

# 61-9.505

## Land Application Permits and State Permits

Regulation History as Published in State Register			
Date	Document Number	Volume	Issue
June 28, 1996	1901	20	6, Part 2
June 27, 2003	2783	27	6
May 23, 2008	3155	32	5
June 27, 2014	4444	38	6

### Table of Contents

<b>PART A. DEFINITIONS AND GENERAL PROGRAM REQUIREMENTS .....</b>	<b>363</b>
505.1 Purpose and scope.....	363
505.2. Definitions.....	366
505.3. Exclusions.....	368
505.4. Prohibitions.....	369
505.5. Effect of a Land Application permit or State permit.....	370
505.6. Continuation of expiring Land Application permits or State permits.....	370
505.7. Confidentiality of information.....	371
505.8. Permit requirements by others.....	371
<b>PART B. LAND APPLICATION PERMIT AND STATE PERMIT APPLICATION AND SPECIAL PROGRAM REQUIREMENTS.....</b>	<b>372</b>
505.21. Application for a Land Application Permit and State Permit.....	372
505.22. Signatories to Land Application permit and State permit applications and reports.....	376
505.23. General Land Application permits and State permits.....	376
<b>PART C. LAND APPLICATION PERMIT AND STATE PERMIT CONDITIONS .....</b>	<b>379</b>
505.41. Conditions applicable to all Land Application permits and State permits.....	379
505.42. Additional conditions applicable to specified categories of Land Application permits and State permits.....	388
505.43. Establishing Land Application permit and State permit conditions.....	398

505.44. Establishing limitations, standards, and other Land Application permit and State permit conditions.....	398
505.45. Calculating Land Application permit and State permit conditions.....	401
505.46. Duration of Land Application permits and State permits.....	406
505.47. Schedules of compliance.....	406
505.48. Requirements for recording and reporting of monitoring results. ....	408
<b>PART D. TRANSFER, MODIFICATION, REVOCATION AND REISSUANCE, AND TERMINATION OF LAND APPLICATION PERMITS AND STATE PERMITS .....</b>	<b>409</b>
505.61. Transfer of Land Application permits and State permits. ....	409
505.62. Modification or revocation and reissuance of Land Application permits and State Permits .....	409
505.63. Minor modifications of Land Application permits and State permits.....	411
505.64. Termination of Land Application permits and State permits.....	413

**PART A**  
**DEFINITIONS AND GENERAL PROGRAM REQUIREMENTS**

**505.1 Purpose and scope.**

(a) Coverage.

(1) These regulations contain provisions for the Land Application permit and State permit Program under the South Carolina Pollution Control Act (PCA), S.C. Code Ann. section 48-1-10 et seq.

(2) These regulations contain provisions for other permits issued for subsurface distribution systems (such as tile fields or drip irrigation systems).

(b) Scope of the Land Application permit and State permit requirement.

(1) The Land Application permit and State permit program requires permits for the discharge of pollutants from any source directly or indirectly into groundwaters of the State and to the land of the State. The terms “Land Application permit”, “State permit”, “pollutant”, “source”, “groundwaters of the State”, and the “land of the State” are defined in section 505.2.

(2) The following are additional sources that may require Land Application permits or State permits for discharges:

(i) Recirculated Process Wastewater. The submission and information requirements shall be determined by the Department.

(ii) Wastewater Evaporation Systems for Process Wastewater. The submission and information requirements shall be determined by the Department.

(iii) Agricultural Waste Facilities, except those regulated under South Carolina R.61-43. The submission and information requirements shall be determined by the Department.

(iv) [Reserved]

(3) The permit program established under this regulation also applies to owners or operators of any treatment works treating domestic sewage, whether or not the treatment works is otherwise required to obtain a Land Application permit or State permit in accordance with this section, unless all requirements implementing section 405(d) of the CWA applicable to the treatment works treating domestic sewage are included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act; Part C of the Safe Drinking Water Act; the Marine Protection, Research, and Sanctuaries Act of 1972; the Clean Air Act; or under an NPDES permit (R.61-9.122) approved by the Department as adequate to assure compliance with section 405 of the Clean Water Act (CWA).

(4) The Department may designate any person subject to the standards for sewage sludge use and disposal as a “treatment works treating domestic sewage” as defined in R.61-9.122.2, where it finds that an NPDES permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under the CWA section 405(d). Any person owning or operating a facility designated as “treatment works treating domestic sewage” shall submit an application for a permit under R.61-9.122.21 within 120 days of being notified by the Department that a permit is required.

(5) See South Carolina R.61-67, Standards for Wastewater Facility Construction, section 300.G, Pump and Haul Operations, related to requirements for transporting wastewater for disposal.

(c) Compliance Period.

(1) [Reserved]

(2) All provisions of this Regulation for facilities that are in operation shall be achieved in accordance with a schedule of compliance or other conditions that may be in a reissued permit. For modifications of existing facilities that require construction, the Department may modify or revoke and reissue existing Land Application and State permits to include specific provisions of this Regulation.

(3) All Land Application permits, State permits or other permits for new facilities or expansions of existing facilities issued on or after the effective date of this regulation shall be required to comply with this regulation. Land Application or State permits issued on or after the effective date of this regulation for new land application sites, land application sites approved for an increase (either quantity or loading) in pollutant disposal, or expansions of existing land application sites shall be required to comply with the regulation.

(d) Relation to other requirements.

(1) Permit application forms. Applicants for permits shall submit their applications on permit application forms designated by the Department. The basic information required in the general form (Form 1) and all or part of the additional information required by NPDES applications (Forms 2 A through E) listed in R.61-9.122.21 may be required by the Department for Land Application permits and State permits. In addition, the Department may identify specific information necessary for the Land Application permit and State permit activities.

(2) Technical Regulations. The Permit program has separate additional regulations. These separate regulations are used by the Department to determine what requirements must be placed in permits if they are issued. These separate regulations are located in R.61-9.122, 125, 129, 133, 403, 503 and 504. Additional items under 40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471) may be placed in permits if they are issued.

(e) Public participation. R.61-9.124 (Procedures for Decision Making) establishes the requirements for public participation in Land Application Permit issuance and enforcement and related variance proceedings.

(f) Environmental Protection Fees. R.61-30 establishes the requirements for the submission of specific fees for the activities regulated by the Department.

(g) Authority.

(1) Section 48-1-90(a), S.C. Code of Laws (1976), provides that “it shall be unlawful for any person, directly or indirectly, to throw, drain, run, allow to seep, or otherwise discharge into the environment of the State organic or inorganic matter, including sewage, industrial wastes and other wastes, except as in compliance with a permit issued by the Department.”

(2) Section 48-1-100(a), S.C. Code of Laws (1976), provides that “if, after appropriate public comment procedures, as defined by Department regulations, the Department finds that the discharge from the proposed outlet ... will not be in contravention of provisions of Chapter 1, Title 48, S.C. Code of Laws, a permit to construct and a permit to discharge must be issued to the applicant.”

(3) [Reserved]

(4) Section 405 of the CWA provides, in part, that “Where the disposal of sewage sludge resulting from the operation of a treatment works as defined in section 212 of this Act (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering the [waters of the State], such disposal is prohibited except in accordance with a[n NPDES] permit issued by the [Department] under section 402 of this Act.”

(5) Section 405(d)(4) of the CWA requires the Department, prior to promulgation of standards for sewage sludge use and disposal, to “impose conditions in [NPDES] permits issued to publicly owned treatment works under section 402 of this Act, or take such other measures as the [Department] deems appropriate to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.”

(6) Section 405(f) of the CWA provides that permits must include requirements implementing the standards for sludge use and disposal (40 CFR Part 503) “unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act; part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972; the Clean Air Act; or under State [of South Carolina] permit programs approved by the Administrator...” Section 405(f) also authorizes the Department to issue permits with requirements for sludge use or disposal that assure compliance with 40 CFR Part 503 to any treatment works treating domestic sewage that is not subject to NPDES (i.e., has no point source discharge) and has not been issued a permit that includes applicable 40 CFR Part 503 standards under the other permit programs listed in section 405(f)(1) of the CWA.

(7) Sections 405(c) and (f) of the CWA authorize EPA approval of State [of South Carolina] permit programs for use and disposal of sewage sludge.

(8) Section 48-1-50(22), S.C. Code of Laws (1976), requires the owner or operator of any source or disposal system to establish and maintain such operational records; make reports; install, use, and maintain monitoring equipment or methods; sample and analyze emissions or discharges in accordance with prescribed methods, at locations, intervals, and procedures as the Department shall prescribe; and provide such other information as the Department reasonably may require.

