



PAT MCCRORY

Governor

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Secretary

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Director

December 28, 2015

Mr. Adam Waters, Chairman
Tar-Pamlico Basin Association
P.O. Box 1988
Washington, North Carolina 27889

Subject: Issuance of NPDES Permit NCC000002
Tar-Pamlico Basin Association

Dear Mr. Waters:

In accordance with the application received on October 12, 2015, the Division is forwarding herewith the new NPDES group permit issued to the Tar-Pamlico Basin Association and its co-permittee members. This permit is issued pursuant to the requirements of North Carolina General Statute 143-215.1 and the Memorandum of Agreement between North Carolina and the U.S. Environmental Protection Agency dated October 15, 2007 (or as subsequently amended).

The Division invited comments on the draft permit and received comments from the Pamlico-Tar Riverkeeper (Sound Rivers, Inc.) and the Division's Basin Planning Branch. The final permit and fact sheet include the following change in response to the comments:

- City of Creedmoor: The City of Creedmoor is a member of the Association but, because it does not yet hold an NPDES permit for its proposed wastewater facility, does not qualify as a co-permittee to this permit (see definition in Condition A.(1.)). Therefore, the City was removed from the list of co-permittee members in Appendix A. Footnote 1 to the table remains, to explain that the City is a member and can become a co-permittee after obtaining an NPDES permit for the proposed facility.

Several other comments were significant but did not require changes in the permit. These pertained to continued impairment in the estuary, instream monitoring requirements, and requirements for purchases of nutrient offsets. Please refer to the Response to Comments for more information on these.

If any parts, measurement frequencies or sampling requirements contained in this permit are unacceptable to you, you have the right to an adjudicatory hearing upon written request within thirty (30) days following receipt of this letter. This request must be in the form of a written petition, conforming to Chapter 150B of the North Carolina General Statutes, and filed with the Office of Administrative Hearings (6714 Mail Service Center, Raleigh, North Carolina 27699-6714). Unless such demand is made, this decision shall be final and binding.

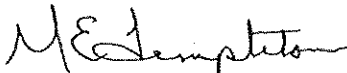
Please note that this permit is not transferable except after notice to the Division. The Division may require modification or revocation and reissuance of the permit. This permit does not

Mr. Adam Waters, Chairman
Issuance of NPDES Permit NCC000002
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affect the legal requirements to obtain other permits which may be required by the Division of Water Resources or any other Federal, State, or Local governmental permits that may be required.

If you have any questions concerning this permit, please contact Mike Templeton at (919) 807-6402, or by e-mail at mike.templeton@ncdenr.gov.

Sincerely,


for S. Jay Zimmerman, P.G.

Enclosures: NPDES Permit NCC000002
Fact Sheet
Response to Comments

Copies: NPDES Unit Files
Central Files
Raleigh and Washington Regional Offices, WQ Programs

eCopies: NPDES Permitting Section, EPA Region 4 (SIC 4952)
Heather Deck, Pamlico-Tar Riverkeeper (Sound Rivers, Inc.)
Heather Patt, Basin Planning Branch
WSS/ Ecosystems Unit

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

PERMIT

TO DISCHARGE WASTEWATER UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended, the

**Tar-Pamlico Basin Association
and Its Co-Permittee Members**

are hereby authorized to discharge Total Nitrogen and Total Phosphorus from the Co-Permittee Member treatment facilities listed herein to receiving waters in the Tar-Pamlico River Basin in accordance with effluent limitations, reporting requirements, and other conditions set forth in this permit.

The conditions in this group permit supplement the conditions in the Co-Permittee Members' individual NPDES wastewater permits. Together, the group and individual permits establish an integrated set of nutrient control requirements to achieve the aims of the *Tar-Pamlico Estuary Nutrient TMDL (1995)* in a manner consistent with the *Tar-Pamlico Nutrient Sensitive Waters Implementation Strategy*, as revised. All conditions in the Co-Permittee Members' individual permits remain in full effect except as specifically provided in those permits.

This permit shall become effectiveJanuary 1, 2016.

This permit and the authorization to discharge shall expire at midnight onDecember 31, 2020.

