1
Effective Date: November 16, 1994
Modification Date: December 1, 1998
Expiration Date: November 16, 2004

GENERAL PERMIT FOR POLLUTANT MANAGEMENT ACTIVITIES FOR CONFINED ANIMAL FEEDING OPERATIONS

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

In compliance with the provisions of the State Water Control Law and State Water Control Board regulations adopted pursuant thereto, owners of confined animal feeding operations having 300 or more animal units utilizing a liquid manure collection and storage system are authorized to manage pollutants within the boundaries of the Commonwealth of Virginia, except where Board regulations or policies prohibit such activities.

The authorized pollutant management activities shall be in accordance with the Registration Statement, supporting data submitted to the Department of Environmental Quality, Water Division, this cover page, Part I, Part II, and Part III as set forth herein.

A. Management and Monitoring Requirements

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to manage pollutants at the permitted site.

2. Groundwater monitoring wells shall be installed at new earthen waste storage facilities constructed to an elevation below the seasonal high water table or within one foot thereof. Existing wells may be utilized to meet this requirement if properly located and constructed.

3. All facilities previously covered under a VPA permit that required groundwater monitoring shall continue monitoring consistent with the requirements listed below regardless of where they are located relative to the seasonal high water table.

4. In accordance with A.2. and A.3. above, the ground water shall be monitored by the permittee at the monitoring wells as specified below:

GROUNDWATER MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Static Water Level	NL	ft	1/3 years	Measured
Ammonia Nitrogen	NL	mg/l	1/3 years	Grab
Nitrate Nitrogen	NL	mg/l	1/3 years	Grab
pH	NL	SU	1/3 years	Grab
Conductivity	NL	umhos/cm	1/3 years	Grab

5. Soil monitoring shall be performed as specified below along with any additional parameters specified in the approved Nutrient Management Plan.

6. The soils at the facility shall be monitored by the permittee as specified below:

SOILS MONITORING

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

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

7. Soil monitoring should be conducted at a depth of between 0-6 inches. The Nitrate test is required at a soil depth of 0-12 inches on those sites planted in corn or small grains.

8. Waste monitoring shall be performed as specified below along with any additional parameters specified in the approved Nutrient Management Plan.

9. The waste at the facility shall be monitored by the permittee as specified below:

WASTE MONITORING

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

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

10. All monitoring data collected as required by Part I.A. shall be maintained on site in accordance with Part II.C.

11. The following recommendations will assist the permittee in performing proper monitoring. The Department of Environmental Quality may be contacted for additional guidance on monitoring procedures.

    a. A minimum of one up gradient and one down gradient well should be installed at each new earthen waste storage facility.
    b. One data set should be collected from each well prior to any waste being placed in the storage facility.
    c. The static water level should be measured prior to bailing well water for sampling.
    d. At least 3 well volumes of groundwater should be withdrawn immediately prior to sampling each monitoring well.
    e. Soil monitoring should be conducted at a depth of between 0-6".
    f. The nitrate test should be conducted at a soil depth of 0-12" on those sites planted in corn or small grains.

12. The Department encourages the permittee to conduct additional monitoring. All additional monitoring, if any, should be conducted under the oversight of the Department. If the permittee conducts additional monitoring in response to a written request from another person, the permittee may request that the person making the request bear the cost of the additional monitoring.

B. Other Requirements or Special Conditions

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

2. New waste storage facilities shall not be located on a 100-year floodplain.

3. New earthen waste storage facilities shall include a properly designed and installed liner. Such liner shall be either a synthetic liner of at least twenty mils thickness or a compacted soil liner of at least one foot thickness with a maximum permeability rating of 0.0014 inches per hour. A licensed Professional Engineer, an employee of the Natural Resources Conservation Service of the United States Department of Agriculture with appropriate engineering approval authority, or an employee of a soil and water conservation district with appropriate engineering approval authority shall certify that the siting, design and construction of the waste storage facility comply with the reguirements of this permit. This certification shall be maintained on site.

4. At earthen waste storage facilities constructed below the seasonal high water table, the top surface of the waste must be maintained at a level of at least two feet above the water table.

5. All waste storage facilities shall maintain one foot of freeboard at all times, up to and including a 25-year, 24-hour storm.

6. All equipment needed for the proper operation of the permitted facilities shall be maintained in good working order. The manufacturer's operating and maintenance manuals shall be retained for references to allow for timely maintenance and prompt repair of equipment when appropriate.