(9) Section 48-1-40, S.C. Code of Laws (1976), authorizes the Department “after public hearing as herein provided, [to] adopt standards and determine what qualities of water ... shall indicate a polluted condition and these standards shall be promulgated and made a part of the rules and regulations of the Department.” Section 48-1-50(23) authorizes the Department to “[a]dopt ... effluent control regulations, standards and limitations that are applicable to the entire State, that are applicable only within specified areas or zones of the State, or that are applicable only when a specified class of pollutant is present.” Section 501(a) of CWA provides that “The [Department] is authorized to prescribe such regulations as are necessary to carry out [its] functions under this Act.”

(10) Section 48-1-100(a), S.C. Code of Laws (1976), requires an opportunity for public comment before issuance of permits to discharge.

(h) Preliminary Engineering Reports and Construction Permit Applications shall be consistent with R.61-67 (Standards for Wastewater Facility Construction).

## 505.2. Definitions.

(a) The definitions contained in R.61-9.122, R.61-9.124, R.61-9.125, R.61-9.129, R.61-9.133, R.61-9.403, R.61-9.503 and R.61-9.504 apply to this regulation. Terms not defined in this section or sections referenced previously have the meaning given by the PCA.

(b) Definitions:

(1) “Agricultural waste facility” means any collection, treatment, disposal or recycling activity involving livestock (such as cattle, poultry, swine and turkeys), dogs, horses, pigeons, quail, or other birds and animals including any activity with the production of manures, dead birds or litter.

(2) “Aquifer” means a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield usable quantities of groundwater to springs or wells.

(3) “Background groundwater analysis” means the chemical or biological quality of groundwater before application of wastewater or sludge; or the groundwater chemistry or biological quality up-gradient to the site of concern.

(4) “Basin or lagoon” means any in-ground or earthen structure designed to receive, treat, store, temporarily retain and/or allow for the infiltration/evaporation of wastewater.

(5) “Down-gradient” means the portion of the water table that is down the hydraulic slope of the water table with respect to a specific area or point of reference.

(6) “Evaporation basin” means a basin designed specifically for the atmospheric or enhanced evaporation of liquid.

(7) “Groundwater” means water below the land surface found in fractured rock or various soil strata.

(8) “Groundwaters of the State” means all sources of groundwater wholly, partially, or bordering the State of South Carolina or within its jurisdiction.

(9) “Hydraulic loading” means the rate at which liquid is applied to the land per unit area. The term “application rate” may be used for “hydraulic loading”.

(10) “Hydrogeologic characteristics” means the physical properties of the subsurface and its interaction with the hydraulic properties of groundwater (e.g., migration or infiltration).

(11) “Infiltration” means the flow of water downward from the land surface into and through the soil.

(12) “Land” for the purpose of this regulation means the soil and rock above the water table aquifer and the ground surface.

(13) “Land Application” means use and/or disposal of treated wastewater, sewage sludge, industrial sludge, septage, or additional sources (see R.61-9.505.1(b)(2)) to the land.

(14) “Land Application Permit” refers to a permit issued by the Department applicable to a treatment system, source or site with no resulting discharge to surface waters of the State.

(15) “Land of the State” means all land surface which is wholly or partially within the State of South Carolina or within its jurisdiction.

(16) “Land slope” means the rate of increase or decrease of elevation over a given linear distance.

(17) “Land surface” means the area of land open to the atmosphere.

(18) [Reserved]

(19) “New or expansions” means a facility or land application site that is: new and has not been permitted (including existing sites such as golf courses that have not been used for effluent disposal); an increase (either in quantity or loading) in pollutant disposal to the facility or land application site; a change in the pollutant disposal to the facility or land application site (such as the introduction of a new pollutant in the effluent); or expansions (in physical size, or hydraulic loading) of existing permitted facilities or land application sites. The term “new or expanding” may also be used.

(20) “Monitoring well” means any well used to sample groundwater for water quality analysis or to measure groundwater levels.

(21) “Percolation pond” means any lagoon, basin or constructed impoundment having a leakage rate in excess of 500 gallons/day/acre.

(22) “Permeability” means the capacity of soil, rock, or other material to transmit fluids.

(23) “Pollutant”:

(i) Means filter backwash, sewage, sewage sludge, industrial sludge, septage, or industrial, municipal, agricultural and domestic waste.

(ii) Does not mean water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of groundwater or surface water resources.

(24) “Potable water well” means a well that supplies drinking water for human consumption.

(25) [Reserved]

(26) “Restrictive soil horizon” means the top of the most impermeable soil layer encountered.

(27) “Seasonal high water table” means the highest water table as determined in the soil profile by the encountered indications of soil mottling or iron concretions or by measuring seasonal fluctuations of the water table in a water table well over a period acceptable to the Department.

(28) “Spray field” means a specified area where properly treated wastes, treated effluent from process, agricultural or domestic wastewater, sewage sludge, industrial sludge or other sources is applied to the land. The terms “application area”, “application site”, or “spray disposal area” may also be used.

(29) “Soil boring” means any hand-or mechanically-powered method by which samples of the subsurface can be retrieved for characterization or description.

(30) “Source” means any discernible conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or mobile equipment (such as sludge application truck or device), from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(31) “State permit” refers to a permit issued by the Department for other sources covered by this regulation (other than Land Application Permits) such as activities covered under R.61-9.505.1(b)(2). The term “State Permit Program” may also be used to describe the entire permit program under R.61-9.505.

(32) “Storage or holding basin” means any basin designed to retain wastewater before, during or after treatment and would not include waters of the State.

(33) “Tile field” means a specific area where a network of soil adsorption trenches is installed below the land surface for the purpose of providing final treatment and disposal of wastewater.

(34) [Reserved]

(35) “Treated wastewater” means properly treated effluent from process or domestic wastewater, treated wastes from other sources (see R.61-9.505.1(b)(2)) or treated effluent from a treatment facility.

(36) “Up-gradient” means the portion of the water table that is up the hydraulic slope of the water table with respect to a specific area or point of reference.

(37) “Vadose zone” means the zone between the land surface and the water table.

(38) “WWTP” means wastewater treatment plant.

(39) “Water table” means the level below the land surface at which all the voids are filled with water at a pressure equal to atmospheric. The depth to the water level in the ground is to be measured at least 24 hours after encountering it in a well.

(40) “Water table mound” means a high point in the seasonal or normal water table which is artificially created by the infiltration of liquid.

(41) “Well” means any excavation which is cored, bored, drilled, jetted, dug, or otherwise constructed and has a depth greater than its largest surface diameter.

(42) “ND” or “No Discharge” means land application. The terms “ND permit” or “No Discharge permit” may be used for “Land Application permit”.

### **505.3. Exclusions.**

The following discharges do not require Land Application permits or State permits:

(a) The introduction of sewage, industrial wastes or other pollutants into publicly owned treatment works by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of pollutants directly or indirectly to groundwaters of the State and any land surface of the State are eliminated.(See also R.61-9.122.47(b)). This exclusion does not apply to the introduction of pollutants to privately owned



treatment works or to other discharges through pipes, sewers, or other conveyances (owned by a State, municipality, or other party) not leading to treatment works.

(b) Any introduction of pollutants from non-point source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, but not discharges directly or indirectly to groundwaters of the State and any land surface of the State from both concentrated animal feeding operations as defined in R.61-9.122.23, and from silvicultural point sources as defined in R.61-9.122.27.

(c) Return flows from irrigated agriculture.

(d) Discharges permitted under Underground Injection Control (61-87). a South Carolina County Health Department or other Department program area.

(e) Individual Sewage Treatment and Disposal Systems serving one piece of deeded property that are permitted under Regulation 61-56. This includes but is not limited to any individual residence or single piece of deeded property using a septic tank system if a permit for the discharge is obtained under the provisions of R.61-56.

(f) Provided the requirements in section 505.8 are met and a permit is issued to Construct an Individual Sewage Treatment and Disposal System under R.61-56, serving more than one piece of deeded property, a Land Application or State Permit will not be required. This exclusion may not apply if industrial wastes or other pollutants are discharged.

#### **505.4. Prohibitions.**

No State or Land Application permit may be issued:

(a) When the conditions of the permit do not provide for compliance with the applicable requirements of the CWA, State regulations, or regulations promulgated under the PCA;

(b) When the applicant is required to obtain a State or other appropriate certification under section 401 of the CWA and that certification has not been obtained or waived;

(c) When the imposition of conditions cannot ensure compliance with the applicable surface or groundwater quality requirements of all affected States;

(d) For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste;

(e)(1) For any Land Application Permit or State permit which is inconsistent with a plan or plan amendment approved under section 208(b) of the CWA, unless the Department finds such variance necessary to protect the public health, safety, and welfare;

(2) In reissuance of a Land Application Permit or State permit which requires connection to a regional sewer system or other treatment facilities under the water quality management plan under section 208 of the CWA, once the permittee is notified by the Department that the regional sewer system is operational.