Signed this day December 28, 2015.


for 
S. Jay Zimmerman, Director
Division of Water Resources
By Authority of the Environmental Management Commission

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PART I
SPECIAL CONDITIONS

A.(1.) DEFINITIONS

- (a.) Agreement: The Tar-Pamlico Nutrient Sensitive Waters Implementation Strategy: Phase IV Agreement, adopted July 9, 2015, and subsequent revisions.
- (b.) Active Allocation: Allocation that is included in calculation of nutrient load limits. Allocation held by a permittee is active by default but may be designated as reserve allocation by the Division or at the request of the permittee. (See also Reserve Allocation.)
- (c.) Allocation (or "TN (or TP) Allocation"): (1) The mass quantity (as of TN or TP) that a discharger or group of dischargers (such as the Association) is potentially allowed to release to surface waters in a calendar year in accordance with the Tar-Pamlico Nutrient TMDL and Agreement. TN (or TP) Allocations may be expressed as active or reserve allocation. (2) In practice, the term can refer to a permittee's or group's allocation as a whole or to some portion of those values.
- (d.) Association: The Tar-Pamlico Basin Association, a not-for-profit corporation consisting of NPDES-permitted dischargers in the Tar-Pamlico River Basin; established voluntarily by its members to work cooperatively to meet the aggregate TN and TP Allocations established in the Tar-Pamlico Nutrient TMDL and the Agreement.
- (e.) Co-Permittee Members: Those NPDES dischargers that in a given calendar year are members of the Association and are listed in Appendix A of this permit.
- (f.) Limitation (or "TN (or TP) Limit(ation)" or "TN (or TP) Load Limit(ation)": The mass quantity, such as of TN (or TP), specified in an NPDES permit as the maximum that an individual discharger or group of dischargers is authorized to discharge to surface waters in a calendar year. The TN (or TP) Limitation is the sum of active allocations held by an individual Co-Permittee Member (in the case of individual limitations) or held in the aggregate by the Association and its Co-Permittee Members (in the case of group limitations).
- (g.) Load (or "TN (or TP) Load"): The actual mass quantity (as of TN or TP) that a discharger or group of dischargers releases into surface waters of the Tar-Pamlico River Basin.
- (h.) Regionalization: The consolidation of wastewater collection and/or treatment systems that results in the elimination of one or more NPDES-permitted discharges.
- (i.) Reserve Allocation: Allocation that is not included in the calculation of nutrient limits. The Division may designate allocation as reserve when water quality-based effluent limitations are established to prevent localized impacts and render that allocation inactive, when treatment of the allocation as active would be inconsistent with the Tar-Pamlico Nutrient TMDL or the Agreement; or at the request of the member or the association holding the allocation. (See also Active Allocation, WQBELs.)
- (j.) Total Maximum Daily Load (of TMDL): (1) Generally, the allowable load of a pollutant that can be discharged to a water body without causing loss of that water's designated uses. (2) In the context of this permit, refers to the 1995 nutrient TMDL for the Tar-Pamlico River Estuary, approved by the U.S. Environmental Protection Agency on August 10, 1995, and any subsequent revisions approved by the EPA.
- (k.) Total Nitrogen (TN): The sum of the organic, nitrate, nitrite, and ammonia species of nitrogen in a water or wastewater.
- (l.) Total Phosphorus (TP): The sum of the orthophosphate, polyphosphate and organic phosphate species of phosphorus in a water or wastewater.
- (m.) Water Quality-Based Effluent Limitations (WQBELs): Limitations calculated specifically to ensure that a discharge does not cause an exceedance of water quality standards in waters

upstream of the Pamlico Estuary. In the context of this permit, individual WQBELs pertain only to Total Nitrogen and Total Phosphorus limits for individual co-permittee members.

A.(2.) CO-PERMITTEE TN AND TP ALLOCATIONS

- (a.) Co-Permittees to this permit shall be the Tar-Pamlico Basin Association (the "Association") and each of its Co-Permittee Members. The Co-Permittee Members, the Members' individual TN and TP allocations/ limits, and the Association TN and TP allocations/ limits shall be as listed in Appendix A, which is hereby incorporated into this permit in its entirety.
- (b.) Upon timely and proper notification by the Association as described elsewhere in this permit or in regulation, the Division shall revise Appendix A to incorporate changes in Association membership, allowable changes in TN and TP allocations/ limits, or reapportionment of allocations by the Association and the Co-Permittee Members.
 - (i.) Changes in membership.
 - (A) Enrollment. In the event that a discharger is admitted to the Association, the Division shall add the discharger and its TN and TP allocations to Appendix A as a Co-Permittee Member and adjust the Association's allocations/ limits accordingly.
 - (B) Termination. In the event that a Member ceases to be a Co-Permittee to this permit or its membership is terminated, the Division shall delete the Member and its TN and TP allocations from Appendix A and adjust the Association's allocations/ limits accordingly.
 - (ii.) For the purposes of this permit, allowable changes in TN and TP allocations/ limits include those resulting from purchase of allocation or offsets from the NC Agriculture Cost Share Program or other authorized source; purchase, sale, trade, or lease of allocation among the Association, its members, and non-member dischargers; regionalization; and other transactions approved by the Division.
 - (iii.) The Association and its Co-Permittee Members may reapportion their TN and TP allocations among themselves; however, the Division shall modify this permit to incorporate the resulting changes into Appendix A only when specifically requested in writing by the Association and after such changes have been incorporated into the affected individual permits at the request of the permittees.
- (c.) For the purposes of this permit, Association membership, individual or Association TN and TP allocations and associated limits, and allocation status (active or reserve) are effective on a calendar year basis, and any changes shall become effective no sooner than January 1 of the following calendar year.