7. The "Nutrient Management Plan" (NMP) approved by the Department of Conservation and Recreation (DCR) shall be implemented and maintained on site. The NMP shall be enforceable through this permit. The NMP shall contain at a minimum the following information:
   a) Site map indicating the location of the waste storage facilities and the fields where waste will be applied;
   b) Site evaluation and assessment of soil types and potential productivities;
   c) Nutrient management sampling including soil and waste monitoring;
   d) Storage and land area requirements;
   e) Calculation of waste application rates;
   f) Waste application schedules; and
   g) A plan for waste utilization in the event the operation is discontinued.

8. Buffer zones shall be maintained as follows:
   a. Distance from occupied dwellings..... 200 feet
      (unless the occupant of the dwelling signs a waiver of the buffer zone)
   b. Distance from water supply wells or springs..... 100 feet
   c. Distance from surface water courses
      (by surface application)..... 50 feet
      (by subsurface injection)..... 25 feet
   d. Distance from rock outcropping (except limestone)..... 25 feet
   e. Distance from limestone outcroppings..... 50 feet
   f. Waste shall not be applied in such a manner that it would discharge to sinkholes that may exist in the area.

9. Records shall be maintained to demonstrate where and at what rate waste has been applied, that the application schedule has been followed, and what crops have been planted. These records shall be maintained on site for a period of five years after recorded application is made and shall be made available to Department personnel upon request.

10. The permittee shall notify the Department's regional office at least 14 days prior to animals being placed in the confined facility.

11. Each operator of a facility covered by this general permit on July 1, 1999 shall, by January 1, 2000, complete the training program offered or approved by the Department of Conservation and Recreation. Each operator of a facility permitted after July 1, 1999 shall complete such training within one year after the registration statement has been submitted for general permit coverage. Thereafter, all operators shall complete the training program at least once every three years.

A. Sampling and Analysis Methods

1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.

2. Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants (40 CFR Part 136 (1994)).

3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.

4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. The date, exact place and time of sampling or measurements;

2. The person(s) who performed the sampling or measurements;

3. The dates analyses were performed;

4. The person(s) who performed each analysis;

5. The analytical techniques or methods used;

6. The results of such analyses and measurements;

C. Records Retention

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation shall be retained on site for five (5) years from the date of the sample, measurement or report. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the Director.

D. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the project report. Such increased frequency shall also be reported.

E. Reporting Requirements

1. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the Department at least the following information:
   a. A description and cause of noncompliance;
   b. The period of noncompliance, including exact dates and times and/or the anticipated time when the noncompliance will cease; and
   c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

   Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The Director may waive the written report requirement on a case by case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

2. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part II.F.1.a.-c. regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.
   If the Department's Regional Office cannot be reached, the Department maintains a 24-hour telephone service in Richmond (804-527-5200) to which the report required above is to be made.

F. Signatory Requirements

Any Registration Statement or certification required by this permit shall be signed as follows:

1. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

3. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

A. Change in Management of Pollutants

1. All pollutant management activities authorized by this permit shall be made in accordance with the terms and conditions of the permit. The permittee shall submit a new Registration Statement 30 days prior to all expansions, production increases, or process modifications, that will result in the management of new or increased pollutants. The management of any pollutant at a level greater than that identified and authorized by this permit, shall constitute a violation of the terms and conditions of this permit.

2. The permittee shall promptly provide written notice of the following:
   a. Any new introduction of pollutant(s), into treatment works or pollutant management activities which represents a significant increase in the management of pollutant(s) which may interfere with, pass through, or otherwise be incompatible with such works or activities, from an establishment or treatment works, if such establishment, treatment works has the potential to discharge pollutants to state waters; and,
   b. Any substantial change, whether permanent or temporary, in the volume or character of pollutants being introduced into such treatment works by an establishment, treatment works, or pollutant management activity that was introducing pollutants into such treatment works at the time of issuance of the permit. Such notice shall include information on: (1) the characteristics and quantity of pollutants to be introduced into or from such treatment works or pollutant management activities; (2) any anticipated impact of such change in the quantity and characteristics of the pollutants to be managed at a pollutant management activity; and (3) any additional information that may be required by the Director.

B. Treatment Works Operation and Quality Control

1. Design and operation of facilities and/or treatment works and disposal of all wastes shall be in accordance with the Registration Statement filed with the Department. The permittee has the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, management of pollutant activities and disposal facilities shall be operated in a manner consistent with the following:
   a. At all times, all facilities and pollutant management activities shall be operated in a prudent and workmanlike manner.
   b. The permittee shall provide an adequate operating staff to carry out the operation, maintenance and testing functions required to ensure compliance with the conditions of this permit.
   c. Maintenance of treatment facilities or pollutant management activities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.
   d. Collected solids shall be stored and utilized as specified in the approved Nutrient Management Plan in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.

