

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF DISTRICT MINING OPERATIONS**

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
INDIVIDUAL PERMIT (NONCOAL)**

NPDES PERMIT NO.: PA0278360 PERMITTEE NAME: Neiswonger Construction, Inc.  
MINING PERMIT NO.: 63192001 OPERATION NAME: Maggie Lynn Underground Mine  
MUNICIPALITY: Deemston Borough COUNTY: Washington

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (the "Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 et seq., the Department of Environmental Protection (Department) hereby approves the discharge to the following surface water(s): Tennile Creek and Unnamed Tributary to Tennile Creek subject to all effluent limitations, monitoring and reporting requirements and other terms, conditions, criteria, and special requirements for the discharge as defined in this permit, to surface waters of the Commonwealth. This permit is issued pursuant to the authority in 25 Pa. Code Chapter 92a and is subject to the requirements of 25 Pa. Code Chapter 92a.

The authority granted by this permit is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions of this permit shall apply.
2. Failure to comply with the terms, conditions, or effluent limitations of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. [40 CFR 122.41(a)]
3. A complete application for renewal or reissuance of this permit, or notice of intent to cease discharging by the expiration date, must be submitted to DEP at least 180 days prior to the above expiration date (unless permission has been granted by DEP for submission at a later date), using the appropriate NPDES permit application form. [92a.21(c)] In the event that a timely and complete application for renewal or reissuance has been submitted and DEP is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit, including submission of the Discharge Monitoring Reports ("DMRs"), will be automatically continued and will remain fully effective and enforceable against the discharger until DEP takes final action on the pending permit application. [25 Pa. Code § 92a.7]
4. The permit may be terminated prior to the expiration date upon notice to and approval by the Department.
5. No condition of this permit shall release the operator from any responsibility or requirement under Pennsylvania, or federal environmental statutes, and regulations or local ordinances.
6. This permit is subject to the requirements of the mining permit referenced above.

EFFECTIVE DATE: February 1, 2025 EXPIRATION DATE: January 20, 2030  
RENEWAL DATES: \_\_\_\_\_

AUTHORIZED BY: 

**PART A**  
**EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**Section A. MINE DRAINAGE TREATMENT FACILITIES**

- There are no point source discharges of this type at this site.  
 The facilities listed below utilize non-discharge technologies.

<u>Outfall No.</u>	<u>Latitude</u>	<u>Longitude</u>	<u>To</u>
	° ' "	° ' "	

This permit establishes effluent limitations in the form of implemented BMPs identified in the associated E&S Plan, Reclamation Plan and NPDES application for this permit. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters of the Commonwealth.

The following BMPs apply:

**Section B. STORMWATER CONTROL FACILITIES**

There are no point source discharges of this type at this site.

<u>Outfall No.</u>	<u>Latitude</u>			<u>Longitude</u>			<u>To</u>
001	39°	59'	54.8"	-80°	02'	35.2"	Tenmile Creek
002	39°	59'	59.6"	-80°	02'	23.7"	UNT "E" to Tenmile Creek

This permit establishes effluent limitations in the form of implemented BMPs identified in the associated E&S Plan, Reclamation Plan and NPDES application for this permit. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters of the Commonwealth.

The following BMPs apply:

The following limits apply to all discharges from stormwater facilities to **Tenmile Creek. The limits below are effective during the Compliance Schedule Interim Period\* from January 21, 2025 until the last day of the month at the end of the compliance period.**

Outfall: **001**

Discharge Parameter	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum	Measurement Frequency (minimum <sup>1</sup> )	Sample Type
pH (S.U.)	6.0	-	-	9.0	2/Month	Grab
Acidity (mg/L)	-	-	-	Report	2/month	Grab
Net Alkalinity (mg/L)	0.0	-	-	Report	2/month	Calculate
Total Alkalinity (mg/L)	-	-	-	Report	2/month	Grab
Total Iron (mg/L)	-	1.55	3.10	3.87	2/month	Grab
Total Manganese (mg/L)	-	1.0	2.0	2.5	2/month	Grab
Total Aluminum (mg/L)	-	0.75	0.75	0.75	2/month	Grab
Total Suspended Solids (mg/L)	-	35.0	70.0	90.0	2/Month	Grab
Total Selenium (ug/L)	Report				2/Month	Grab
Sulfate (mg/L)	Report				2/month	Grab
Osmotic Pressure (mOsm/kg)	Report				Monthly	Grab
Specific Conductance (umhos/cm)	Report				2/month	Measured
Temperature (°C)	Report				2/month	Measured
Flow (gpm)	Report				2/Month	Measured

<sup>1</sup> The measurement frequency is the minimum number of sampling events required. Permittees are encouraged to obtain more than the minimum number of sampling events, which provides a better demonstration of compliance.