A.(3.) EFFLUENT LIMITATIONS

- (a.) Beginning on the effective date of this permit and lasting no later than the expiration date, the Co-Permittees are authorized to discharge Total Nitrogen (TN) and Total Phosphorus (TP) from the treatment facilities listed in Appendix A subject to the following effluent limitations.
 - (i.) For the purposes of this permit, compliance with TN and TP Limitations shall be determined separately, and non-compliance with a TN Limitation shall not signify non-compliance with the corresponding TP Limitation, and vice versa.
 - (ii.) Association TN and TP Limitations. In any calendar year, the Association's TN and TP Loads shall not exceed its TN or TP Limitations as specified in Appendix A.
 - (iii.) Co-Permittee Member TN and TP Limitations. In any calendar year, a Co-Permittee Member shall be in compliance with its TN (or TP) Limitation in Appendix A if:
 - (A) the Association TN (or TP) Load does not exceed the Association TN (or TP) Limitation in Appendix A, or

- (B) in the event that the Association TN (or TP) Load exceeds its TN (or TP) Limitation, the Co-Permittee Member's individual TN (or TP) Load does not exceed that Member's TN (or TP) Limitation in Appendix A.
- (b.) Individual WQBELs: If the Division determines that a Co-Permittee Member's TN or TP discharge has reasonable potential to cause localized water quality impacts upstream of the Tar-Pamlico estuary, it may further restrict the discharge of the nutrient(s) of concern to prevent the localized impact. The Division will then propose to incorporate the new limit(s) into the Member's individual NPDES permit and this group permit according to standard permitting procedures. Once an individual WQBEL becomes effective in this group permit, the Member is subject to the new limit in lieu of the Association TN or TP Limit.
- (c.) Other Individual Limitations. In the event that a Co-Permittee Member's membership in the Association is terminated, the departing Member shall no longer be eligible for coverage under this permit and shall become subject to the TN and TP limitations set forth in its individual NPDES permit.
- (i.) Termination of co-permittee status and re-imposition of a discharger's individual TN and TP limitations shall become effective only at the beginning of a calendar year (January 1).
 - (ii.) The Association shall notify the Division if it determines that any Member will depart at the end of a calendar year and shall provide an accounting of all allowable changes in the Member's TN and TP Allocations since the most recent issuance of the departing Member's individual NPDES permit.
 - (iii.) Upon receipt of the notification and accounting described above, the Division shall modify the TN and TP limitations in the departing Member's individual NPDES permit as necessary, effective January 1 of the succeeding year, to reflect all allowable changes in the outgoing Member's TN and TP Allocations, and shall also modify Appendix A of this permit accordingly.

A.(4.) MONITORING REQUIREMENTS

- (a.) Each Co-Permittee Member shall continue to monitor its discharge(s) and report the results to the Division as specified in its individual NPDES permit.
- (b.) The Association shall assemble the results of its Co-Permittee Members and report the combined results to the Division as specified in Condition A.(5.), below.

A.(5.) REPORTING REQUIREMENTS

- (a.) The Association shall serve as the primary point of contact between the Division and the Co-Permittee Members on matters related to this permit, unless otherwise noted. The Association's responsibilities in this regard include:
 - (i.) preparation and submittal of any reports required by this permit or of related information requested by the Division;
 - (ii.) submittal of any request for modification or renewal of this permit; and
 - (iii.) distribution to the Co-Permittee Members of correspondence from the Division, including but not limited to that pertaining to permit issuance, modification, and renewal; compliance; and reporting.
- (b.) Notification of Membership/ Allocation Changes. No later than July 1 of each year, the Association shall request, as necessary and in writing, modification of this permit to reflect changes in membership or in TN or TP allocations to become effective in the following calendar year. The Association may revise its request through proper written notification.
- (c.) Year-End Report. No later than March 31 of each year, the Association shall submit a year-end report to the Division. The report shall include, at a minimum, the following information for the previous calendar year:

