



**STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER & WASTE MANAGEMENT
601 57th Street, SE
CHARLESTON, WV 25304**

**GENERAL
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WATER POLLUTION CONTROL PERMIT**

Permit No.: WV0113069

Issue Date: May 12, 2017

Subject: Hydrostatic Testing Water

Effective Date: June 11, 2017

Expiration Date: May 11, 2022

Supercedes: WV0113069
Issued January 20, 2012

To whom it may concern:

This is to certify that any establishment with discharges composed entirely of water associated with the hydrostatic testing of newly constructed, or cleaned and certified PCB-free pipelines and/or storage tanks and agreeing to be regulated under the terms of this general permit is hereby granted coverage under this General NPDES Water Pollution Control Permit to allow hydrostatic testing water discharges into waters of the State.

This permit is subject to the following terms and conditions:

The information submitted on and with the site registration application form will hereby be made terms and conditions of the permit with like effect as if all such information were set forth herein, and other conditions set forth in Sections A, B and Appendix A.

A.1 Discharge Limitations and Monitoring Requirements: Projects utilizing waters of the State as source waters.

During the period beginning effective date of permit and lasting through midnight expiration date of permit, the permittee is authorized to discharge from Outlet Number(s): *

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Other Units (specify)</u>	<u>Max Daily</u>	<u>Monitoring Requirements</u>	
	<u>Avg. Monthly</u>	<u>(Quantity) lbs/day</u>	<u>Max Daily</u>			<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	N/A	N/A	N/A	Monitor	MGD	1/discharge	**
Oil and Grease	N/A	N/A	N/A	Monitor	mg/l	1/discharge	***
Total Suspended Solids	N/A	N/A	N/A	Monitor	mg/l	1/discharge	***

* Each outlet shall be sampled and analyzed separately. Identify as 001, 002, 003, etc., on DMR's. Also, See B.1.

** The total amount of water discharged shall be reported.

*** See B.2.

The pH shall not be less than 6.0 standard units and not more than 9.0 standard units and shall be monitored 1/Discharge by grab sample.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the discharge from the pipeline segment undergoing hydrostatic testing.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.2 Discharge Limitations and Monitoring Requirements: Projects utilizing chlorinated potable water supply as source water with discharge to Trout waters.

During the period beginning effective date of permit and lasting through midnight expiration date of permit, the permittee is authorized to discharge from Outlet Number(s): *

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Monitoring Requirements</u>	
	<u>Avg. Monthly</u>	<u>(Quantity) lbs/day</u> <u>Max Daily</u>	<u>Other Units (specify)</u> <u>Avg. Monthly</u> <u>Max Daily</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	N/A	N/A	Monitor	1/discharge	**
Oil and Grease	N/A	N/A	Monitor	mg/l	***
Total Suspended Solids	N/A	N/A	Monitor	mg/l	***
Total Residual Chlorine	No Chlorinated Discharge Allowed			ug/l	Grab

* Each outlet shall be sampled and analyzed separately. Identify as 001, 002, 003, etc., on DMR's. Also, See B.1.

** The total amount of water discharged shall be reported.

*** See B.2.

The pH shall not be less than 6.0 standard units and not more than 9.0 standard units and shall be monitored 1/Discharge by grab sample.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the discharge from the holding pond or dechlorination unit, as applicable.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.3 Discharge Limitations and Monitoring Requirements: Projects utilizing chlorinated potable water supply as source water with discharge to Warmwater fisheries.

During the period beginning effective date of permit and lasting through midnight expiration date of permit, the permittee is authorized to discharge from Outlet Number(s): *

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>		
	<u>Avg. Monthly</u>	<u>(Quantity) lbs/day</u>	<u>Max Daily</u>	<u>Avg. Monthly</u>	<u>Other Units (specify)</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	N/A	N/A	N/A	N/A	Monitor	1/discharge	**
Oil and Grease	N/A	N/A	N/A	N/A	Monitor	mg/l	***
Total Suspended Solids	N/A	N/A	N/A	N/A	Monitor	mg/l	***
Total Residual Chlorine	N/A	N/A	N/A	N/A	11	ug/l	Grab

* Each outlet shall be sampled and analyzed separately. Identify as 001, 002, 003, etc., on DMR's. Also, See B.1.

** The total amount of water discharged shall be reported.

*** See B.2.

The pH shall not be less than 6.0 standard units and not more than 9.0 standard units and shall be monitored 1/Discharge by grab sample.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the discharge from the pipeline segment undergoing hydrostatic testing.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.4 Discharge Limitations and Monitoring Requirements: Projects utilizing chlorinated potable water supply as source water with discharge to Public A waters.