(f) To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of groundwater or surface water quality standards. The Department may issue

a permit if the owner or operator of a new source or new discharger proposing to discharge, which does not currently meet applicable groundwater or surface water quality standards or is not expected to meet those standards even after the application of the effluent limitations, demonstrates that the existing dischargers are subject to compliance schedules designed to bring the area into compliance with applicable ground or surface water quality standards.

#### **505.5. Effect of a Land Application permit or State permit.**

(a)(1) Except for “standards for sewage sludge use or disposal” under 405(d) of the CWA, compliance with a permit during its term constitutes compliance, for purposes of enforcement, with the Pollution Control Act. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in section 505.62 and section 505.64.

(2) Compliance with a permit condition which implements a particular “standard for sewage sludge use or disposal” shall be an affirmative defense in any enforcement action brought for a violation of that “standard for sewage sludge use or disposal”.

(b) The issuance of a Land Application permit or State permit does not convey any property rights of any sort, nor any exclusive privilege.

(c) The issuance of a Land Application permit or State permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

(d) If a deleterious impact to the groundwaters of the State from the permitted use or disposal practices is documented through groundwater monitoring levels exceeding the standards set forth in R.61-68 or a significant adverse trend occurs, then it will be the obligation of the permittee as directed by the Department to conduct an investigation to determine the vertical and horizontal extent of groundwater impact. The Department may require remediation of the groundwater to within acceptable levels for groundwater as set forth in R.61-68.

#### **505.6. Continuation of expiring Land Application permits or State permits.**

(a) The conditions of an expired permit continue in force under S.C. Code section 1-23-370(b) until the effective date of a new permit (see R.61-9.124.15), except when the permit requires connection to a regional sewer system or other treatment facilities under the water quality management plan under section 208 of the CWA and the permittee has been notified by the Department that the regional sewer system is operational, if:

(1) The permittee has submitted a timely application under section 505.21 which is a complete (under section 505.21(e)) application for a new permit; and

(2) The Department, through no fault of the permittee, does not issue a new permit with an effective date under R.61-9.124.15 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints); or

(3) The permittee has submitted a timely application under section 505.21 which is a complete application for a new permit and makes a timely appeal of the new permit.

(b) Effect. Permits continued under this section remain fully effective and enforceable.

(c) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Department may choose to do any or all of the following:

(1) Initiate enforcement action based upon the permit which has been continued;

(2) Issue a notice of intent to deny the new permit under R.61-9.124.6. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(3) Issue a new permit under R.61-9.124 with appropriate conditions; or

(4) Take other actions authorized by these regulations.

### **505.7. Confidentiality of information.**

(a) [Reserved]

(b) Claims of confidentiality for the following information shall be denied:

(1) The name and address of any permit applicant or permittee;

(2) Permit applications, permits, and effluent data.

(c) Information required by permit application forms provided by the Department under section 505.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

### **505.8. Permit requirements by others.**

For permits issued under R.61-56 to construct an Individual Sewage Treatment and Disposal System serving more than one piece of deeded property the following requirements apply:

(a) A permit activity will not occur which is inconsistent with a plan or plan amendment approved under section 208(b) of the CWA, unless the Department finds such variance necessary to protect the public health, safety, and welfare.

(b) A public entity shall own the system and shall be responsible for the operation, maintenance and replacement of all components unless otherwise approved by the Department. The Department may consider a request for a private entity or person, however the proposal must be evaluated on a case by case basis. The Department can evaluate the capability of reliable system operation in its evaluation.

(c) If the project is owned by a private entity or person, the Department shall require financial assurances for the operation, maintenance, and replacement of the tank and tile field system and relevant pumping components. If residential wastewater is not being managed, the Department may consider waiving this requirement, if justified.

(d) The permit holder shall be required to properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems which are installed or used to achieve compliance with the terms and conditions of the permit.

**PART B**  
**LAND APPLICATION PERMIT AND STATE PERMIT APPLICATION AND SPECIAL PROGRAM REQUIREMENTS**

**505.21. Application for a Land Application Permit and State Permit.**

(a) Duty to apply.

(1) Any person who discharges or proposes to discharge pollutants directly or indirectly to groundwaters of the State or to any land of the State, or who owns or operates a “sludge only facility” and who does not have an effective permit, except persons covered by general permits under R.61-9.122.28 excluded under section 505.3, or a user of a privately owned treatment works, unless the Department requires otherwise under section 505.44(m), shall submit a complete application to the Department in accordance with this section and R.61-9.124.

(2) A person discharging or proposing to discharge wastes directly or indirectly to the groundwaters of the State or any land of the State shall promptly make application for and obtain a valid Land Application permit or State Permit and, if required, a valid State Construction Permit;

(3) A person operating or proposing to operate a treatment works from which a discharge does not occur, shall promptly make application for and obtain a valid State Permit (or approval by the Department). The Department may also require the submittal of any additional information or data identified under R.61-9.

(b) [Reserved]

(c) Time to apply.

(1) Any person proposing a new discharge shall submit an application at least 180 days before the date on which the discharge is desired to commence, unless permission for a later date has been granted by the Department. Different submittal dates may be required under the terms of applicable general permits. Persons proposing a new discharge are encouraged to submit their applications well in advance of the requirements to avoid delay.

(2) Permits required under section 405(f) of the CWA.

(i) POTW’s with currently effective Land Application permits shall submit the application information required by paragraph (d)(2)(ii) of this section with the next application submitted in accordance with paragraph (d) of this section or within 120 days after promulgation of a “standard for sewage sludge use or disposal” applicable to the POTW’s sludge use or disposal practice(s), whichever occurs first.

(ii) Any other existing “treatment works treating domestic sewage” not covered under paragraph (c)(2)(i) of this section shall submit an application to the Department within 120 days after promulgation of a “standard for sewage sludge use or disposal” applicable to its sludge use or disposal practice(s) or upon request of the Department prior to promulgation of an applicable “standard for sewage sludge use or disposal”, if the Department determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

(iii) Any “treatment works treating domestic sewage” that commences operations after promulgation of an applicable “standard for sewage sludge use or disposal” shall submit an application to the Department at least 180 days prior to the date proposed for commencing operations.

(3) A person proposing to operate a treatment works from which no discharge occurs shall apply at least 180 days prior to the anticipated commencement of the activity or in accordance with a schedule determined by the Department in individual cases, for a State construction permit on an appropriate form supplied by the Department.

(d) Duty to reapply.

(1) Any permittee with an effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department. The Department shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

(2)(i) All applicants for permits shall complete application forms to apply under section 505.

(ii) In addition to any other applicable requirements in this regulation, all POTW and other “treatment works treating domestic sewage”, including “sludge-only facilities”, shall submit with their applications the information listed at section 122.21(q) within the time frames established in paragraph (c)(2) of this section.

(e) Completeness.

(1) The Department shall not issue a permit before receiving a complete application for a permit except for general permits. An application for a permit is complete when the Department receives an application form and any supplemental information which are completed to its satisfaction.

(2) The Department, at its discretion, may request of an applicant any additional information deemed necessary to complete or correct deficiencies in a Land Application permit or State permit application, before processing the application or issuing or denying the issuance of a permit.

(3) The Department may take enforcement action as prescribed by the State law or this regulation against any person who fails to file a complete application, if deficiencies are not corrected or complete information is not supplied within sixty (60) days to the Department following its request.

(4) The Department may consider an application incomplete if the applicant has not complied with the Environmental Protection Fees Regulation R.61-30.

(f) Information requirements.

(1) [Reserved]

(2) All applicants for Land Application permits and State permits (including permits being reissued or expanded) shall provide the following information to the Department, using the application form provided by the Department (additional information required of applicants is set forth in paragraph (g)):

(i) The activities conducted by the applicant which require it to obtain a Land Application permit or State permit.