\* Pursuant to 40 CFR § 122.47 the Department has established a Compliance Schedule for attaining compliance with the more stringent effluent limits for total selenium. The more stringent effluent limits were applied during the 1/21/2025 permit issuance for this existing source and existing discharger. The current treatment system that is in place at the time of the 1/21/2025 permit issuance cannot attain compliance with the more stringent effluent limits. The table below lists the tasks with due dates that must be completed by the permittee during the Compliance Schedule Interim Period. The

permittee shall achieve compliance with the milestones listed below as soon as possible but no later than the due dates in the table below. No later than 14 days following each interim date and the final date of compliance in the table below, the permittee shall notify the Department in writing of its compliance or noncompliance with the interim or final requirements or submit progress reports if applicable.

**Alternate Precipitation Limits for Stormwater Control Facilities**

During a precipitation event and for 24 hours after, the following alternate discharge limitations apply to discharges from stormwater facilities resulting from precipitation events discharging to \_\_\_\_\_. Note that this section is applicable for stormwater only. Comingling with process water is excluded.

This section not applicable due to Water Quality Based Effluent Limits (WQBELs).

The following limits apply to all discharges from stormwater facilities to UNT "E" to Tenmile Creek. The limits below are effective during the Compliance Schedule Interim Period\* from January 21, 2025 until the last day of the month at the end of the compliance period.

Outfall: 002

Discharge Parameter	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum	Measurement Frequency (minimum <sup>1</sup> )	Sample Type
pH (S.U.)	6.0	-	-	9.0	2/Month	Grab
Acidity (mg/L)	-	-	-	Report	2/month	Grab
Net Alkalinity (mg/L)	0.0	-	-	Report	2/month	Calculate
Total Alkalinity (mg/L)	-	-	-	Report	2/month	Grab
Total Iron (mg/L)	-	1.5	3.0	3.7	2/month	Grab
Total Manganese (mg/L)	-	1.0	2.0	2.5	2/month	Grab
Total Aluminum (mg/L)	-	0.75	0.75	0.75	2/month	Grab
Total Suspended Solids (mg/L)	-	35.0	70.0	90.0	2/Month	Grab
Total Selenium (ug/L)			Report		2/Month	Grab
Sulfate (mg/L)			Report		2/month	Grab
Osmotic Pressure (mOsm/kg)			Report		Monthly	Grab
Specific Conductance (umhos/cm)			Report		2/month	Measured
Temperature (°C)			Report		2/month	Measured
Flow (gpm)			Report		2/Month	Measured

*1 The measurement frequency is the minimum number of sampling events required. Permittees are encouraged to obtain more than the minimum number of sampling events, which provides a better demonstration of compliance.*

\* Pursuant to 40 CFR § 122.47 the Department has established a Compliance Schedule for attaining compliance with the more stringent effluent limits for total selenium. The more stringent effluent limits were applied during the 1/21/2025 permit issuance for this existing source and existing discharger. The current treatment system that is in place at the time of the 1/21/2025 permit issuance cannot attain compliance with the more stringent effluent limits. The table below lists the tasks with due dates that must be completed by the permittee during the Compliance Schedule Interim Period. The permittee shall achieve compliance with the milestones listed below as soon as possible but no later than the due dates in the table below. No later than 14 days following each interim date and the final date of compliance in the table below, the

permittee shall notify the Department in writing of its compliance or noncompliance with the interim or final requirements or submit progress reports if applicable.

**Alternate Precipitation Limits for Stormwater Control Facilities**

During a precipitation event and for 24 hours after, the following alternate discharge limitations apply to discharges from stormwater facilities resulting from precipitation events discharging to \_\_\_\_\_. Note that this section is applicable for stormwater only. Comingling with process water is excluded.

This section not applicable due to Water Quality Based Effluent Limits (WQBELs).