- (i.) a tabular summary of the total and individual TN and TP Loads discharged by the Association and its Co-Permittee Members during the year;
 - (ii.) a summary of changes in Association membership; and
 - (iii.) a summary of all regionalization of discharges, purchases, sales, trades, leases, and other transactions affecting the TN or TP Allocations of the Association or its Co-Permittee Members.
- (d.) Annual Loading Projections; Progress Reports. If the Association exceeds 85% of its TN or TP limitation in any calendar year, the Association shall, no later than July 1 of the following year, develop annual loading projections of its co-permittee members' discharges, evaluate the effectiveness of the members' nutrient controls, identify improvements sufficient to ensure continued compliance with the nutrient limits, and submit to the Division a report of its findings, proposed treatment improvements and related actions, and a timeline for implementing the proposed measures. If necessary controls cannot be implemented in time to prevent exceedance of the existing TN or TP limitation, the Association shall purchase offset credit(s) in advance according to Condition A.(6).(b.), below.
- (e.) Five-Year Report. No later than July 1, 2020, in conjunction with application for renewal of this permit, the Association shall submit a 5-year report to the Division. The report shall include, at a minimum, the following information:
- (i.) a detailed summary of all membership changes and allowable changes in TN and TP Allocations of the Association or its Co-Permittee Members occurring during the term of this permit;
 - (ii.) a description of the Association's nutrient control strategy during that time;
 - (iii.) a summary of substantial new measures undertaken during that time to control nutrient discharges;
 - (iv.) a general assessment of progress made; and
 - (v.) a description of efforts planned for the upcoming permit term, if known.

A.(6.) COMPLIANCE

- (a.) If the Association exceeds its TN or TP Limitation in any calendar year, the Association shall, no later than July 1 of the following year, make full and sufficient payment to the NC Agriculture Cost Share Program or other agent approved by the Division to acquire offset credits for mitigation of the excess load(s) and shall provide documentation of the credits to the Division's Wastewater Branch.
- (b.) If the annual loading projections developed for Condition A.(5).(d.), above, indicate that the Association will likely exceed its TN or TP limitation in the coming year, the Association shall also, no later than July 1 of the current year:
 - (i.) acquire sufficient credits to offset the projected exceedance(s), and
 - (ii.) provide documentation of the credits to the Division's Wastewater Branch along with a written request and applicable fee for modification of this permit for the purpose of adding the acquired credits to the Association allocations/ limits in Appendix A.
- (c.) For any calendar year in which the Association exceeds its TN or TP limitation, the Association shall be in violation of this permit, and the Division may take appropriate enforcement action against the Association for such exceedance.
- (d.) For any calendar year in which the Association exceeds its TN or TP limitation, any Co-Permittee Member that exceeds its corresponding limitation shall also be in violation of this permit, and the Division may take appropriate enforcement action against the Member for such exceedance.
- (e.) For any calendar year in which a Co-Permittee Member exceeds an individual TN (or TP) WQBEL applied to it, the Member shall be in violation of this permit, regardless of Association

compliance, and the Division may take appropriate enforcement action against the Member for such exceedance.

- (f.) Submittal of offset payments shall not limit the Division's authority to enforce the terms and conditions of this permit nor shall it relieve the Association or its Co-Permittee Members of their responsibility to comply with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree. In determining the amount of any penalty to be assessed against the Association or its Co-Permittee Members, the Division shall credit the Association or its Members for any offset payments submitted by each, provided that the Association includes with the offset payment submittal an accounting of each Member's contribution.
- (g.) No Co-Permittee Member shall be liable for any other Co-Permittee Member's non-compliance with this permit.

A.(7.) CALCULATION OF MASS LOADS

For the purposes of this permit, monthly and annual TN and TP Loads shall be calculated as follows:

- (a.) Individual Facility Monthly TN (or TP) Load (lb/mo) = TN (or TP) x TMF x 8.34

where:

- TN or TP = the average Total Nitrogen or Total Phosphorus concentration (mg/L) of the composite samples collected during the month
- TMF = the Total Monthly Flow of wastewater discharged during the month (MG/mo)
- 8.34 = conversion factor, from (mg/L x MG) to pounds

- (b.) Individual Facility Annual TN (or TP) Load (lb/yr) = Sum of the 12 Monthly TN (or TP) Loads for the calendar year
- (c.) Combined Annual TN (or TP) Load (lb/yr) = Sum of All Members' TN or (TP) Loads for the calendar year