C. Adverse Impact

The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.

D. Duty to Halt, Reduce Activity or to Mitigate

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural Stability

The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Compliance With State Law

Compliance with this permit during its term constitutes compliance with the State Water Control Law.
Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation.

G. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

H. Severability

The provisions of this permit are severable.

I. Duty to Reregister

If the permittee wishes to continue to operate under a General Permit after the expiration date of this permit, the permittee must submit a new Registration Statement at least 30 days prior to the expiration date of this permit.

J. Right of Entry

The permittee shall allow, or secure necessary authority to allow, authorized state representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;

2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;

3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;

4. To sample at reasonable times any waste stream, process stream, raw material or by-product; and

5. To inspect at reasonable times any collection, treatment, or pollutant management activities required under this permit. For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing pollutants. Nothing contained herein shall make an inspection time unreasonable during an emergency.

K. Transferability of Permits

This permit may be transferred to a new owner by a permittee if:

1. The current permittee notifies the Department 30 days in advance of the proposed transfer of the title to the facility or property;

2. The notice to the Department includes a written agreement between the existing and proposed new permittee containing a specific date of transfer of permit responsibility, coverage and liability between them; and

3. The Department does not within the 30-day time period notify the existing permittee and the proposed permittee of the Board's intent to modify or revoke and reissue the permit. Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

L. Permit Modification

The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based;

2. When the level of management of a pollutant, not limited in the permit, exceeds applicable Water Quality Standards or the level which can be achieved by technology-based treatment requirements appropriate to the permittee.

M. Permit Termination

After public notice and opportunity for a hearing, the General Permit may be terminated for cause.

N. When an Individual Permit May Be Required

The Director may require any permittee authorized to manage pollutants under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited

to, the following:

1. The pollutant management activities violate the terms or conditions of this permit;

2. When additions or alterations have been made to the affected facility which require the application of permit conditions that differ from those of the existing permit or are absent from it; and

3. When new information becomes available about the operation or pollutant management activities covered by this permit which were not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance.

This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

O. When an Individual Permit May be Requested

Any permittee operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to a permittee the applicability of this General Permit to the individual permittee is automatically terminated on the effective date of the individual permit.

P. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.

Q. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or Sections 62.1-44.34:14 through 62.1-44.34:23 of the Law.

R. Unauthorized Discharge of Pollutants

Except in compliance with this permit, it shall be unlawful for any permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.

ATTACHMENT 2

REVISED REGISTRATION STATEMENT AND INSTRUCTIONS

COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
VIRGINIA POLLUTION ABATEMENT GENERAL PERMIT REGISTRATION STATEMENT
FOR CONFINED ANIMAL FEEDING OPERATIONS

1. Facility Name:_____
   Address:_____
   City:_____ State:_____ Zip Code:_____
2. Owner Name:_____
   Address:_____
   City:_____ State:_____ Zip Code:_____
   Phone:_____
3. Operator Name:_____
   Address:_____
   City:_____ State:_____ Zip Code:_____
   Phone:_____
   Facility Contact:_____
   Phone:_____ Best Time to Contact (day time):_____
4. Does this facility have an existing VPA permit or IW-ND Certificate? Yes _____ No _____
   If yes, the VPA Permit or IW-ND Certificate Number is:_____
5. Indicate the maximum number and average weight of the type(s) of animal which will be maintained at your facility:

Animal Type	Maximum Number	Average Weight
Dairy Cattle	_____	_____
Slaughter and Feeder Cattle	_____	_____
Swine	_____	_____
Other_____	_____	_____
_____	_____	_____

6. The owner of any proposed pollutant management activities or those which have not previously been issued a valid VPA permit or IW-ND Certificate must attach to the Registration Statement the notification from the governing body of the county, city or town where the operation is located that the operation is consistent with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.
7. The owner of the pollutant management activities must attach to the Registration Statement a copy of the letter from the Department of Conservation and Recreation certifying approval of the Nutrient Management Plan and a copy of the approved Nutrient Management Plan.
8. **Certification:**
   "I certify that notice of the registration statement has been given to all owners or residents of property that adjoins the property on which the confined animal feeding operation will be located. This notice included the types and numbers of animals which will be maintained at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. I certify under penalty of law that all the requirements of the Board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

   Print Name:_____

   Title:_____

   Signature:_____ Date:_____

INSTRUCTIONS

VPA GENERAL PERMIT REGISTRATION STATEMENT FOR CONFINED ANIMAL FEEDING OPERATIONS

eneral

A VPA general permit registration statement must be submitted when an owner makes application to the Department of Environmental Quality for coverage under the VPA General Permit for Confined Animal Feeding Operations. Owners who are currently covered under the general permit must submit a revised registration statement and all required attachments whenever they propose to construct new structures or waste storage facilities, increase the number of animals above the previously stated maximum number or add new sites for land application of animal waste.