During the period beginning effective date of permit and lasting through midnight expiration date of permit, the permittee is authorized to discharge from Outlet Number(s): *

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Other Units (specify)</u>		<u>Monitoring Requirements</u>	
	<u>Avg. Monthly</u>	<u>(Quantity) lbs/day</u>	<u>Max Daily</u>	<u>Avg. Monthly</u>	<u>Max Daily</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow	N/A	N/A	N/A	N/A	Monitor	1/discharge	**
Oil and Grease	N/A	N/A	N/A	N/A	Monitor	1/discharge	***
Total Suspended Solids	N/A	N/A	N/A	N/A	Monitor	1/discharge	***
Chloroform	N/A	N/A	N/A	N/A	5.7	1/discharge	***

* Each outlet shall be sampled and analyzed separately. Identify as 001, 002, 003, etc., on DMR's. Also, See B.1.

** The total amount of water discharged shall be reported.

*** See B.2.

The pH shall not be less than 6.0 standard units and not more than 9.0 standard units and shall be monitored 1/Discharge by grab sample.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the discharge from the pipeline segment undergoing hydrostatic testing.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

B. OTHER REQUIREMENTS

1. Each segment of pipeline tested, which results in a separate discharge, shall be considered as an individual outlet. Projects comprising numerous outlets may be eligible for representative outlet designation, which may result in a reduction in the number of outlets requiring monitoring. This designation shall be evaluated on a case-by-case basis.
2. The samples collected for analysis of Total Suspended Solids and Chloroform shall consist of three (3) equal volume grab samples composited into one (1) sample. The initial grab sample shall be taken within fifteen (15) minutes of the discharge. The second sample shall be taken at least fifteen (15) minutes after the initial grab and at least fifteen (15) minutes before the final grab. For discharges of less than forty-five (45) minutes duration, initial and final grab samples only shall be collected and composited. For Oil & Grease, a grab sample shall be collected within the first fifteen (15) minutes of discharge. The results shall be reported in the appropriate sections of the DMR, which is to be submitted electronically using DEP's Electronic Submission System (ESS).
3. At least seven (7) days prior to commencing any discharge, the permittee shall notify the appropriate Regional Office of Environmental Enforcement (EE) per the following list of counties:

Northwest Region – (304) 368-3960

Barbour, Doddridge, Harrison, Lewis, Marion, Monongalia, Pleasants, Ritchie, Taylor and Upshur

Wheeling Satellite Office – (304) 238-1220

Brooke, Hancock, Marshall, Ohio, Tyler, and Wetzel

Northeast Region – (304) 822-7266

Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton, Pocahontas, Preston, Randolph and Tucker

Southwest Region – (304) 926-0470

Boone, Cabell, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam and Wayne

Parkersburg Satellite Office – (304) 420-4635

Calhoun, Gilmer, Jackson, Roane, Wirt and Wood

Southeast Region – (304) 465-3016

Braxton, Clay, Fayette, Greenbrier, McDowell, Mercer, Monroe, Nicholas, Raleigh, Summers, Webster, and Wyoming

EE shall be apprised of the date, time and precise location of the discharge.

B. OTHER REQUIREMENTS (Continued)

4. The Sediment and Erosion Control Plan (SECP) submitted with the site registration form shall become an enforceable part of this permit once coverage is granted under this permit. The SECP shall specify the measures to be taken to control the Total Suspended Solids in the discharge. The SECP may be changed or amended only upon submission of an amended plan and approval from the Division of Water and Waste Management (DWWM).
5. It is recognized that this general permit continues to be in the developmental stage and its limitations, standards and conditions will be reviewed by the Director at the time of reissuance, or earlier, if necessary, for possible revisions. Based upon that review, such revisions may be more, or less, stringent than the limitations, standards and conditions contained in this general permit.
6. The permittee shall promptly notify the DWWM in writing of the completion of the hydrostatic testing project and of compliance with the requirements of the Sediment and Erosion Control Plan. Coverage under this general permit shall automatically terminate upon receipt of this notification. Failure to submit this notice may result in the assessment of additional annual permit fees. This notice may be attached to the e-DMR submitted through the ESS.

7. Facilities Discharging to 303(d) Streams

Permittees discharging Section A pollutants of concern to waters for which there is a total maximum daily load (TMDL) established or approved by EPA are not eligible for coverage under this general permit unless the permit conditions of this general permit are consistent with the assumptions and requirements of such TMDL. The permittee should consult with the State or EPA TMDL authority to confirm if his/her facility is subject to an approved TMDL. If the discharge cannot comply with the requirements of the TMDL, the permittee must submit an NPDES application to the DEP for coverage under an individual WV/NPDES permit.