**Effluent Characterization Sampling**

The permittee shall provide analysis of samples collected from erosion and sedimentation control outfalls within two years of the initial discharge of each facility in compliance with 40 CFR 122.26(c)(1)(i)(G). Specifically, sampling results are required for the pollutants listed in 40 CFR 122, Appendix D, Table III, Tables II and IV, for those that are expected to be present and pH, specific conductivity, temperature, alkalinity, acidity, iron, manganese, aluminum, sulfate, chloride, settleable solids, total dissolved solids, oil and grease, BOD5, COD, Kjeldahl nitrogen, and nitrate plus nitrite nitrogen. This quantitative data requirement is subject to the small business exemption at 40 CFR 122.21(g)(8) for Table II.

The following limits apply to all discharges from stormwater facilities to **Tenmile Creek. The limits below are effective starting the first day of the month after the end of the compliance period.**

Outfall: **001**

Discharge Parameter	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum	Measurement Frequency (minimum <sup>1</sup> )	Sample Type
pH (S.U.)	6.0	-	-	9.0	2/Month	Grab
Acidity (mg/L)	-	-	-	Report	2/month	Grab
Net Alkalinity (mg/L)	0.0	-	-	Report	2/month	Calculate
Total Alkalinity (mg/L)	-	-	-	Report	2/month	Grab
Total Iron (mg/L)	-	1.55	3.10	3.87	2/month	Grab
Total Manganese (mg/L)	-	1.0	2.0	2.5	2/month	Grab
Total Aluminum (mg/L)	-	0.75	0.75	0.75	2/month	Grab
Total Suspended Solids (mg/L)	-	35.0	70.0	90.0	2/Month	Grab
Total Selenium (ug/L)	-	5.16	10.32	12.9	2/Month	Grab
Sulfate (mg/L)	Report				2/month	Grab
Osmotic Pressure (mOsm/kg)	Report				Monthly	Grab
Specific Conductance (umhos/cm)	Report				2/month	Measured
Temperature (°C)	Report				2/month	Measured
Flow (gpm)	Report				2/Month	Measured

<sup>1</sup> The measurement frequency is the minimum number of sampling events required. Permittees are encouraged to obtain more than the minimum number of sampling events, which provides a better demonstration of compliance.

\* Pursuant to 40 CFR § 122.47 the Department has established a Compliance Schedule for attaining compliance with the more stringent effluent limits for total selenium. The more stringent effluent limits were applied during the 1/21/2025 permit issuance for this existing source and existing discharger. The current treatment system that is in place at the time of the 1/21/2025 permit issuance cannot attain compliance with the more stringent effluent limits. The table below lists the tasks with due dates that must be completed by the permittee during the Compliance Schedule Interim Period. The permittee shall achieve compliance with the milestones listed below as soon as possible but no later than the due dates in the table below. No later than 14 days following each interim date and the final date of compliance in the table below, the permittee shall notify the Department in writing of its compliance or noncompliance with the interim or final requirements or submit progress reports if applicable.

**Alternate Precipitation Limits for Stormwater Control Facilities**

During a precipitation event and for 24 hours after, the following alternate discharge limitations apply to discharges from stormwater facilities resulting from precipitation events discharging to \_\_\_\_\_. Note that this section is applicable for stormwater only. Comingling with process water is excluded.

This section not applicable due to Water Quality Based Effluent Limits (WQBELs).

The following limits apply to all discharges from stormwater facilities to **UNT "E" to Tenmile Creek. The limits below are effective starting the first day of the month after the end of the compliance period.**

Outfall: **002**

Discharge Parameter	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum	Measurement Frequency (minimum <sup>1</sup> )	Sample Type
pH (S.U.)	6.0	-	-	9.0	2/Month	Grab
Acidity (mg/L)	-	-	-	Report	2/month	Grab
Net Alkalinity (mg/L)	0.0	-	-	Report	2/month	Calculate
Total Alkalinity (mg/L)	-	-	-	Report	2/month	Grab
Total Iron (mg/L)	-	1.5	3.0	3.7	2/month	Grab
Total Manganese (mg/L)	-	1.0	2.0	2.5	2/month	Grab
Total Aluminum (mg/L)	-	0.75	0.75	0.75	2/month	Grab
Total Suspended Solids (mg/L)	-	35.0	70.0	90.0	2/Month	Grab
Total Selenium (ug/L)	-	5.0	10.0	12.5	2/Month	Grab
Sulfate (mg/L)	Report				2/month	Grab
Osmotic Pressure (mOsm/kg)	Report				Monthly	Grab
Specific Conductance (umhos/cm)	Report				2/month	Measured
Temperature (°C)	Report				2/month	Measured
Flow (gpm)	Report				2/Month	Measured