Section 1 Facility Information

Give the name of the animal feeding operation and enter its complete mailing address.

Section 2 Owner Information

Give the legal name of the person, firm, public organization, or any other entity that owns the facility or site described in this registration statement. The address of the owner may or may not be the same as the address of the facility. If they are the same, write "SAME AS ABOVE" in the appropriate spaces. Please include the owner's telephone number.

Section 3 Operator Information

Give the operator's name, mailing address and phone number. If these are the same as the owner information, write "SAME AS ABOVE" in the appropriate spaces. The operator is the person who manages daily activities at the site. Please also provide the name of a contact person, their phone number and the best time to make contact with them during regular working hours.

Section 4 Existing Permit Numbers

List the number of any expiring or currently effective permits issued to the animal feeding operation under the VPA permit program or the IW-ND certificate program.

Section 5 Animal Information

Indicate the maximum number and average weights of animals in each category that the operation will have at any one time. Dry cows should be counted in the total for dairy operations.

Section 6 Local Government Ordinance Form (LGOF)

Every animal feeding operation seeking coverage under the general permit must provide notification that the operation is not in conflict with the local zoning and planning ordinances. This notification should be made on the LGOF which was provided with the Registration Statement and it must be igned by either the County Administrator, the City/Town Manager, the Mayor, or the Chairman of the Board of Supervisors. The LGOF form you ubmit must bear an original signature in ink, photocopies are <u>not</u> acceptable. Operations which have previously been issued a VPA permit or IW-ND certificate are not required to submit the LGOF, unless the operation is being expanded to add new structures, new waste storage facilities, new land application sites or more animals than were previously listed as the maximum number. All operations which are applying for a permit for the first time must attach the LGOF to the Registration Statement.

Section 7 Nutrient Management Plan (NMP)

State law requires that every animal feeding operation seeking coverage under the VPA general permit have a Nutrient Management Plan. A copy of the operation's Nutrient Management Plan and a copy of the letter from the Virginia Department of Conservation and Recreation approving the operation's NMP must be attached to the Registration Statement. Whenever the NMP is revised, the revised NMP and the approval letter should be copied to the DEQ regional office.

Adjacent Property Notification: State law requires that every owner who submits a registration statement for coverage under this general permit <u>must</u> give notice to all owners or residents of property that adjoins the property on which the animal feeding operation will be located. This means all property with a common boundary to the land on which the animals are confined, as well as the land where animal waste is either stored or land applied. The notice must include the types and maximum number of animals which will be maintained at the facility and the address and phone number of the appropriate DEQ regional office to which comments relevant to the permit may be submitted. The address and phone number of the appropriate DEQ regional office are on the letter that was sent with these instructions.

You are responsible for identifying all of the owners or residents of adjoining property and for notifying them whenever you submit a registration statement to DEQ. If the registration statement is being submitted because new land application sites are being added to an already permitted operation, only those owners or residents of property adjoining the new land application site need be notified.

By signing the registration statement, you are certifying that the required notifications have been made. DEQ must receive comments for 30 days after receipt of your registration statement. A decision on your request for coverage under the general permit will be made following that 30 day comment period.

Section 8 Certification

The Certification must bear an original signature in ink, photocopies are <u>not</u> acceptable. State statutes provide for severe penalties for submitting false information on this Registration Statement. State regulations require this Registration Statement to be signed as follows:

<u>For a corporation:</u> by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge f a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

<u>For a partnership or sole proprietorship:</u> by a general partner or the proprietor; or

<u>For a municipality, state, Federal, or other public facility:</u> by either a principal executive officer or ranking elected official.