- END OF PART I -

**APPENDIX A
TAR-PAMLICO BASIN ASSOCIATION
CO-PERMITTEE MEMBERS AND NUTRIENT ALLOCATIONS/LIMITS**

Co-Permittee Member ¹	Permit	Facility	Total Nitrogen Allocations/Limits		Total Phosphorus Allocations/Limits	
			(kg/yr)	(lb/yr) ²	(kg/yr)	(lb/yr) ²
1. Belhaven, Town of	NC0026492	Belhaven WWTP	6,469	14,261	1,169	2,577
2. Bunn, Town of	NC0042269	Bunn WWTP	1,941	4,278	351	773
3. Enfield, Town of	NC0025402	Enfield WWTP	6,469	14,261	1,169	2,577
4. Franklin County	NC0069311	Franklin County WWTP	19,407	42,784	3,507	7,732
5. Greenville Utilities Commission	NC0023931	GUC WWTP	113,206	249,576	20,458	45,103
6. Louisburg, Town of	NC0020231	Louisburg WWTP	8,862	19,538	1,602	3,531
7. Oxford, City of	NC0025054	Oxford WWTP	22,641	49,915	4,092	9,021
8. Pinetops, Town of	NC0020435	Pinetops WWTP	1,941	4,278	351	773
9. Robersonville, Town of	NC0026042	Robersonville WWTP	11,644	25,671	2,104	4,639
10. Rocky Mount, City of	NC0030317	Tar River Regional WWTP	135,847	299,491	24,550	54,124
11. Scotland Neck, Town of	NC0023337	Scotland Neck WWTP	4,367	9,626	789	1,740
12. Spring Hope, Town of	NC0020061	Spring Hope WWTP	2,588	5,705	468	1,031
13. Tarboro, Town of	NC0020605	Tarboro WWTP	32,345	71,307	5,845	12,887
14. Warrenton, Town of	NC0020834	Warrenton WWTP	12,938	28,523	2,338	5,155
15. Washington, City of	NC0020648	Washington WWTP	23,611	52,054	4,267	9,407
Association Limits ³			404,274	891,271	73,060	161,070

Footnote:

- The City of Creedmoor has been accepted as a member of the Association in anticipation of its establishing a new wastewater discharge in the Tar-Pamlico River basin. At such time as the City applies for and receives an individual NPDES permit for the discharge and the Division assigns allocations for the discharge, the Association may request modification of this permit to include the City as a Co-Permittee and adjust the Association Allocations/ Limits accordingly.
- For the purposes of this permit, 1 kg = 2.20462 lb. Values in the table are displayed to the nearest whole kg/yr or lb/yr.
- Association Limits may differ from the apparent sums of individual values due to the effects of rounding.

PART II STANDARD CONDITIONS FOR NPDES PERMITS

SECTION A - APPLICABILITY OF PARTS II AND III

Parts II and III of this permit contain standard conditions that apply specifically to individual permittees that own or operate a treatment facility. These (or similar) conditions are routinely found in North Carolina's NPDES wastewater permits, including those of the Tar-Pamlico Basin Association's co-permittee members. The conditions do not necessarily apply to the Association or its members within the context of this group permit. The group permit includes those standard conditions that apply here at least in part. For the purposes of determining compliance with this permit, these conditions shall be read with the following understanding:

- a. The Tar-Pamlico Basin Association serves as a governing body for its Members. It neither owns nor operates treatment facilities. Consequently, the standard conditions in Parts II and III of this permit which by their terms or meaning regulate a permittee that owns or operates a treatment facility, or which are inconsistent with the Special Conditions in Part I of this permit, shall neither be applicable to nor enforceable against the Association.
- b. Each of the Co-Permittee Members governed by this Association permit owns or operates one or more treatment facilities. Each holds an individual NPDES permit for each facility and remains subject to the standard conditions in its permit(s). Consequently, the standard conditions in this Association permit shall neither be applicable to nor enforceable against the individual Co-Permittee Members under this group permit unless such is clearly consistent with the construction of the permit.
- c. Wherever a standard condition in this Association permit is by its terms or meaning applicable to the Association or to the membership in its entirety, and it refers to "the permittee," it shall be construed to mean the Association and its Co-Permittee Members.

SECTION B - DEFINITIONS

1. Act or "the Act"
The Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 USC 1251, et. seq.
2. DWR or "the Division"
The Division of Water Resources, Water Quality Programs, Department of Environment and Natural Resources.
3. EMC
The North Carolina Environmental Management Commission.
4. EPA
The United States Environmental Protection Agency.
5. Permit Issuing Authority
The Director of the Division of Water Resources.