*1 The measurement frequency is the minimum number of sampling events required. Permittees are encouraged to obtain more than the minimum number of sampling events, which provides a better demonstration of compliance.*

\* Pursuant to 40 CFR § 122.47 the Department has established a Compliance Schedule for attaining compliance with the more stringent effluent limits for total selenium. The more stringent effluent limits were applied during the 1/21/2025 permit issuance for this existing source and existing discharger. The current treatment system that is in place at the time

of the 1/21/2025 permit issuance cannot attain compliance with the more stringent effluent limits. The table below lists the tasks with due dates that must be completed by the permittee during the Compliance Schedule Interim Period. The permittee shall achieve compliance with the milestones listed below as soon as possible but no later than the due dates in the table below. No later than 14 days following each interim date and the final date of compliance in the table below, the permittee shall notify the Department in writing of its compliance or noncompliance with the interim or final requirements or submit progress reports if applicable.

**Alternate Precipitation Limits for Stormwater Control Facilities**

- During a precipitation event and for 24 hours after, the following alternate discharge limitations apply to discharges from stormwater facilities resulting from precipitation events discharging to \_\_\_\_\_. Note that this section is applicable for stormwater only. Comingling with process water is excluded.
- This section not applicable due to Water Quality Based Effluent Limits (WQBELs).

**Effluent Characterization Sampling**

The permittee shall provide analysis of samples collected from erosion and sedimentation control outfalls within two years of the initial discharge of each facility in compliance with 40 CFR 122.26(c)(1)(i)(G). Specifically, sampling results are required for the pollutants listed in 40 CFR 122, Appendix D, Table III, Tables II and IV, for those that are expected to be present and pH, specific conductivity, temperature, alkalinity, acidity, iron, manganese, aluminum, sulfate, chloride, settleable solids, total dissolved solids, oil and grease, BOD5, COD, Kjeldahl nitrogen, and nitrate plus nitrite nitrogen. This quantitative data requirement is subject to the small business exemption at 40 CFR 122.21(g)(8) for Table II.

<b>Compliance Schedule Milestones for Outfalls 001 and 002</b>		
(1)	Sample possible source material(s) and source water(s) for the presence of selenium. Sample sedimentation ponds for current selenium concentrations. Submit a report to the Department detailing the sampling results and identify source(s) of selenium.	6 months after permit effective date
(2)	Submit a plan to the Department describing the potential treatment options or alternative discharge options that could be implemented to assure compliance with the final effluent limits for total selenium**. The Department will review the proposed options and provide feedback.	12 months after permit effective date
(3)	Submit a compliance plan to the Department describing the chosen method of achieving compliance with the final effluent limits for total selenium**. Submit complete applications or revisions for all permits necessary for the implementation of the plan to the Department for approval.	6 months after the Department provides feedback on action (2)
(4)	Commence the construction / implementation of the approved compliance plan. Inform the Department on the date that the construction and/or implementation of the compliance plan begins.	12 months after the Department provides approval on action (3)
(5)	Submit a report to the Department with an evaluation of the effectiveness of compliance plan and to describe the progress towards achieving compliance with the final effluent limits for total selenium**.	12 months after construction / implementation of compliance plan in action (4) begins
(6)	Achieve compliance with the final effluent limits for total selenium**.	12 months after construction / implementation of compliance plan in action (4) begins
**Compliance with discharge limitations for all parameters is expected during the Compliance Schedule for total selenium, including the construction / implementation phase.		

**Modification of the Compliance Schedule**

- i. Pursuant to 40 CFR § 122.62, the permittee may request the Department for approval of a modification of the time period for completing the milestones of the compliance schedule in the table above. The permittee's request for approval of a modification must demonstrate that the respective compliance schedule milestone

cannot be completed within the prescribed time period. The permittee shall also provide an alternative time frame for completion for completing the milestone. The permittee's economic inability to comply with any of the obligations of this Compliance Schedule shall not be grounds for any extension of time.

- ii. The permittee shall submit a request for modification of the compliance schedule pursuant to this paragraph in writing to the Department within 10 working days of the date the permittee becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by the permittee to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission.
- iii. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by the permittee and any other information available to the Department and will notify the permittee in writing of its decision. In any subsequent litigation, the permittee shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available.