- (ii) Name, mailing address, and location of the facility for which the application is submitted.
  - (iii) Up to four Standard Industrial Codes (SIC) which best reflect the principal products or services provided by the facility.
  - (iv) The operator's name, address, telephone number, ownership status, and status as Federal, State, private, public, or other entity.
  - (v) [Reserved]
  - (vi) A listing of all wastewater permits or construction approvals received or applied for related to this facility and/or application.
  - (vii) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and any intake and discharge structures; any hazardous waste treatment, storage, or disposal facilities; any well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area.
  - (viii) A brief description of the nature of the business, activity, or project type.
- (3) For new facilities, expanding or permit modifications a previously approved or proposed engineering report for the project in accordance with R.61-67.
- (4) Project name: Provide the official (legal) name of the WWTP or sludge disposal site.
- (5) County: Give county (or counties) where the proposed or existing wastewater treatment facility and/or site is located.
- (6) Owner's name, address and telephone number: Provide the name, mailing address and the area code and telephone number of the owner. If the mailing address of the WWTP or site is different from the owner's mailing address, supply this information on an attached sheet of paper.
- (7) Project status: Identify if the project is for a new or existing WWTP, or new or existing site. Provide the Land Application or State permit number and identify whether it is for a proposed expansion of either an existing WWTP or a renewal of an issued (if applicable) land disposal permit.
- (8) Project description: Specify the type of project and give a brief description of the WWTP or site operation.
- (9) Location of the WWTP and land disposal sites: Provide a map or maps showing the location of the WWTP and land disposal site(s). The map(s) shall be an 8 ½" x 11" photocopy of the applicable portion of a U.S. Geological Survey 7 ½ minute quad sheet (or a 15 minute quad if a 7 ½ minute quad is not available). The quad sheet name shall be provided on the copy submitted to the Department. Give the latitude and longitude of the center of the WWTP site and a brief location description of the WWTP site. If the application is for a sludge or septage land application site owned by an entity that does not or will not have a WWTP, indicate "not applicable". For each disposal site, give the size in acres, the latitude and longitude of the center of the site, and a brief location description of the site.
- (10) Description of waste to be land applied: Provide a description of the wastewater or sludge to be land applied. State whether the waste is domestic and/or industrial wastewater. If the wastewater is not

strictly domestic, give a detailed characterization of the wastewater. If the detailed characterization is contained in a Preliminary Engineering Report (PER) accompanying this application, then state that the information is in the PER.

(11) Volume and quantity of waste to be land applied: Provide the volume in gallons per day and the quantity in pounds per day of the waste to be land applied to each disposal site.

(12) Frequency of application: Provide the proposed frequency application in times per day, week or other period for each disposal site.

(13) Site application rate(s): Provide the proposed application rate in inches per week, pounds per acre per day (use annual rates for crop uptake) for sludge disposal, or other units as appropriate for each disposal site, whichever is the limiting factor.

(14) Groundwater Quality Monitoring: Identify whether the monitoring is proposed (if required) or existing. Also, provide the number of monitoring wells proposed or existing at each land disposal site.

(15) Residual solids: Identify the proposed or existing sludge disposal method (for wastewater treatment facilities).

(16) Hazardous substances: Identify whether or not the discharge contains a substance that could be considered hazardous as defined under section 101(14) of CERCLA. Provide the substance name, concentration and source.

(17) For wastewater treatment facilities: Proof of ownership (fee simple title) of any land application site(s) for treated effluent disposal. A contract, lease or other legally binding agreement may be substituted provided that:

(i) The contract, lease or agreement shall be for a period of at least 30 years with an automatic right of renewal for an additional 30 years. Cancellation wording may be included if all parties agree and obtain prior Departmental approval of any cancellation of the agreement. For activities involving limited applications (such as one time sludge or septage land application), the contract, lease or agreement time shall be determined on a project specific basis.

(ii) The contract, lease or agreement shall clearly identify that the use of the land application site is for effluent application and may take precedence over other uses unless there is a permitted secondary year round disposal option (e.g. an NPDES permit).

(iii) The specific quantity of effluent to be applied on a daily or weekly basis shall be provided.

(iv) The contract, lease or agreement shall be binding on all heirs, assignees, and successors.

(v) The applicant shall provide an alternate disposal option for any land application site that does not accept effluent year round. The applicant shall provide for year round disposal for the proposed flow on the land application site unless there is a permitted secondary year round disposal option (e.g. an NPDES permit).

(g) Requirements for manufacturing, commercial and mining activities. Manufacturing, commercial and mining dischargers applying for Land Application permits or State permits shall provide the following information to the Department, using application forms provided by the Department.

- (1) Discharge location. The latitude and longitude to the nearest 15 seconds for each discharge location.
- (2) NPDES permit application Form 2(C). See R.61-9.122.

**505.22. Signatories to Land Application permit and State permit applications and reports.**

Signatories to permit applications and reports shall be in accordance with R.61-9.122.22.

**505.23. General Land Application permits and State permits.**

(a) Coverage. The Department may issue a general permit in accordance with the following:

(1) Area. The general permit shall be written to cover a category of discharges, sludge use or disposal practices, or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries.

(2) Sources. The general permit may be written to regulate, within the area described in paragraph (a)(1) of this section.

(i) [Reserved]

(ii) A category of sources (including industrial sludge) or “treatment works treating domestic sewage”, if the sources or “treatment works treating domestic sewage”:

(A) Involve the same or substantially similar types of operations;

(B) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;

(C) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal, or industrial sludge use or disposal;

(D) Require the same or similar monitoring; and

(E) In the opinion of the Department are more appropriately controlled under a general permit than under individual permits.

(b) Administration.

(1) General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of R.61-9.124.

(2) Authorization to discharge or authorization to engage in sludge use and disposal practices.

(i) Except as provided in paragraphs (b)(2)(v) and (b)(2)(vi) of this section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Department a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge (or, in the case of sludge disposal permit, to engage in a sludge use or disposal practice), under the terms of the general permit unless the general permit, in accordance with paragraph



(b)(2)(v) of this section, contains a provision that a notice of intent is not required or the Department notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with paragraph (b)(2)(vi) of this section. A complete and timely notice of intent (NOI) to be covered, in accordance with general permit requirements, fulfills the requirements for permit applications.

(ii) The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the disposal sites. All notices of intent shall be signed in accordance with R.61-9.122.22.

(iii) General permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit.

(iv) General permits shall specify whether a discharger (or treatment works treating domestic sewage) that has submitted a complete and timely notice of intent to be covered in accordance with the general permit and that is eligible for coverage under the permit, is authorized to discharge (or, in the case of a sludge disposal permit, to engage in a sludge use or disposal practice) in accordance with the permit either upon receipt of the notice of intent by the Department, after a waiting period specified in the general permit, on a date specified in the general permit, or upon receipt of notification of inclusion by the Department. Coverage may be terminated or revoked in accordance with paragraph (b)(3) of this section.

(v) Dischargers may, at the discretion of the Department, be authorized to discharge under a general permit without submitting a notice of intent where the Department finds that a notice of intent requirement would be inappropriate. The Department shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

(vi) The Department may notify a discharger (or treatment works treating domestic sewage) that it is covered by a general permit, even if the discharger (or treatment works treating domestic sewage) has not submitted a notice of intent to be covered. A discharger (or treatment works treating domestic sewage) so notified may request an individual permit under paragraph (b)(3)(iii) of this section.

### (3) Requiring an individual permit.

(i) The Department may require any person authorized by a general permit to apply for and obtain an individual Land Application permit or State permit. An applicant, any affected State, or interstate agency, or any other interested person may petition the Department to take action under this paragraph. The petition shall indicate specific reasons why an individual permit is requested and the interest in or relationship of the petitioner to the applicant. Cases where an individual Land Application permit or State permit may be required include the following:

(A) The discharger or “treatment works treating domestic sewage” is not in compliance with the conditions of the general Land Application permit or State permit;

(B) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;

(C) Effluent limitation guidelines are promulgated for point sources covered by the general Land Application permit or State permit;

(D) A Water Quality Management plan containing requirements applicable to the discharge is approved;

(E) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

(F) Standards for sewage sludge use or disposal, or industrial sludge use or disposal have been promulgated for the sludge use and disposal practice covered by the general Land Application permit or State permit.

(ii) [Reserved]

(iii) Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application under R.61-9.505.21, with reasons supporting the request, to the Department no later than 90 days after the publication of the general permit in the State Register. The request shall be processed in accordance with R.61-9.124. The request shall be granted by issuing of an individual permit if the reasons cited by the owner or operator are adequate to support the request.

(iv) When an individual Land Application permit or State permit is issued to an owner or operator otherwise subject to a general Land Application permit or State permit, the applicability of the general permit to the individual Land Application permittee or State permittee is automatically terminated on the effective date of the individual permit.

(v) A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked, and that it be covered by the general permit. If the individual permit is revoked by the Department, the general permit shall apply to the source.

(c) Degree of Waste Treatment Required. All pollutants shall receive such treatment or corrective action so as to insure compliance with the terms and conditions of the issued permit.

(d) Submittal and Signatory Requirements.

(1) A Notice of Intent (NOI) shall be on forms as may be prescribed and furnished from time to time by the Department. An NOI shall be accompanied by all pertinent information as the Department may require in order to establish effluent limitations in accordance with this regulation, including, but not limited to, complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records, and all related materials.