SECTION C - GENERAL CONDITIONS**1. Duty to Comply**

The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application [40 CFR 122.41].

- a. The Permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. The CWA provides that any person who violates section[s] 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$37,500 per day for each violation. [33 USC 1319(d) and 40 CFR 122.41(a)(2)]
- c. The CWA provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. [33 USC 1319(c)(1) and 40 CFR 122.41(a)(2)]
- d. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. [33 USC 1319(c)(2) and 40 CFR 122.41(a)(2)]
- e. Any person who *knowingly* violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions. [40 CFR 122.41(a)(2)]
- f. Under state law, a civil penalty of not more than \$25,000 per violation may be assessed against any person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit. [North Carolina General Statutes § 143-215.6A]
- g. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$16,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$37,500. Penalties for Class II violations are not to exceed \$16,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$177,500. [33 USC 1319(g)(2) and 40 CFR 122.41(a)(3)]

2. Duty to Mitigate

The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit with a reasonable likelihood of adversely affecting human health or the environment [40 CFR 122.41(d)].

3. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" (Part II.C.4), "Upsets" (Part II.C.5) and "Power Failures" (Part II.C.7), nothing in this permit shall be construed to relieve the Permittee from any responsibilities, liabilities, or penalties for noncompliance pursuant to NCGS 143-215.3, 143-215.6 or Section 309 of the Federal Act, 33 USC 1319. Furthermore, the Permittee is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

4. 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 to under NCGS 143-215.75 et seq. or Section 311 of the Federal Act, 33 USC 1321. Furthermore, the Permittee is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

5. 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 [40 CFR 122.41(g)].

6. Onshore or Offshore Construction

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

7. Severability

The provisions of this permit are severable. If any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby [NCGS 150B-23].

8. Duty to Provide Information

The Permittee shall furnish to the Permit Issuing Authority, within a reasonable time, any information which the Permit Issuing Authority may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also furnish to the Permit Issuing Authority upon request, copies of records required by this permit [40 CFR 122.41(h)].

9. 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 and obtain a new permit [40 CFR 122.41(b)].

10. Expiration of Permit

The Permittee is not authorized to discharge after the expiration date. In order to receive automatic authorization to discharge beyond the expiration date, the Permittee shall submit such information, forms, and fees as are required by the agency authorized to issue permits no later than 180 days prior to the expiration date unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.) [40 CFR 122.21(d)] Any Permittee that has not requested renewal at least 180 days prior to expiration, or any Permittee that does not have a permit after the expiration and has not requested renewal at least 180 days prior to expiration, will subject the Permittee to enforcement procedures as provided in NCGS 143-215.6 and 33 USC 1251 et. seq.

11. Signatory Requirements

All applications, reports, or information submitted to the Permit Issuing Authority shall be signed and certified [40 CFR 122.41(k)].

a. All permit applications shall be signed as follows:

- (1) For a corporation: by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (a) 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 (b) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures .
- (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
- (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official [40 CFR 122.22].

b. All reports required by the permit and other information requested by the Permit Issuing Authority shall be signed by a person described in paragraph a. above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (1) The authorization is made in writing by a person described above;
- (2) The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or well field, superintendent, a position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
- (3) The written authorization is submitted to the Permit Issuing Authority [40 CFR 122.22]

c. Changes to authorization: If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative [40 CFR 122.22]

d. Certification. Any person signing a document under paragraphs a. or b. of this section shall make the following certification [40 CFR 122.22]. NO OTHER STATEMENTS OF CERTIFICATION WILL BE ACCEPTED:

"I certify, under penalty of law, 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 fines and imprisonment for knowing violations."

12. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition [40 CFR 122.41(f)].

13. Permit Modification, Revocation and Reissuance, or Termination

The issuance of this permit does not prohibit the permit issuing authority from reopening and modifying the permit, revoking and reissuing the permit, or terminating the permit as allowed by the laws, rules, and regulations contained in Title 40, Code of Federal Regulations, Parts 122 and 123; Title 15A of the North Carolina Administrative Code, Subchapter 02H .0100; and North Carolina General Statute 143.215.1 et. al.

14. Annual Administering and Compliance Monitoring Fee Requirements

The Permittee must pay the annual administering and compliance monitoring fee within thirty days after being billed by the Division. Failure to pay the fee in a timely manner in accordance with 15A NCAC 02H .0105(b)(2) may cause this Division to initiate action to revoke the permit.