### **Progress Reports**

The Permittee shall submit Progress Reports every six months from permit effective date until compliance is achieved to the Technical Services Section and MCI at the New Stanton District Office. Progress Reports shall include updates, attainment or any progress made toward milestones, summary of results of any supplemental sampling and a discussion of compliance or non-compliance with interim and/or final requirements. Progress reports shall be due each April 30 and October 31 until the end of the compliance period and compliance with total selenium limits as well as other effluent limits is achieved.



## **Additional Requirements for Sections A and B**

(Applicable to all outfalls under all precipitation conditions)

1. Samples collected to comply with the monitoring requirements shall be taken while the facility is discharging at the outfall points listed above. The monitoring requirement frequencies apply to both continuous and non-continuous discharges; therefore, sampling is required in every month during which a discharge occurs. A monitoring report of "no discharge" should only be used to indicate that there was no discharge during the entire reporting period.
2. The discharger may not discharge floating materials, scum, sheen, or substances that result in deposits in the receiving water. Except as provided in the permit, the discharger may not discharge foam, oil, grease, or substances that produce an observable change in the color, taste, odor, or turbidity of the receiving water. [25 Pa. Code § 92.41(c)]
3. The permittee may not discharge substances in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life. [25 Pa. Code § 93.6(a)]
4. The permittee shall ensure that all effluent characterization data analysis includes detection limits that are less than or equal to the most stringent water quality criteria for each parameter (PA Code Title 25 Chapter 93.8c Table 5).
5. The permittee shall include a sample from the receiving stream to be analyzed for hardness as part of the effluent characterization for this site. The hardness sample must be collected from the receiving stream downstream of the outfall(s) during a discharge.

## PART B MANDATED STANDARD CONDITIONS FOR NPDES PERMITS

### 1. Definitions

*The following definitions apply within this permit. Reference citations are given from sections of 40 CFR as noted which have been adopted by reference in 25 Pa. Code Chapter 92a.*

- (a) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. [122.41(m)(1)(i)]
- (b) "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. [122.41(m)(1)(ii)]
- (c) "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. [122.2]
- (d) "Maximum daily" discharge limitation means the highest allowable "daily discharge." [122.2]
- (e) "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour 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. [122.2]
- (f) "Average" refers to the use of an arithmetic mean, unless otherwise specified in this permit. [122.41(l)(4)(iii)]
- (g) "Instantaneous Maximum" means the highest allowable discharge of a concentration or mass at any one time as measured by a grab sample. [92a.2]
- (h) "Composite Sample" means 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 flows rates, over the time period used to produce the composite.  
  
The maximum time period between individual samples shall not exceed two hours, except that for wastes of a uniform nature the samples may be collected on a frequency of at least twice per working shift and shall be equally spaced over a 24-hour period (or over the operating day if flows are of a shorter duration).
- (i) "Grab Sample" means an individual sample collected at a randomly-selected time over a period not to exceed 15 minutes.
- (j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.
- (k) "At Outfall XXX" means a sampling location in outfall line XXX below the last point at which wastes are added to outfall line XXX, or where otherwise specified.
- (l) "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.
- (m) "Toxic Pollutant" means any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act. [122.2]
- (n) "Hazardous Substance" means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act. [122.2]
- (o) "Best Management Practices" ("BMPs") are activities, facilities, measures, or procedures used to protect and maintain the quality of waters, and existing and designated uses within this Commonwealth. BMPs include E&S Plans, Reclamation Plans, Storm Water Management Act Plans, and other treatment requirements, operating procedures, and practices to control project site runoff, spillage or leaks, and other drainage from the mining activity.
- (p) "Erosion and Sediment Control Plan" ("E&S Plan") is a site-specific plan included with the mining permit or authorization application identifying BMPs to minimize accelerated erosion and sedimentation and which meets the requirements of 25 Pa. Code Chapter 102.