ATTACHMENT 3

AMENDED VPA GENERAL PERMIT REGULATION FOR CONFINED ANIMAL FEEDING OPERATIONS

COMMONWEALTH OF VIRGINIA
STATE WATER CONTROL BOARD

VAC 25-192-10 et seq. - VIRGINIA POLLUTION ABATEMENT (VPA) GENERAL PERMIT REGULATION FOR CONFINED ANIMAL FEEDING OPERATIONS

[Adopted: September 19, 1994 - Effective: November 16, 1994; Amended October 1, 1998 - Effective December 1, 1998]

9 VAC 25-192-10. Definitions

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law §62.1-44.2 et seq. and the Permit Regulation (VR 680-14-01) unless the context clearly indicates otherwise, except that for the purposes of this regulation:

"Confined Animal Feeding Operation" means a lot or facility, together with any associated treatment works, where both of the following conditions are met: 1. Animals have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and 2. Crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality or his designee.

"Permittee" means the owner whose confined animal feeding operation is covered under this general permit.

"Waste Storage Facility" means a waste holding pond or tank used to store manure prior to land application, or a lagoon or treatment facility used to digest or reduce the solids or nutrients.

9 VAC 25-192-20. Purpose

This General Permit regulation governs the pollutant management activities of animal wastes at confined animal feeding operations having 300 or more animal units utilizing a liquid manure collection and storage system. These confined animal feeding operations may operate and maintain treatment works for waste storage, treatment or recycle and may perform land application of wastewater or sludges.

9 VAC 25-192-30. Delegation of Authority

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

9 VAC 25-192-40. Effective Date of the Permit

This General Permit will become effective on November 16, 1994. This General Permit was modified to comply with the 1998 Acts of the General Assembly. The effective date of the modification is December 1, 1998. This General Permit will expire 10 years from the effective date. Any covered owner is authorized to manage pollutants, that are not point source discharges to State waters, under this General Permit upon compliance with all the provisions of 9 VAC 25-192-50 and 9 VAC 25-192-60 and the receipt of this General Permit.

9 VAC 25-192-50. Authorization to Manage Pollutants

Any owner governed by this General Permit is hereby authorized to manage pollutants at confined animal feeding operations provided that the owner files the Registration Statement of 9 VAC 25-192-60, complies with the requirements of 9 VAC 25-192-70, and provided that:

A. Individual Permit

The owner shall not have been required to obtain an individual permit as may be required in the Permit Regulation. Currently permitted operations may submit a Registration Statement for operation under the General Permit and be authorized under this General Permit provided that the criteria of the General Permit are met.

B. Prohibited Discharges

The operation of the facilities of the owner shall not contravene the Water Quality Standards, as amended and adopted by the Board, or any provision of the State Water Control Law. There shall be no point source discharge of wastewater except in the case of storm event greater than the 25-year, 24-hour storm. Domestic sewage or industrial waste shall not be managed under this General Permit.

C. Local Government Notification

The owner of any proposed pollutant management activities or those which have not previously been issued a valid Virginia Pollution Abatement (VPA) permit or Industrial Waste-No Discharge (IW-ND) Certificate must attach to the Registration Statement a notification from the governing body of the county, city or town where the operation is located that the operation is consistent with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.

D. Nutrient Management Plan (NMP)

A Nutrient Management Plan for the facility must be approved by the Department of Conservation and Recreation (DCR) prior to the submittal of the Registration Statement. The owner of the pollutant management activities shall attach to the Registration Statement a copy of the approved Nutrient Management Plan and a copy of the letter from the Department of Conservation and Recreation certifying approval of the Nutrient Management Plan.

E. Adjacent Property Notification

The owner shall give notice of the registration statement to all owners or residents of property that adjoins the property on which the confined animal feeding operation will be located. Such notice shall include: (i) the types and maximum number of animals which will be maintained at the facility; and (ii) the address and phone number of the appropriate Department regional office to which comments relevant to the permit may be submitted.

F. Operator Training

Each operator of a facility covered by this general permit on July 1, 1999 shall, by January 1, 2000, complete the training program offered or approved by the Department of Conservation and Recreation. Each operator of a facility permitted after July 1, 1999 shall complete such training within one year after the registration statement has been submitted for general permit coverage. Thereafter, all operators shall complete the training program at least once every three years.

Receipt of this General Permit does not relieve any owner of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

9 VAC 25-192-60. Registration Statement

The owner shall file a complete VPA General Permit Registration Statement for the management of pollutants at confined animal feeding operations in accordance with this regulation.

Any owner proposing a new pollutant management activity shall file a complete Registration Statement. Any owner with an existing pollutant management activity covered by an individual VPA permit who is proposing to be covered by this General Permit shall file a complete Registration Statement.