SECTION D - MONITORING AND RECORDS

I. Representative Sampling

Samples collected and measurements taken, as required herein, shall be representative of the permitted discharge. Samples collected at a frequency less than daily shall be taken on a day and time that is representative of the discharge for the period the sample represents. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Permit Issuing Authority [40 CFR 122.41(j)].

2. Reporting

Monitoring results obtained during the previous month(s) shall be summarized for each month and reported on a monthly Discharge Monitoring Report (DMR) Form (MR 1, 1.1, 2, 3) or alternative forms approved by the Director, postmarked no later than the last calendar day of the month following the completed reporting period.

The first DMR is due on the last day of the month following the issuance of the permit or in the case of a new facility, on the last day of the month following the commencement of discharge. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the following address:

NC DENR / Division of Water Resources / Water Quality Permitting Section
ATTENTION: Central Files
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

3. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than 10% from the true discharge rates throughout the range of expected discharge volumes. Flow measurement devices shall be accurately calibrated at a minimum of once per year and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. The Director shall approve the flow measurement device and monitoring location prior to installation.

Once-through condenser cooling water flow monitored by pump logs, or pump hour meters as specified in Part I of this permit and based on the manufacturer's pump curves shall not be subject to this requirement.

4. Test Procedures

Laboratories used for sample analysis must be certified by the Division. Permittees should contact the Division's Laboratory Certification Section (919 733-3908 or <http://portal.ncdenr.org/web/wq/lab/cert>) for information regarding laboratory certifications.

Facilities whose personnel are conducting testing of field-certified parameters only must hold the appropriate field parameter laboratory certifications.

Test procedures for the analysis of pollutants shall conform to the EMC regulations (published pursuant to NCGS 143-215.63 et. seq.), the Water and Air Quality Reporting Acts, and to regulations published pursuant to Section 304(g), 33 USC 1314, of the CWA (as amended), and 40 CFR 136; or in the case of sludge use or disposal, approved under 40 CFR 136, unless otherwise specified in 40 CFR 503, unless other test procedures have been specified in this permit [40 CFR 122.41].

To meet the intent of the monitoring required by this permit, all test procedures must produce minimum detection and reporting levels that are below the permit discharge requirements and all data generated must be reported down to the minimum detection or lower reporting level of the procedure. If no approved methods are determined capable of achieving minimum detection and reporting levels below permit discharge requirements, then the most sensitive (method with the lowest possible detection and reporting level) approved method must be used.

5. Penalties for Tampering

The CWA provides that 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 two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both [40 CFR 122.41].

6. Records Retention

Except for records of monitoring information required by this permit related to the Permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR 503), the Permittee shall retain records of all monitoring information, including:

- all calibration and maintenance records
- all original strip chart recordings for continuous monitoring instrumentation
- copies of all reports required by this permit
- copies of all data used to complete the application for this permit

These records or copies shall be maintained for a period of at least 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 [40 CFR 122.41].

7. Recording Results

For each measurement or sample taken pursuant to the requirements of this permit, the Permittee shall record the following information [40 CFR 122.41]:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

8. Inspection and Entry

The Permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Director), upon the presentation of credentials and other documents as may be required by law, to;

- a. Enter, at reasonable times, upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- 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 CWA, any substances or parameters at any location [40 CFR 122.41(i)].

SECTION E - REPORTING REQUIREMENTS

1. Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.

2. Planned Changes

The Permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility [40 CFR 122.41(l)]. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for new sources at 40 CFR 122.29(b); or
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1); or
- c. The alteration or addition results in a significant change in the Permittee's sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

3. Anticipated Noncompliance

The Permittee shall give advance notice to the Director of any planned changes to the permitted facility or other activities that might result in noncompliance with the permit [40 CFR 122.41(l)(2)].

4. Transfers

This permit is not transferable to any person without prior written notice to and approval from the Director in accordance with 40 CFR 122.61. The Director may condition approval in accordance with NCGS 143-215.1, in particular NCGS 143-215.1(b)(4)b.2., and may require modification or revocation and reissuance of the permit, or a minor modification, to identify the new permittee and incorporate such other requirements as may be necessary under the CWA [40 CFR 122.41(l)(3), 122.61] or state statute.

5. Monitoring Reports

Monitoring results shall be reported at the intervals specified elsewhere in this permit [40 CFR 122.41(l)(4)].

- a. Monitoring results must be reported on a Discharge Monitoring Report (DMR) (See Part II.D.2) or forms provided by the Director for reporting results of monitoring of sludge use or disposal practices.