- (q) "Point Source" means a discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, CAAP, CAFO, landfill leachate collection system, or vessel or other floating craft from which pollutants are or may be discharged. [25 Pa. Code 92a.2]
- (r) "Operator" means a person or entity conducting mining activity that is covered by this permit. The operator name must match the "Permittee" in relation to their mining permit or exploration activity approval and also that of "Operator" in the associated mine operator's license.
- (s) "Reclamation Plan" means approved documentation made part of a permit or exploration notice that describes how the permittee will restore the land surface as required by the appropriate regulations to meet an approved post-mining land use. This plan includes activities such as backfilling, regrading, soil stabilization, and revegetation. Once the permittee completes the reclamation plan, reclamation bond(s) may be released for a permitted mine site.
- (t) "Stormwater" means surface runoff and drainage resulting from precipitation events, including ice and snowmelt runoff. [122.26(b)(13)]
- (u) "Dry weather flow" means the base flow or surface discharge from an area or treatment facility which occurs immediately prior to a precipitation event and which resumes 24 hours after the precipitation event ends. [25 Pa. Code §§ 87.1, 88.1, 89.1, and 90.1]
- (v) "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 preventive maintenance, or careless or improper operation. [122.41(n)(1)]

## **2. Standard Federal Conditions**

*40 CFR Sections 122.41 and 122.42 require that the following conditions are applied to all permits.*

(a) *Duty to comply.* [92a.41(a)(1) and 122.41(a)] The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act 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.

(2) The Clean Water Act provides that any person who violates section 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 \$25,000 per day for each violation. Section 309(d) of the CWA, 33 U.S.C. § 1319(d), provides that any person who violates Section 301 of the CWA, 33 U.S.C. § 1311, or violates any permit condition or limitation in a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, shall be subject to a civil penalty payable to the United States of up to \$25,000 per day for each violation, which, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, was increased to \$32,500 per day for each violation occurring on or after March 15, 2004, and \$37,500 per day for each violation occurring on or after January 12, 2009. The Clean Water Act 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. 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. 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.

(3) 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 \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

(b) *Duty to reapply.* [92a.41(a)(2) and 122.41(b)] 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.

(c) *Need to halt or reduce activity not a defense.* [92a.41(a)(3) and 122.41(c)] It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) *Duty to mitigate.* [92a.41(a)(4) and 122.41(d)] The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(e) *Proper operation and maintenance.* [92a.41(a)(5) and 122.41(e)] The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

(f) *Permit actions.* [92a.41(a)(6) and 122.41(f)] 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.

(g) *Property rights.* [92a.41(a)(7) and 122.41(g)] This permit does not convey any property rights of any sort, or any exclusive privilege.

(h) *Duty to provide information.* [92a.41(a)(8) and 122.41(h)] The permittee shall furnish to the Department, within a reasonable time, any information which the Department 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 Department upon request, copies of records required to be kept by this permit.

(i) *Inspection and entry.* [92a.41(a)(9) and 122.41(i)] The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the Department or EPA), upon presentation of credentials and other documents as may be required by law, to:

(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

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

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

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

(j) *Monitoring and records.* [92a.41(a)(10) and 122.41(j)]

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

(2) 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 part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip 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 this permit, 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 Department at any time.

(3) Records of monitoring information shall include:

- (i) The date, exact place, and time of sampling or measurements;
- (ii) The individual(s) who performed the sampling or measurements;
- (iii) The date(s) analyses were performed;
- (iv) The individual(s) who performed the analyses;
- (v) The analytical techniques or methods used, including detection limits; and
- (vi) The results of such analyses.

(4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O.

(5) The Clean Water Act 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, or by imprisonment for not more than 2 years, or 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.

(k) *Signatory requirement.* [92a.41(a)(11) and 122.41(k)]

(1) All applications, reports, or information submitted to the Department shall be signed and certified. (See § 122.22)

(2) 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 non-compliance 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.

(l) *Reporting requirements* [92a.41(a)(12) and 122.41(l)]

(1) *Planned changes.* The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in § 122.29(b); or
- (ii) 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 § 122.42(a)(1).

- (iii) 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;

(2) *Anticipated noncompliance.* The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(3) *Transfers.* This permit is not transferable to any person except after notice to the Department. The Department 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 under the Clean Water Act. (See § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

(4) *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.

- (i) Monitoring results must be reported on a DMR or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
- (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
- (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (iv) Monitoring results obtained each month shall be summarized for that month and reported on a DMR.
- (v) The DMR shall be submitted quarterly within 28 days after the end of the quarter to the appropriate District Mining Office.
- (vi) *Electronic Reporting* The permittee shall use DEP's electronic Discharge Monitoring Report (eDMR) system to report the results of compliance monitoring under this permit. (25 Pa. Code §§ 92a.3(c), 92a.41(a), 92a.61(g) and 40 CFR § 122.41(l)(4)).

(5) *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) *Twenty-four hour reporting.*

- (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes 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.
- (ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
  - (A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See § 122.44(g)).
  - (B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours. (See § 122.44(g).)