(2) Engineering reports, plans and specifications submitted to the Department's Land Application permit or State permitting divisions shall be signed by a Professional Engineer registered in the State of South Carolina and competent in the field of sewage and industrial waste treatment.

(3) Material submitted shall be complete and accurate.

(4) Any NOI form submitted to the Department shall be signed in accordance with this Regulation.

(5) All other reports or requests for information required by the Department shall be signed by a person designated in R.61-9.122.22 or a duly authorized representative of such person, if:

(i) The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;

(ii) The authorization is made in writing by the person designated under R.61-9.122.22; and

(iii) The written authorization is submitted to the Department.

(6) Any changes in the written authorization submitted to the Department which occur after the issuance of a permit shall be reported to the Department by submitting a copy of a new written authorization that meets the requirements of paragraph (d)(5) above.

(7) Any person signing any document under (d) above shall make the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(e) Other Requirements.

(1) Notice and Public Participation. Public notice and participation requirements for Land Application Permits shall be in accordance with this Regulation (R.61-9).

(2) Terms and Conditions of Permits. General permits issued shall be subject to the terms and conditions contained in this Regulation (R.61-9).

(3) Monitoring, Recording and Reporting Requirements. Monitoring, recording, and reporting requirements shall be in accordance with the permit and this Regulation (R.61-9).

(4) Duration, Continuation, and Transferability of Permits. General permits shall be issued for a fixed term in accordance with this Regulation (R.61-9).

## **PART C LAND APPLICATION PERMIT AND STATE PERMIT CONDITIONS**

### **505.41. Conditions applicable to all Land Application permits and State permits.**

The following conditions apply to all Land Application permits and State permits. Additional conditions applicable to Land Application permits and State permits are in section 505.42. All conditions applicable to Land Application permit and State permit shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation must be given in the permit.

(a) Duty to comply. The permittee shall comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. The Department's approval of wastewater facility Plans and Specifications does not relieve the permittee of responsibility to meet permit limits.

(1) [Reserved]

(2) Failure to comply with permit conditions or the provisions of this regulation may subject the permittee to civil penalties under S.C. Code Section 48-1-330 or criminal sanctions under S.C. Code Section

48-1-320. Sanctions for violations of the Federal Clean Water Act may be imposed in accordance with the provisions of R.61-9.122.41(a)(2) and (3).

(3) A person who violates any provision of this regulation, a term, condition or schedule of compliance contained within a valid Land Application permit or State permit is subject to the actions defined in State law and this regulation.

(b) Duty to reapply. If the permittee wishes to continue an activity regulated by its permit after the expiration date of the permit, the permittee must apply for and obtain a new permit.

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

(d) Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of its permit which has a reasonable likelihood of adversely affecting human health or the environment.

(e)(1) Proper operation and maintenance. The permittee shall at all times properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective performance based on design facility removals, adequate funding, adequate operator staffing and training and 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.

(2) The permittee shall develop and maintain at the facility a complete Operations and Maintenance Manual for the waste treatment facilities and/or land application system. The manual shall be made available for on-site review during normal working hours. The manual shall contain operation and maintenance instructions for all equipment and appurtenances associated with the waste treatment facilities and land application system. The manual shall contain a general description of the treatment process(es), the operational procedures to meet the requirements of (e)(1) above, and the corrective action to be taken should operating difficulties be encountered.

(3)(i) Except as stated in (ii) below, the permittee shall provide for the daily performance of treatment facility inspections by a certified operator of the appropriate grade (“the operator”) as defined in the permit for the facility. The inspections shall include, but should not necessarily be limited to, areas which require visual observation to determine efficient operations and for which immediate corrective measures can be taken using the O & M manual as a guide. All inspections shall be recorded and shall include the date, time, and name of the person making the inspection, corrective measures taken, and routine equipment maintenance, repair, or replacement performed. The permittee shall maintain all records of inspections at the permitted facility as required by the permit, and the records shall be made available for on-site review during normal working hours.

(ii) The Department may make exceptions to operating requirements, if stated in the permit, as follows:

(A) Attendance by the operator is normally required only on days when treatment, land application, or discharge occurs.

(B) For performance of daily inspections, permits may allow a reduced grade of operator for limited time periods under specific circumstances when justified by the permittee in a staffing plan and approved by the Department.

(C) Reduced inspection frequency, but in no case less than weekly, may be suitable when specified in the permit, if there is complete telemetry of operating data and there is either a simple treatment system with a low potential for toxicity but requiring pumps or other electrical functions or the ability to stop the discharge for an appropriate period when necessary.

(D) In other circumstances where the permittee demonstrates the capability to evaluate the facility in an alternative manner equivalent to the inspection requirements in subparagraph 3(i).

(E) Any exceptions allowed in (A), (B), (C), and (D) above are subject to compliance with permit conditions.

(4)(i) Purpose. This regulation establishes rules for governing the operation and maintenance of wastewater sewer systems, including gravity or pressure interceptor sewers. It is the purpose of this rule to establish standards for the management of sewer systems to prevent and/or minimize system failures that would lead to public health or environmental impacts.

(ii) Authority and applicability. Under Section 48-1-30 of the Code of Laws of South Carolina (1976 as amended), the Department is authorized to adopt such rules and regulations as may be necessary to implement the Pollution Control Act. This regulation applies to all sewer systems that have been or would be subject to a DHEC construction permit under Regulation 61-67 and whose owner owns or operates the wastewater treatment system to which the sewer discharges and which discharges under a State permit. Nothing in this regulation supersedes a more stringent requirement that may be imposed by sewer system owners that manage wastewater from satellite systems. This regulation (505.41(e)(4)) is effective when published in the State Register.

(iii) General requirements. The requirements to properly operate and maintain sewer systems are the responsibility of the system owner. General Standards. The sewer system owner must:

(A) Properly manage, operate, and maintain at all times all parts of its sewer system(s), to include maintaining contractual operation agreements to provide services, if appropriate;

(B) Provide adequate capacity to convey base flows and peak flows for all parts of the sewer system or, if capital improvements are necessary to meet this standard, develop a schedule of short and long term improvements;

(C) Take all reasonable steps to stop and mitigate the impact of releases of wastewater to the environment; and

(D) Notify the Department within 30 days of a proposed change in ownership of a sewer system.

(iv) [Reserved]

(f) Permit actions. A Land Application or State 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. A Land Application or State permit does not convey any property rights of any sort,

(h) Duty to provide information. 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 its permit or to determine compliance with its permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by its permit.

(i) Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the Department), 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 including all land disposal sites is located or conducted, or where records must be kept under the conditions of its permit;

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

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment) including all land disposal sites, practices, or operations regulated or required under its permit;

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Pollution Control Act, any substances or parameters at any location including all land disposal sites.

(j) Monitoring and records.

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

(B) Samples shall be reasonably distributed in time, while maintaining representative sampling.

(C) No sampling or analysis, which is otherwise valid, shall be terminated for the purpose of preventing the analysis from showing a permit or water quality violation.

(ii) Flow Measurements.

(A) Where primary flow meters are required, appropriate flow measurement devices and methods consistent with accepted scientific practices shall be present 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 not greater than 10 percent from the true discharge rates throughout the range of expected discharge volumes. The primary flow device, where required, must be accessible to the use of a continuous flow recorder.

(B) Where permits require an estimate of flow, the permittee shall maintain at the permitted facility a record of the method(s) used in "estimating" the discharge flow (e.g., pump curves, production charts, water use records) for the outfall(s) designated on limits pages to monitor flow by an estimate.

(C) Records of any necessary calibrations must also be kept.

(iii) The Department may designate a single, particular day of the month on which any group of parameters listed in the permit must be sampled. When this requirement is imposed in a permit, the Department may waive or alter compliance with the permit requirement for a specific sampling event for extenuating circumstances.

(2) Except for records of monitoring information required by a 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, R.61-9.503, or R.61-9.504), 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 its permit, and records of all data used to complete the application for its 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; and
- (vi) The results of such analyses.

(4) Analyses for required monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures have been specified in the permit or, in the case of sludge use or disposal, unless otherwise specified in R.61-9.503 or R.61-9.504.

(5) The PCA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under its permit shall be subject to civil and criminal penalties as provided for in the act, law or other appropriate regulations.

(k) Signatory requirement.

(1) All applications, reports, or information submitted to the Department shall be signed and certified (See R.61-9.122.22).

(2) The PCA provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or non-compliance shall be subject to civil or criminal provisions as provided for in the act, law or other appropriate regulations.

(l) Reporting requirements.

(1) Planned changes. The permittee shall give prior notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility (and obtain a Construction Permit if required under R.61-67). Prior notice is required only when:

(i) [Reserved]

(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 R.61-9.122.42(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 as soon as possible to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(3) Transfers. A Land Application or State 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 permittee and incorporate such other requirements as may be necessary under the Pollution Control Act. (See R.61-9.505.61. In some cases, modification or revocation and reissuance is mandatory.)