8. Endangered and Threatened Species

If a site discharges to a stream where a federally endangered or threatened species or its habitat are present, the applicant should contact the US Fish and Wildlife Service to ensure that requirements of The Federal Endangered Species Act are met.

9. The Director may require any person authorized by this permit to apply for and obtain an individual NPDES permit. Any interested person may petition the Director to act under this paragraph. The Director may require any owner or operator authorized to discharge under this permit to apply for an individual NPDES permit only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the owner or operator to file the application, and a statement that on the effective date of the individual NPDES permit, coverage under this general permit shall automatically terminate. The Director may grant additional time to submit the application upon request of the applicant. If an owner or operator fails to submit in a timely manner an individual NPDES permit application required by the Director under this paragraph, then the applicability of this

B. OTHER REQUIREMENTS (Continued)

permit to the individual NPDES permittee is automatically terminated at the end of the day specified for application submittal.

The use of biocides, or other additives in the hydrostatic testing water may result in the requirement to obtain an individual permit. Also, discharges into Karst areas may result in the requirement to obtain an individual permit. These issues will be evaluated on a case-by-case basis.

10. This permit will be considered as an individual permit if the coverage of a specific individual facility is the subject of an appeal in accordance with Chapter 22, Article 11, Section 21 of the West Virginia Code. Any subsequent action taken as result of the appeal will only affect the specific subject facility.
11. If an applicable standard or limitation is promulgated under Section 301(b) (2) (C) and (D), 304(b) (2) and/or 307(a) (2) of the Clean Water Act, and that effluent standard or limitation is more stringent than any effluent limitation in this permit, this permit shall be promptly modified or revoked and reissued to conform to that effluent standard or limitation.
12. TRC samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136. The permittee shall use an EPA Approved Method with at a method detection level (MDL) no greater than 100 ug/l. For those discharging to a trout stream and therefore having a TRC limit of zero, available sampling methods for total residual chlorine (TRC) are currently not sensitive enough to confirm compliance. Any TRC sampling result reported as less than the MDL stated above shall be assumed to confirm compliance for purposes of permit compliance. If a more sensitive EPA approved method becomes available for field analysis of TRC, those having a TRC limit of zero shall perform TRC self-monitoring in accordance with the new method. If the new method is not sensitive enough to determine compliance with specified TRC limits, analytical results reported as “not detected” at the MDL of the new method will be deemed compliant for purposes of permit compliance.
13. Due to concerns with the potential transfer of invasive species and/or waterborne viruses, parasites and bacteria that are known to cause or may cause disruption to the aquatic community, applicants using source water from a water of the state must discharge the hydrostatic test water back to the original water source. If discharge back to the original water source is impracticable, then one of the following options must be selected:
 - A: land apply the discharge in such a manner that it cannot directly contact surface waters; or
 - B: disinfect the water prior to discharge.

If either of Options A or B above are chosen as the disposal method, the applicant must include with the permit application a land application disposal or disinfection plan detailing how prevention of undesirable transfers will be accomplished. Upon approval, the process described in the application shall become a term and condition of this permit.

14. If water for hydrostatic testing is to be derived from waters of the state, withdrawals shall only be made during times when stream flow is sufficient to support both aquatic life and the withdrawal. During periods of active withdrawal, the permittee shall **daily** consult and document the recommendation from DEP’s Water Withdrawal Guidance Tool. This documentation shall be maintained by the permittee and made available for inspection. Withdrawals should only be taken when the tool indicates that it is safe by the

statement “it should be safe to withdraw from any stream in the area”. Use of the tool does not guarantee protection of aquatic life and best professional judgment must still be used when making withdrawals, as the tool cannot account for all localized conditions and may not react to the withdrawal dependent on its proximity to the stream gage. However, the tool does provide useful information on general stream flow adequacy to assist the permittee when making withdrawal decisions. The tool may be found at the following link:

<http://www.dep.wv.gov/WWE/wateruse/Pages/WaterWithdrawal.aspx> .

The herein-described activity is to be constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit, with any plans, specifications and information submitted with the individual site registration application form, with any plan of maintenance and method of operation thereof submitted and with any applicable rules and regulations promulgated by the Environmental Quality Board and the Secretary of the Department of Environmental Protection.

Failure to comply with the terms and conditions of this permit, with any plans, specifications and information submitted, and with any plan of maintenance and method of operation thereof submitted shall constitute grounds for the revocation or suspension of this permit to any individual establishment or other person and for the invocation of all the enforcement procedures set forth in Chapter 22, Article 11, or 15 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Chapter 22, Articles 11 and 12 and/or 15 of the Code of West Virginia and is transferable under the terms of Section 11 of Article 11.