- b. If the Permittee monitors any pollutant more frequently than required by this permit using test procedures approved under 40 CFR Part 136 and at a sampling location specified in this permit or other appropriate instrument governing the discharge, the results of such monitoring shall be included in the calculation and reporting of the data submitted on the DMR.

6. Twenty-four Hour Reporting

- a. The Permittee shall report to the Director or the appropriate Regional Office any noncompliance that potentially threatens public health or the environment. Any information shall be provided orally within 24 hours from the time the Permittee became aware of the circumstances. A written submission shall also be provided within 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 reoccurrence of the noncompliance [40 CFR 122.41(l)(6)].
- b. The Director may waive the written report on a case-by-case basis for reports under this section if the oral report has been received within 24 hours.
- c. Occurrences outside normal business hours may also be reported to the Division's Emergency Response personnel at (800) 662-7956, (800) 858-0368 or (919) 733-3300.

7. Other Noncompliance

The Permittee shall report all instances of noncompliance not reported under Part II.E.5 and 6. of this permit at the time monitoring reports are submitted. The reports shall contain the information listed in Part II.E.6. of this permit [40 CFR 122.41(l)(7)].

8. 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 [40 CFR 122.41(l)(8)].

9. Noncompliance Notification

The Permittee shall report by telephone to either the central office or the appropriate regional office of the Division as soon as possible, but in no case more than 24 hours or on the next working day following the occurrence or first knowledge of the occurrence of any of the following:

- a. Any occurrence at the water pollution control facility which results in the discharge of significant amounts of wastes which are abnormal in quantity or characteristic, such as the dumping of the contents of a sludge digester; the known passage of a slug of hazardous substance through the facility; or any other unusual circumstances.
- b. Any process unit failure, due to known or unknown reasons, that render the facility incapable of adequate wastewater treatment such as mechanical or electrical failures of pumps, aerators, compressors, etc.
- c. Any failure of a pumping station, sewer line, or treatment facility resulting in a by-pass without treatment of all or any portion of the influent to such station or facility.

Persons reporting such occurrences by telephone shall also file a written report within 5 days following first knowledge of the occurrence. Also see reporting requirements for municipalities in Part IV.C.2.c. of this permit.

10. Availability of Reports

Except for data determined to be confidential under NCGS 143-215.3 (a)(2) or Section 308 of the Federal Act, 33 USC 1318, all reports prepared in accordance with the terms shall be available for public inspection at the offices of the Division. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NCGS 143-215.1(b)(2) or in Section 309 of the Federal Act.

11. Penalties for Falsification of Reports

The CWA provides that 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 \$25,000 per violation, or by imprisonment for not more than two years per violation, or by both [40 CFR 122.41].

12. Annual Performance Reports

Permittees who own or operate facilities that collect or treat municipal or domestic waste shall provide an annual report to the Permit Issuing Authority and to the users/customers served by the Permittee (NCGS 143-215.1C). The report shall summarize the performance of the collection or treatment system, as well as the extent to which the facility was compliant with applicable Federal or State laws, regulations and rules pertaining to water quality. The report shall be provided no later than sixty days after the end of the calendar or fiscal year, depending upon which annual period is used for evaluation.

The report shall be sent to:

NC DENR / Division of Water Resources / Water Quality Permitting Section
ATTENTION: Central Files
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

PART III OTHER REQUIREMENTS

SECTION A - CONSTRUCTION

- a. The Permittee shall not commence construction of wastewater treatment facilities, nor add to the plant's treatment capacity, nor change the treatment process(es) utilized at the treatment plant unless (1) the Division has issued an Authorization to Construct (AtC) permit or (2) the Permittee is exempted from such AtC permit requirements under Item b. of this Section.
- b. In accordance with NCGS 143-215.1(a5) [SL 2011-394], no permit shall be required to enter into a contract for the construction, installation, or alteration of any treatment work or disposal system or to construct, install, or alter any treatment works or disposal system within the State when the system's or work's principle function is to conduct, treat, equalize, neutralize, stabilize, recycle, or dispose of industrial waste or sewage from an industrial facility and the discharge of the industrial waste or sewage is authorized under a permit issued for the discharge of the industrial waste or sewage into the waters of the State. Notwithstanding the above, the permit issued for the discharge may be modified if required by federal regulation.
- c. Issuance of an AtC will not occur until Final Plans and Specifications for the proposed construction have been submitted by the Permittee and approved by the Division.

- END OF PARTS II & III -