The required Registration Statement shall be in the following form:

COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

VIRGINIA POLLUTION ABATEMENT
GENERAL PERMIT REGISTRATION STATEMENT
FOR CONFINED ANIMAL FEEDING OPERATIONS

1. Facility Name:_____
Address:_____
City:_____ State:_____ Zip Code:_____
2. Owner Name:_____
Address:_____
City:_____ State:_____ Zip Code:_____
Phone:_____
3. Operator Name:_____
Address:_____
City:_____ State:_____ Zip Code:_____
Phone:_____
Facility Contact:_____
Phone:_____
Best Time to Contact (day time):_____
4. Does this facility have an existing VPA permit or IW-ND Certificate?
Yes_____ No_____
If yes, list the existing VPA Permit Number or IW-ND Certificate Number:
_____
5. Indicate the maximum number and average weight of the type(s) of animal which will be maintained at your facility:

Animal Type	Maximum Number	Average Weight
Dairy Cattle	_____	_____
Slaughter and Feeder Cattle	_____	_____
Swine	_____	_____
Other	_____	_____

6. The owner of any proposed pollutant management activities or those which have not previously been issued a valid VPA permit or IW-ND Certificate must attach to the Registration Statement the notification from the governing body of the county, city or town where the operation is located that the operation is consistent with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.
7. The owner of the pollutant management activities must attach to the Registration Statement a copy of the letter from the Department of Conservation and Recreation certifying approval of the Nutrient Management Plan and a copy of the approved Nutrient Management Plan.
8. **Certification:**
"I certify that notice of the registration statement has been given to all owners or residents of property that adjoins the property on which the confined animal feeding operation will be located. This notice included the types and numbers of animals which will be maintained at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. I certify under penalty of law that all the requirements of the Board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."
Print Name:_____
Title:_____
Signature:_____ Date:_____

9 VAC 25-192-70. General Permit

Any owner who submits a complete Registration Statement will receive the following General Permit and shall comply with the requirements therein and be subject to the Permit Regulation.

General Permit No.: VPG1
Effective Date:
Modification Date:
Expiration Date:

GENERAL PERMIT FOR POLLUTANT MANAGEMENT ACTIVITIES
FOR CONFINED ANIMAL FEEDING OPERATIONS

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

In compliance with the provisions of the State Water Control Law and State Water Control Board regulations adopted pursuant thereto, owners of confined animal feeding operations having 300 or more animal units utilizing a liquid manure collection and storage system are authorized to manage pollutants within the boundaries of the Commonwealth of Virginia, except where Board regulations or policies prohibit such activities.

The authorized pollutant management activities shall be in accordance with the Registration Statement, supporting data submitted to the Department of Environmental Quality, Water Division, this cover page, Part I, Part II, and Part III as set forth herein.

PART I

A. Management and Monitoring Requirements

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to manage pollutants at the permitted site.

2. Groundwater monitoring wells shall be installed at new earthen waste storage facilities constructed to an elevation below the seasonal high water table or within one foot thereof. Existing wells may be utilized to meet this requirement if properly located and constructed.

3. All facilities previously covered under a VPA permit that required groundwater monitoring shall continue monitoring consistent with the requirements listed below regardless of where they are located relative to the seasonal high water table.

4. In accordance with A.2. and A.3. above, the ground water shall be monitored by the permittee at the monitoring wells as specified below:

GROUNDWATER MONITORING

PARAMETERS	LIMITATIONS	UNITS	MONITORING REQUIREMENTS	
			Frequency	Sample Type
Static Water Level	NL	ft	1/3 years	Measured
Ammonia Nitrogen	NL	mg/l	1/3 years	Grab
Nitrate Nitrogen	NL	mg/l	1/3 years	Grab
pH	NL	SU	1/3 years	Grab
Conductivity	NL	umhos/cm	1/3 years	Grab

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

5. Soil monitoring shall be performed as specified below along with any additional parameters specified in the approved Nutrient Management Plan.

6. The soils at the facility shall be monitored by the permittee as specified below:

SOILS MONITORING

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

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

7. Soil monitoring should be conducted at a depth of between 0-6 inches. The Nitrate test is required at a soil depth of 0-12 inches on those sites planted in corn or small grains.

8. Waste monitoring shall be performed as specified below along with any additional parameters specified in the approved Nutrient Management Plan.