By: 

Director

Appendix A

I. MANAGEMENT CONDITIONS:

1. Duty to Comply

- a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.
- b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit within thirty (30) days of receipt of the reissuance package. Since the permittee is registered for coverage under a general permit, this agency will notify the permittee regarding permit reissuance at the appropriate time.

3. Duty to Mitigate

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

4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

6. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as required in Title 47, Series 10, Section 4.6 of the West Virginia Legislative Rules.

7. Transfers

This permit coverage is not transferrable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable specified time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;
- b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any location.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22-11-12 (of the Code of West Virginia).

12. Water Quality

The effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the Environmental Quality Board.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules.

14. Liabilities

- a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.
- b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon

conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

- d) Nothing in C.14 a), b), and c) shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11.

15. Continuation of this general permit

If this general permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 47 CSR 10 and remain in force and effect. If you were authorized to discharge under this general permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this general permit until the earliest of:

A) Your authorization for coverage under a reissued general permit or a replacement of this general permit following your timely and appropriate submittal of a complete application requesting authorization to discharge under the new general permit and compliance with the requirements of the new permit; or B) Your submittal of notification that the facility has ceased operations; or C) Issuance or denial of an individual permit for the facility's discharge; or D) A formal permit decision by DWWM not to reissue this general permit, at which time DWWM will identify a reasonable time period of covered dischargers to seek coverage under an alternative general permit or individual permit. Coverage under this permit will cease at the end of this time.

II. OPERATION AND MAINTENANCE:

1. Proper Operation and Maintenance

The permittee shall always 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 adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce Activity Not a Defense

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

3. Bypass

- a) Definitions
- (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- b) Bypass not exceeding limitations. 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 provision of II.3.c) and II.3.d) of this permit.
- c)
- (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;
 - (2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in IV.2.b) of this permit.
- d) Prohibition of bypass
- (1) Bypass is permitted only under the following conditions, and the Director may take enforcement action against a permittee for a bypass, unless;
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) 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 backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (C) The permittee submitted notices as required under II.3.c) of this permit.
 - (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in II.3.d.(1) of this permit.

4. Upset

- a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitation if the requirements of II.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in IV.2.b) of this permit.
 - (4) The permittee complied with any remedial measures required under I.3. of this permit.
- d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Director, any solids, sludge, filter backwash or other pollutants (removed during treatment or control of wastewater) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

III. MONITORING AND REPORTING:

1. Representative Sampling, Sample Type and Sampling Period

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

- a) At the conclusion of each hydrostatic test, the permittee shall submit according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, the values of the constituents listed in Part A analytically determined to be in the effluent(s).
- b) The required DMRs must be submitted electronically, unless otherwise approved by the agency in writing.
- c) All DMRs, regardless of whether submitting electronically or via paper, shall be submitted no later than 20 days following the end of the sampling period.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

- a) The date, exact place, and time of sampling or measurement;
- b) The date(s) analyses were performed;
- c) The individual(s) who performed the sampling or measurement;
- d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
- e) The analytical techniques or methods used, and
- f) The results of such analyses. Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in III.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

7. Definitions

- a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
- b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- c) "Maximum daily discharge limitation" means the highest allowable daily discharge.
- d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.
- e) "Grab Sample" is an individual sample collected in less than 15 minutes.
- f) "is" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.
- g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.
- h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two (2) consecutive hours during a 24-hour day, or during the operating day if flows are of shorter duration.

- i) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or which a relationship to absolute volume has been obtained.
- j) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.
- k) "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- l) "CWA" means the Clean Water Act.
- m) "Director" means the Director of the Division of Water & Waste Management, Division of Environmental Protection or their designated representative.
- n) "Facility Registration Application Form" means the form(s) designated by the Director for making application for coverage under a general permit.
- o) "Trout Streams" means any waters which meet the definition of Section 2.19 of 46 CSR1.

IV. OTHER REPORTING:

1. Reporting Spills and Accidental Discharges

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 established pursuant to Title 47, Series 11, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 47, Series 11, Section 2 of the Legislative rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

- a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- b) The following shall also be reported immediately:
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; and
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.
- c) The Director may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.
- d) Compliance with the requirements of IV.2 of this section shall not relieve a person of compliance with Title 47, Series 11, Section 2.

3. Reporting Requirements

- a) Planned changes. The permittee shall give notice to the Director of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:
 - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series 10, Title 47; or
 - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under IV.2 of this section.
- b) Anticipated noncompliance. The permittee shall give notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in IV.2.a).