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (l)(6)(ii) of this section if the oral report has been received within 24 hours.

(7) *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under paragraphs (l) (4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6) of this section.

(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 Department, it shall promptly submit such facts or information.

(m) *Bypass* [92a.41(m) and 122.41(a)(13)]

(1) *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 provisions of paragraphs (m)(2) and (m)(3) of this section.

(2) *Notice* —

(i) *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).

(3) *Prohibition of bypass.*

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for 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 back-up 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 preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (m)(2) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (m)(3)(i) of this section.

(n) *Existing manufacturing, commercial, mining, and silvicultural dischargers.* [92a.42 and 122.42(a)]

In addition to the reporting requirements above, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:

(i) One hundred micrograms per liter (100 µg/l);

(ii) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.21(g)(7); or
- (iv) The level established by the Department in accordance with § 122.44(f).

(2) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (i) Five hundred micrograms per liter (500 µg/l);
- (ii) One milligram per liter (1 mg/l) for antimony;
- (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with § 122.21(g)(7).
- (iv) The level established by the Department in accordance with § 122.44(f).

### **3. Standard State Conditions**

(a) All discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases or process modifications which result in new or increased discharges of pollutants shall be reported by submission of a new application or, if the discharge does not violate effluent limitations specified in the NPDES permit, by submission to the Department of notice of the new or increased discharges of pollutants, that the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit.

(b) The permittee must comply with applicable water quality standards, including the narrative standards found at 25 Pa. Code § 93.6.

(c) The permittee shall comply with the immediate oral notification requirements of 25 Pa. Code § 91.33 (relating to incidents causing or threatening pollution). Oral notification is required as soon as possible, but no later than 4 hours after the permittee becomes aware of the incident causing or threatening pollution. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the incident causing or threatening pollution. The written submission must conform to the requirements of 40 CFR 122.41(l)(6). [92a.41(b)]

### **4. Preparedness, Prevention and Contingency (PPC) Plans**

(a) Persons subject to this permit shall maintain a Preparedness, Prevention and Contingency (PPC) plan.

(b) The permittee shall periodically review, update and amend the PPC Plan at least once a year and whenever the information submitted in the plan is no longer accurate.

(c) The permit does not authorize the discharge of any polluting substances resulting from an on-site spill. Such spills shall be controlled through proper implementation of a PPC Plan.

(d) This permit does not authorize any discharge (stormwater or non-stormwater), which contains any pollutant that may cause or contribute to an impact on aquatic life or pose a substantial hazard to human health or the environment due to its quantity or concentration.

(e) Operator personnel shall conduct site compliance evaluations using the Annual Inspection Form at least once a year. All areas shall be visually inspected for evidence of, or the potential for pollutants entering the drainage system. Measures to reduce pollutant loading shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of this permit or whether additional control measures are needed. Stormwater management measures, E&S plan measures and other structural pollution prevention measures shall be observed to ensure that they are operating correctly. The PPC Plan shall be revised as needed within 15 days of such inspection with implementation of any changes occurring not more than 90 days after the inspection.



## NPDES INDIVIDUAL PERMIT CONDITIONS

1. Operation and Maintenance of Erosion and Sedimentation Plan
  - a. The permittee shall implement the erosion and sedimentation plan approved under Surface Mining Permit Number 63192001.
  - b. The permittee shall be responsible for the inspection, maintenance, and repair of the erosion and sedimentation control BMPs to ensure that the proposed system continues to function as designed until final bond release occurs for the mine site.
  - c. All BMPs shall be inspected by the responsible entity on a regularly scheduled basis and, at minimum, once a quarter and after all major storm events (greater than 0.5 inch in 24 hours). A qualified representative of the operator must perform inspections of the facilities. The inspections shall determine the operational condition, safety, and the effectiveness of the BMP. Based on the inspection results, an inspection report shall generate a listing of maintenance needs or repairs required. The permittee shall keep a listing of the repairs needed and a schedule for corrective action. Corrective actions shall be performed within the schedule. Written records shall be kept of all inspections and maintenance work performed related to the discharge management facilities.
2. The permittee is responsible to renew this NPDES permit until such time that the area is stabilized and no further earth disturbance will occur.
3. Flocculant is permitted for use only in accordance with the Flocculant Addition Plan provided as an attachment to Module 13, as approved by the Pennsylvania Fish and Boat Commission (PFBC).