9. The waste at the facility shall be monitored by the permittee as specified below:

WASTE MONITORING

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

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

10. All monitoring data collected as required by Part I.A. shall be maintained on site in accordance with Part II.C.

11. The following recommendations will assist the permittee in performing proper monitoring. The Department of Environmental Quality may be contacted for additional guidance on monitoring procedures.

a. A minimum of one up gradient and one down gradient well should be installed at each new earthen waste storage facility.
b. One data set should be collected from each well prior to any waste being placed in the storage facility.
c. The static water level should be measured prior to bailing well water for sampling.
d. At least 3 well volumes of groundwater should be withdrawn immediately prior to sampling each monitoring well.
e. Soil monitoring should be conducted at a depth of between 0-6".
f. The nitrate test should be conducted at a soil depth of 0-12" on those sites planted in corn or small grains.

12. The Department encourages the permittee to conduct additional monitoring. All additional monitoring, if any, should be conducted under the oversight of the Department. If the permittee conducts additional monitoring in response to a written request from another person, the permittee may request that the person making the request bear the cost of the additional monitoring.

B. Other Requirements or Special Conditions

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

2. New waste storage facilities shall not be located on a 100-year floodplain .

3. New earthen waste storage facilities shall include a properly designed and installed liner. Such liner shall be either a synthetic liner of at least twenty mils thickness or a compacted soil liner of at least one foot thickness with a maximum permeability rating of 0.0014 inches per hour. A licensed Professional Engineer, an employee of the Natural Resources Conservation Service of the United States Department of Agriculture with appropriate engineering approval authority, or an employee of a soil and water conservation district with appropriate engineering approval authority shall certify that the siting, design and construction of the waste storage facility comply with the reguirements of this permit. This certification shall be maintained on site.

4. At earthen waste storage facilities constructed below the seasonal high water table, the top surface of the waste must be maintained at a level of at least two feet above the water table.

5. All waste storage facilities shall maintain one foot of freeboard at all times, up to and including a 25-year, 24-hour storm.

6. All equipment needed for the proper operation of the permitted facilities shall be maintained in good working order. The manufacturer's operating and maintenance manuals shall be retained for references to allow for timely maintenance and prompt repair of equipment when appropriate.

7. The "Nutrient Management Plan" (NMP) approved by the Department of Conservation and Recreation (DCR) shall be implemented and maintained on site . The NMP shall be enforceable through this permit. The NMP shall contain at a minimum the following information:
   a) Site map indicating the location of the waste storage facilities and the fields where waste will be applied;
   b) Site evaluation and assessment of soil types and potential productivities;
   c) Nutrient management sampling including soil and waste monitoring;
   d) Storage and land area requirements;
   e) Calculation of waste application rates;
   f) Waste application schedules; and
   g) A plan for waste utilization in the event the operation is discontinued.

8. Buffer zones shall be maintained as follows:
   a. Distance from occupied dwellings..... 200 feet (unless the occupant of the dwelling signs a waiver of the buffer zone)
   b. Distance from water supply wells or springs..... 100 feet
   c. Distance from surface water courses

(by surface application)..... 50 feet
(by subsurface injection)..... 25 feet

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

e. Distance from limestone outcroppings..... 50 feet

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

9. Records shall be maintained to demonstrate where and at what rate waste has been applied, that the application schedule has been followed, and what crops have been planted. These records shall be maintained on site for a period of five years after recorded application is made and shall be made available to Department personnel upon request.

10. The permittee shall notify the Department's regional office at least 14 days prior to animals being placed in the confined facility.

11. Each operator of a facility covered by this general permit on July 1, 1999 shall, by January 1, 2000, complete the training program offered or approved by the Department of Conservation and Recreation. Each operator of a facility permitted after July 1, 1999 shall complete such training within one year after the registration statement has been submitted for general permit coverage. Thereafter, all operators shall complete the training program at least once every three years.

Part II

A. Sampling and Analysis Methods

1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.

2. Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants (40 CFR Part 136 (1994)).

3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.

4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. The date, exact place and time of sampling or measurements;

2. The person(s) who performed the sampling or measurements;

3. The dates analyses were performed;

4. The person(s) who performed each analysis;

5. The analytical techniques or methods used;

6. The results of such analyses and measurements;

C. Records Retention

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation shall be retained on site for five (5) years from the date of the sample, measurement or report. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the Director.

D. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the project report. Such increased frequency shall also be reported.

E. Reporting Requirements

1. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the Department at least the following information:
   a. A description and cause of noncompliance;
   b. The period of noncompliance, including exact dates and times and/or the anticipated time when the noncompliance will cease; and
   c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

   Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The Director may waive the written report requirement on a case by case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

2. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part II.E.1.a. through c. regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.