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

(i) Monitoring results (with the exception of any Annual Reporting requirements under section 503.18, section 503.28, section 503.48 or section 504.18) must be reported on a Discharge Monitoring Report (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, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in R.61-9.503, R.61-9.504, or as specified in the permit, the results of this 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.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of its 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 recurrence 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 R.61-9.505.44.)

(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 R.61-9.505.44).

(iii) The Department may waive the written report on a case-by-case basis for reports required 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.

(1) Definitions.

(i) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility including holding basins.

(ii) "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.

(2) 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 paragraph (m)(3) and (m)(4) of this section.

(3) 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 reporting).

#### (4) 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)(3) 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)(4)(i) of this section.

#### (n) Upset.

(1) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation including the land disposal sites.

(2) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (n)(3) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(3) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, daily operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility including the land disposal sites were at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph (l)(6)(ii)(B) of this section (24 hour reporting).

(iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

(o) Misrepresentation of Information.

(1) Any person making application for a Land Application permit or State permit or filing any record, report, or other document pursuant to a regulation of the Department, shall certify that all information contained in such document is true. All application facts certified to by the applicant shall be considered valid conditions of the permit issued pursuant to the application.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the Department pursuant to the State law, and the rules and regulations pursuant to that law, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to 48-1-320 or 48-1-330.

(p) Other requirements.

(1) No portion of a new or expanding application site for effluent application shall be located in the 100 year flood plain unless there is a permitted secondary year round disposal option (e.g. an NPDES permit).

(2) Effluent application shall not occur during periods when the ground is frozen, ponded, there is standing water on the application site, or the ground is flooded.

(3) New or expanding facilities with basins, storage ponds or other constructed impoundments (except for systems designed to operate in this manner, e.g. infiltration basins) must be appropriately lined as determined by the Department. The Department may consider the level of treatment and, if the basin or structure is existing, the scope of the modifications that may be required in the determination of whether a basin, storage pond or other constructed impoundments must be lined. Storage facilities for Reclaimed water (as described in section 505.45) will not require a liner unless specifically required by the Department.

(4) New or expanding facilities with basins, storage ponds or constructed impoundments shall be constructed in accordance with R.61-67 (if construction is required).

(5) Basins, storage ponds, or constructed impoundments (except for systems designed to operate in this manner, e.g., infiltration basins) which are in use may be required to be monitored with groundwater monitoring wells as approved by the Department. The basin, storage pond or constructed impoundment may be considered unlined if the leakage rate is greater than 500 gallons per day per acre, or information available would indicate to the Department that specific hydrological conditions would require groundwater monitoring. The Department may consider the level of treatment, or the type of wastewater (e.g., influent characteristics) in the determination of whether an unlined basin, storage pond or other constructed impoundments must have groundwater monitoring. Storage facilities for reclaimed water (as described in section 505.45) will not require groundwater monitoring unless specifically required by the Department.

(6) There shall be no runoff of any effluent, sludge, treated waste or mixture of pollutants outside the permitted area.

(7) Lined basins, storage ponds, or constructed impoundments may be required by the Department to have groundwater monitoring wells to assure compliance with State Water Quality Standards R.61-68.

(8) [Reserved]

(9) [Reserved]

**505.42. Additional conditions applicable to specified categories of Land Application permits and State permits.**

The following conditions, in addition to those set forth in section 505.41, apply to all Land Application permit or State permits within the categories specified below:

(a) R.61-9.122.42(a) and (b) shall apply.

(b) Irrigation of treated wastewater. This includes all methods of surface application, including but not limited to, fixed gun application, travelling or mobile gun application, or center pivot application.

(1) Spray field slopes shall not exceed 10 percent unless approved by the Department. The Department may require that slopes be less than 10% based on site conditions.

(2) Effluent distribution systems shall be designed so that the distribution pattern maximizes uniform application. The Department may require the permittee to modify existing land application site(s) distribution systems based on site conditions (e.g., potential for ponding, runoff, or discharges to open ditches).

(3) Soil borings may be required by the Department to depict the lithologic and hydrogeologic characteristics of the subsurface. The requirements of R.61-67 would apply.

(4)(i) At proposed spray sites with satisfactory soil conditions, design application rates for hydraulic loading shall not exceed (with the exception of seasonal application) the rates shown in Table I (unless one of the conditions in (4)(ii)-(vi) apply) :

Table I

Depth to Seasonal High Water (or measured high water depth, e.g. piezometer readings)	Design Application Rate (gallons per day per acre) (gpd/acre)
5 feet or more	2 inches/week (in/wk), 7,758 gpd/acre
4 feet	1 in/wk, 3,879 gpd/acre
3 feet	0.5 in/wk, 1,940 gpd/acre
less than 3 feet	no application (unless otherwise approved by the Department)

(ii) The applicant may request intermediate loading rates, if the seasonal high water table is between the depths shown in the table.

(iii) If the seasonal high water table (or measured high water depth e.g. piezometer readings), is less than three (3) feet, the Department may consider permitting the land application site if the domestic wastewater facilities are designed to meet monthly average effluent limits for 5-day Biochemical Oxygen Demand (BOD<sub>5</sub>) of 10 mg/l, Ammonia nitrogen (NH<sub>3</sub>-N) of 2 mg/l and Nitrate (N) of 10 mg/l, or industrial facilities with non-process wastewater or other suitable wastes. The Department may eliminate some or all of the groundwater monitoring requirements for these facilities.

(iv) The application rate may be limited based on pollutant loading including any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471). The applicant for domestic wastewater or other systems with a

nitrate/nitrogen loading may be required to provide the Department, a nitrate to nitrogen loading balance to determine if the application rates shown in Table I shall be adjusted.

(v) The Department may consider application rates in excess of two (2) inches per week for sites that meet the depth to groundwater shown in Table I, provided the application period is only for a portion of the year, or the application is for reclaimed water. The applicant must provide sufficient information to the Department to justify a higher application rate (information required may include, but is not limited to a water balance for the summer season).

(vi) For Domestic wastewater facilities designed to meet monthly average effluent limits of a 5-day Biochemical Oxygen Demand (BOD<sub>5</sub>) of 10 mg/l, NH<sub>3</sub>-N of 2 mg/l and Nitrate of 10 mg/l, or industrial facilities with non-process wastewater, or other suitable wastes. If the seasonal high water table (or measured high water depth e.g. piezometer readings), for the land application site is three (3) feet or more, the Department may eliminate some or all of the groundwater monitoring requirements for these facilities.

(5) The design application frequency for effluent irrigation shall not exceed a spray to rest ratio suitable for the soil conditions. A spray to rest ratio of 1:20 shall be used unless an alternative rate is approved by the Department. The application frequency for other activities (such as sludge or septage application) would be determined on a site specific basis.

(6) The application site shall be divided into designed spray areas to meet this spray to rest ratio and a continuous application period per defined spray area shall be designed not to exceed 1.2 hours per day, or up to 8 consecutive hours per week (only under those limited conditions when excessive rainfall on the application sites requires application in one day). If the design application rate on a daily basis is exceeded, the Department may require the permittee to provide additional spray application area or alternative disposal methods may be required (e.g. expanding storage capacity for effluent at the facility). Alternative application periods (such as golf course irrigation) may be approved by the Department.

(7) For permitted spray disposal areas which already receive irrigation (e.g. stormwater, potable water or well water), the effluent application rates may be modified by the Department to correspond to the depth to the measured high water table or to the seasonal high water table, whichever is more shallow.

(8) The new or expanding spray field shall be at least 200 feet from surface waters of the State, occupied buildings and potable water wells unless otherwise approved by the Department. The new or expanding spray field shall be at least 100 feet from the property boundary except for golf courses where it shall be at least 75 feet. The Department may require modification to existing permitted spray fields to control the application areas by the addition or expansion of a buffer zone. The applicant may request the buffer zone for specific spray areas be eliminated for sites where the adjacent property owner agree to the elimination of the buffer in writing. The Department may approve an elimination of the buffer zone based on the information provided by the applicant.

(9) A dike or berm around the perimeter of the spray field may be required in specific areas determined by the Department as necessary to prevent potential surface runoff from entering or leaving the spray site. The Department may consider alternate methods of runoff controls that may be proposed by the applicant.