   If the Department's Regional Office cannot be reached, the Department maintains a 24-hour telephone service in Richmond (804-527-5200) to which the report required above is to be made.

F. Signatory Requirements

Any Registration Statement or certification required by this permit shall be signed as follows:

1. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more

manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

3. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

Part III

A. Change in Management of Pollutants

1. All pollutant management activities authorized by this permit shall be made in accordance with the terms and conditions of the permit. The permittee shall submit a new Registration Statement 30 days prior to all expansions, production increases, or process modifications, that will result in the management of new or increased pollutants. The management of any pollutant at a level greater than that identified and authorized by this permit, shall constitute a violation of the terms and conditions of this permit.

2. The permittee shall promptly provide written notice of the following:
   a. Any new introduction of pollutant(s), into treatment works or pollutant management activities which represents a significant increase in the management of pollutant(s) which may interfere with, pass through, or otherwise be incompatible with such works or activities, from an establishment or treatment works, if such establishment, treatment works has the potential to discharge pollutants to state waters; and,
   b. Any substantial change, whether permanent or temporary, in the volume or character of pollutants being introduced into such treatment works by an establishment, treatment works, or pollutant management activity that was introducing pollutants into such treatment works at the time of issuance of the permit.
   Such notice shall include information on: (1) the characteristics and quantity of pollutants to be introduced into or from such treatment works or pollutant management activities; (2) any anticipated impact of such change in the quantity and characteristics of the pollutants to be managed at a pollutant management activity; and (3) any additional information that may be required by the Director.

B. Treatment Works Operation and Quality Control

1. Design and operation of facilities and/or treatment works and disposal of all wastes shall be in accordance with the Registration Statement filed with the Department. The permittee has the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, management of pollutant activities and disposal facilities shall be operated in a manner consistent with the following:
   a. At all times, all facilities and pollutant management activities shall be operated in a prudent and workmanlike manner.
   b. The permittee shall provide an adequate operating staff to carry out the operation, maintenance and testing functions required to ensure compliance with the conditions of this permit.
   c. Maintenance of treatment facilities or pollutant management activities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.
   d. Collected solids shall be stored and utilized as specified in the approved Nutrient Management Plan in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.

C. Adverse Impact

The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.

D. Duty to Halt, Reduce Activity or to Mitigate

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural Stability

The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Compliance With State Law

Compliance with this permit during its term constitutes compliance with the State Water Control Law.
Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation.

G. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

H. Severability

The provisions of this permit are severable.

I. Duty to Reregister

If the permittee wishes to continue to operate under a General Permit after the expiration date of this permit, the permittee must submit a new Registration Statement at least 30 days prior to the expiration date of this permit.

J. Right of Entry

The permittee shall allow, or secure necessary authority to allow, authorized state representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;

2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;

3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;

4. To sample at reasonable times any waste stream, process stream, raw material or by-product; and

5. To inspect at reasonable times any collection, treatment, or pollutant management activities required under this permit. For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing pollutants. Nothing contained herein shall make an inspection time unreasonable during an emergency.

K. Transferability of Permits

This permit may be transferred to a new owner by a permittee if:

1. The current permittee notifies the Department 30 days in advance of the proposed transfer of the title to the facility or property;

2. The notice to the Department includes a written agreement between the existing and proposed new permittee containing a specific date of transfer of permit responsibility, coverage and liability between them; and

3. The Department does not within the 30-day time period notify the existing permittee and the proposed permittee of the Board's intent to modify or revoke and reissue the permit. Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

L. Permit Modification

The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based;

2. When the level of management of a pollutant, not limited in the permit, exceeds applicable Water Quality Standards or the level which can be achieved by technology-based treatment requirements appropriate to the permittee.

M. Permit Termination

After public notice and opportunity for a hearing, the General Permit may be terminated for cause.

N. When an Individual Permit May Be Required

The Director may require any permittee authorized to manage pollutants under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The pollutant management activities violate the terms or conditions of this permit;

2. When additions or alterations have been made to the affected facility which require the application of permit conditions that differ from those of the existing permit or are absent from it; and

3. When new information becomes available about the operation or pollutant management activities covered by this permit which were not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance.

This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

O. When an Individual Permit May be Requested

Any permittee operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to a permittee the applicability of this General Permit to the individual permittee is automatically terminated on the effective date of the individual permit.

P. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.

Q. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or Sections 62.1-44.34:14 through 62.1-44.34:23 of the Law.

R. Unauthorized Discharge of Pollutants

Except in compliance with this permit, it shall be unlawful for any permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.