(10) A system for monitoring the quality of groundwater shall also be established for the proposed spray site (for those systems requiring groundwater monitoring). The location of all the monitor wells shall be approved by the Department. The applicant shall provide at least one monitoring well up-gradient of the spray area and at least two groundwater monitoring wells down-gradient. For larger spray fields, more than three groundwater monitoring wells may be required. For land application on golf courses with secondary

effluent limits, nine monitor wells shall be provided for 18 fairways (or one groundwater well per two fairways for differing course sizes). The Department may reduce the number of groundwater monitoring wells required based on site conditions (e.g. a significant number of existing groundwater monitoring wells in a small area with multiple golf courses, or existing groundwater monitoring data).

(11) Groundwater samples for new application sites (for those systems requiring groundwater monitoring) shall be analyzed for the following parameters. Background groundwater sampling data may be required for new sites prior to the use of the site using similar parameters. For existing or expanding sites the Department may eliminate any parameter based on actual site information, wastewater characteristics or the groundwater data from consistent wastewater plant operations. Groundwater sampling may be required for existing sites (with no current groundwater monitoring wells), or expanding sites prior to the permitting of the expansion, to determine actual groundwater conditions.

(i) Water table elevation and water table depth

(ii) [Reserved]

(iii) Chloride

(iv) Ammonia (NH<sub>3</sub>)

(v) Nitrate (N)

(vi) [Reserved]

(vii) pH (field)

(viii) Sodium

(ix) Total dissolved solids (TDS) This parameter may be added to the continuing groundwater monitoring based on the result of field specific conductance.

(x) Field specific conductance

(12) Additional parameters may be required in the initial background groundwater analysis and subsequent monitoring thereafter, but such needs will be assessed on an individual project basis. Any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471)) may be required (in a permit) to be monitored in groundwater.

(13) The Department may require the applicant provide a nutrient balance which may include, but not be limited to, nutrient uptake of the proposed groundcover, crop or silviculture, design application rates, size and soil conditions present, and the total nutrient loading to the application site. The Department may adjust the application rates to each site based on the nutrient balance.

(c) Rapid Infiltration.

(1) New or expansions.

(i) New or expanding rapid infiltration basins must be limited to sites where the minimum separation of seasonal high groundwater table will remain 15 feet or more below the basin bottom throughout the year. Consideration may be given to separation of the seasonal high water table by less than

15 feet based on an evaluation of the quality of the effluent being applied. Consideration may also be given to a site when the seasonal high water table is less than 15 feet at some times but the actual separation of the water table is at least 15 feet at any time application occurs.

(ii) The annual hydraulic loading rates shall be no greater than fifteen percent (15%) of the lowest measured basin infiltration rate, unless approved by the Department. Loading rates may also be adjusted by the Department based on the pollutant loading parameters, including any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471). The applicant for domestic wastewater or other systems with a nitrate or nitrogen loading may be required to provide the Department, a nitrate to nitrogen loading balance to determine if the application rates shall be adjusted.

(iii)(A) cation to rest cycle shall consist of no less than a 1:4 ratio in the summer period (March-October) and a 1:6 ratio in the winter period (November-February). The Department may consider other information (e.g., temperature data) to modify the design summer and winter periods for specific sites.

(B) The Department may require the permittee whenever the scheduled resting cycle fails to restore infiltration rates to acceptable levels, to recondition the basin surface (e.g. by scraping and/or loosening of the soil surface by discing or harrowing).

(iv) The design hydraulic loading rate to the rapid infiltration basin shall be calculated to include monthly average precipitation rates for the site area. The most restrictive soil horizon shall have a 2 inches/hour infiltration rate or greater.

(v) The water table mound shall be maintained 6 feet or more below the bottom of the infiltration basin during effluent application. The Department may require the permittee to modify the application rate to achieve this separation.

(vi) Drinking water supply wells shall be protected from potential groundwater contamination by a minimum buffer zone of at least 1,000 feet beyond the rapid infiltration basin. A greater distance may be required by the Department in some cases depending on local hydrogeologic conditions.

(vii) The minimum number of groundwater monitoring wells shall be one up-gradient and one down-gradient for each infiltration basin. Additional wells may be required depending on the hydrogeologic conditions and/or basin size and number of basins. There shall be a minimum of two down-gradient wells or one per infiltration basin, whichever is greater.

(viii) Groundwater samples for new rapid infiltration basins shall be analyzed for the following parameters. For expanding rapid infiltration basins, the Department may eliminate any parameter based on actual site information, wastewater characteristics or the groundwater data from consistent wastewater plant operations:

(A) Water table elevation and water table depth

(B) [Reserved]

(C) Chloride

(D) Ammonia (NH<sub>3</sub>)

(E) Nitrate (N)

(F) [Reserved]

(G) pH (field)

(H) Sodium

(I) Total dissolved solids (TDS)

(J) [Reserved]

(ix) Additional parameters may be required in the initial background groundwater analysis and subsequent monitoring thereafter, but such needs will be assessed on an individual project basis. Any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471)) may be required (in a permit) to be monitored in groundwater.

(2) All other rapid infiltration facilities.

(i) The minimum number of groundwater monitoring wells shall be one up-gradient and one down-gradient per each infiltration basin. Additional wells may be required depending on the hydrogeologic conditions and/or basin size and number of basins. There shall be a minimum of two down-gradient wells or one per infiltration basin, whichever is greater.

(ii) Groundwater samples for other rapid infiltration basins shall be analyzed for the following parameters. The Department may eliminate any parameter based on actual site information or the groundwater data from consistent wastewater plant operations:

(A) Water table elevation and water table depth

(B) [Reserved]

(C) Chloride

(D) Ammonia (NH<sub>3</sub>)

(E) Nitrate (N)

(F) [Reserved]

(G) pH (field)

(H) Sodium

(I) Total dissolved solids (TDS)

(J) (Reserved)

(iii) Additional parameters may be required in the initial background groundwater analysis and subsequent monitoring thereafter, but such needs will be assessed on an individual project basis. Any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471)) may be required (in a permit) to be monitored in groundwater.



(d) Overland Flow.

(1) New or expansions.

(i) Any discharge to Surface Waters of the State shall require an NPDES permit issued in accordance with R.61-9.122.

(ii) Overland flow systems shall be designed so that the surface water and groundwater standards (R.61-68) shall be maintained.

(iii)(A) The applicant must include as part of the design for a new or expanding overland flow project, at least three ring and infiltrometer tests which shall be performed on the most permeable soil type(s) encountered during the soil borings.

(B) If, during the infiltration tests, the soils at the site are found to be more permeable than 0.2 in/hr, groundwater monitoring wells around the system as specified in paragraph (vi)(A) below shall be provided.

(iv) The permittee shall be required to maintain a water-tolerant turf grass that will facilitate the treatment of wastewater. Alternative proposed groundcover, crops or silviculture may be requested by the applicant. The Department may approve alternative covers.

(v) The overland flow design application period shall not exceed 12 hours per day for each terrace or slope or portion thereof. The NPDES or land application permit issued for the overland flow facility shall provide specific discharge flow limits or application rates.

(vi)(A) For those overland flow systems requiring groundwater monitoring, the minimum number of groundwater monitoring wells is one up-gradient of the entire overland flow system and two down-gradient of each area to be monitored.

(B) Groundwater monitoring wells may not be required at overland flow systems containing surficial permeable soils if they are engineered such that partially treated wastewater will not contact groundwater.

(vii) Groundwater monitoring (if required by the Department) for overland flow systems shall be analyzed for the following parameters. The Department may eliminate any parameter based on actual site information, wastewater characteristics or the groundwater data from consistent wastewater plant operations:

(A) Water table elevation and water table depth

(B) (Reserved)

(C) Chloride

(D) Ammonia (NH<sub>3</sub>)

(E) Nitrate (N)

(F) [Reserved]

(G) pH (field)

(H) Sodium

(I) Total dissolved solids (TDS)

(J) [Reserved]

(viii) Additional parameters may be required in the initial background groundwater analysis and subsequent monitoring thereafter, but such needs will be assessed on an individual project basis. Any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471)) may be required (in a permit) to be monitored in groundwater.

(2) All other facilities.

(i)(A) The minimum number of monitoring wells is one up-gradient of the entire overland flow system and two down-gradient of each area to be monitored.

(B) Groundwater monitoring wells may not be required at overland flow systems containing surficial permeable soils if they are engineered such that partially treated wastewater will not contact groundwater.

(ii) Groundwater monitoring (if required by the Department) for overland flow systems shall be analyzed for the following parameters. The Department may eliminate any parameter based on actual site information or the groundwater data from consistent wastewater plant operations:

(A) Water table elevation and water table depth

(B) [Reserved]

(C) Chloride

(D) Ammonia (NH<sub>3</sub>)

(E) Nitrate (N)

(F) [Reserved]

(G) pH (field)

(H) Sodium

(I) Total dissolved solids (TDS)

(J) [Reserved]

(iii) Additional parameters may be required in the initial background groundwater analysis and subsequent monitoring thereafter, but such needs will be assessed on an individual project basis. Any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471)) may be required to be monitored (in a permit) in groundwater.

(e) Tile Field.

(1) New or expanding.

(i) The submission and information requirements will be determined by the Department.

(ii) A public entity shall own the system and shall be responsible for the operation, maintenance and replacement of all components unless otherwise approved by the Department. The Department may consider a request for a private entity or person, however the proposal must be evaluated on a case by case basis. The Department can evaluate the capability of reliable system operation in its evaluation.

(iii) If the project is owned by a private entity or person, the Department shall require financial assurances for the operation and maintenance of the system. This financial assurance would typically be required for residential or domestic wastewater sources.

(iv) [Reserved]

(v) A program for monitoring the quality of groundwater may be established for domestic systems (having contributions from industrial facilities), for applicable industrial wastewater systems and other systems, if required by the Department.

(vi) Groundwater monitoring (if required by the Department) for tile field systems shall be analyzed for the following parameters. The Department may eliminate any parameter based on actual site information, wastewater characteristics or the groundwater data from consistent wastewater plant operations:

(A) Water table elevation and water table depth

(B) [Reserved]

(C) Chloride

(D) Ammonia (NH<sub>3</sub>)

(E) Nitrate (N)

(F) [Reserved]

(G) pH (field)

(H) Sodium

(I) Total dissolved solids (TDS) This parameter may be added to the continuing groundwater monitoring based on the result of field specific conductance.

(J) Field Specific Conductance

(vii) Additional parameters may be required in the initial background groundwater analysis and subsequent monitoring thereafter, but such needs will be assessed on an individual project basis. Any

pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471)) may be required to be monitored (in a permit) in groundwater.

(2) All other tile field facilities.

(i) A program for monitoring the quality of groundwater may be established for domestic systems (having contributions from industrial facilities), for applicable industrial wastewater systems and other systems, if required by the Department.

(ii) Groundwater monitoring (if required by the Department) for other tile field systems shall be analyzed for the following parameters. The Department may eliminate any parameter based on actual site information or the groundwater data from consistent wastewater plant operations:

(A) Water table elevation and water table depth

(B) [Reserved]

(C) Chloride

(D) Ammonia (NH<sub>3</sub>)

(E) Nitrate (N)

(F) [Reserved]

(G) pH (field)

(H) Sodium

(I) Total dissolved solids (TDS) or Field specific conductance

(J) [Reserved]

(iii) Additional parameters may be required in the initial background groundwater analysis and subsequent monitoring thereafter, but such needs will be assessed on an individual project basis. Any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471)) may be required (in a permit) to be monitored in groundwater.

(f) Percolation or Evaporation Basins.

(1) A groundwater monitoring program may be required by the Department for existing systems to determine if there is a need to evaluate the groundwater conditions at the site to assure compliance with State Water Quality Standards R.61-68. If a deleterious impact to the groundwaters of the State from the permitted use or disposal practices is documented, through groundwater monitoring levels exceeding the standards set forth in R.61-68 or a significant adverse trend occurs, then it will be the obligation of the permittee as directed by the Department to conduct an investigation to determine the vertical and horizontal extent of groundwater impact. The Department may require remediation of the groundwater to within acceptable levels for groundwater as set forth in R.61-68.

(2) A program for monitoring the quality of groundwater may be established for domestic systems (having contributions from industrial facilities), for applicable industrial wastewater systems and other

systems, if required by the Department. The Department may consider influent characteristics in this determination.

(i) Groundwater monitoring (if required by the Department), for percolation or evaporation basins shall be analyzed for the following parameters. The Department may eliminate any parameter based on actual site information or the groundwater data from consistent wastewater plant operations:

(A) Water table elevation and water table depth

(B) [Reserved]

(C) Chloride

(D) Ammonia (NH<sub>3</sub>)

(E) Nitrate (N)

(F) [Reserved]

(G) pH (field)

(H) Sodium

(I) Total dissolved solids (TDS)

(J) [Reserved]

(ii) Additional parameters may be required in the initial background groundwater analysis and subsequent monitoring thereafter but such needs will be assessed on an individual project basis. Any pollutant required for monitoring under effluent guidelines (40 CFR Part 136; Subchapter N (40 CFR Parts 400 through 402 and 404 through 471)) may be required (in a permit) to be monitored in groundwater.

(g)(1) Spray irrigation or land application of sewage sludge shall be in accordance with R.61-9.503. Spray irrigation or land application of Industrial sludge shall be in accordance with R.61-9.504.

(2) If total suspended solids concentration of the treated wastewater solids or sludge is less than 2000 mg/l the Department may require the facility to comply with the additional requirements for land application of wastewater (R.61-9.505.42(b)).

(h) Reclaimed wastewater systems.

(1) Provided the level of treatment meets the requirement outlined in section 505.45(i), there would not be specific buffer area requirements.

(2) A groundwater monitoring program may be required by the Department for existing or new systems to determine if there is a need to evaluate the background groundwater conditions at the site to assure compliance with State Water Quality Standards R.61-68.

(3) Piping shall be clearly marked to identify reclaimed water lines and the Department may establish specific guidelines for use of reclaimed water systems.

(4) Reclaimed wastewater systems may be required to provide covered storage systems (or other alternative methods) to maintain effluent quality prior to distribution.

**505.43. Establishing Land Application permit and State permit conditions.**

(a) In addition to conditions required in all permits (section 505.41 and section 505.42), the Department shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the CWA and PCA and regulations. These shall include conditions under section 505.46 (duration of permits), section 505.47(a) (schedules of compliance), and section 505.48 (monitoring).

(b)(1) An “applicable requirement” is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. At the discretion of the Department, the comment period may be reopened where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in section 505.62.

(2) New or reissued permits and, to the extent allowed under section 505.62 modified or revoked and reissued permits shall incorporate each of the applicable requirements referenced in section 505.44 and section 505.45.

(c) Incorporation. All permit conditions shall be incorporated either expressly or by reference.

**505.44. Establishing limitations, standards, and other Land Application permit and State permit conditions.**

In addition to the conditions established under section 505.43(a), each Land Application permit and State permit may include conditions meeting the following requirements when applicable.

(a) [Reserved]

(b)(1) [Reserved]

(2) Standards for sewage sludge use or disposal under section 405(d) of the CWA, unless those standards have been included in a permit issued under the appropriate provisions of Subtitle C of the Solid Waste Disposal Act; Part C of Safe Drinking Water Act; the Marine Protection, Research, and Sanctuaries Act of 1972; the Clean Air Act; or under regulation R.61-9.503. When there are no applicable standards for sewage sludge use or disposal, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge. If any applicable standard for sewage sludge use or disposal is promulgated under section 405(d) of the CWA and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under these regulations to modify or revoke and reissue the permit to conform to the standard for sewage sludge use or disposal.

(c) Reopener clause: For any permit issued to a treatment works treating domestic sewage (including “sludge-only facilities”), the Department shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA and R.61-9.503. The Department may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph, if the standard for sewage sludge use or disposal is more stringent than any

requirements for sludge use or disposal in the permit or controls a pollutant or practice not limited in the permit.

(d) Water quality standards (Regulation 61-68) and State requirements:

(1) Achieve surface and groundwater quality standards, including State narrative criteria for water quality.

(i) Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Department determines are or may be discharged at a level which will cause or contribute to an excursion above any State water quality or groundwater standard, including State narrative criteria for water quality.

(ii) Where the Department has not established a surface or groundwater quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes or contributes to an excursion above a narrative criterion within an applicable State water quality standard, the permitting authority may establish effluent limits or other requirements, including indicator parameters for pollutants of concern.

(iii) Conform to the conditions for State certification under R.61-101 and section 401 of the CWA.

(iv) Conform to applicable water quality requirements under section 401(a)(2) of the CWA when the discharge affects a State other than the certifying State;

(v) Conform to any more stringent limitations, treatment standards, or schedule of compliance requirements established under Federal or State law or regulations;

(vi) Ensure consistency with the requirements of a Water Quality Management plan approved under section 208(b) of the CWA;

(e) [Reserved]

(f) [Reserved]

(g) Twenty-four hour reporting. The permittee shall report any non-compliance which may endanger public health or the environment. The permittee shall notify the Department orally within 24 hours of becoming aware of such conditions.

(h) Durations for permits, as set forth in section 505.46.

(i) Monitoring requirements. In addition to section 505.48, the following monitoring requirements apply:

(1) To assure compliance with permit limitations and protection of the environment, requirements to monitor:

(i) Each pollutant limited in the permit and as necessary to characterize any other pollutant, which may be in the wastewater, which has a significant potential to have an effect on the environment or operation of treatment or disposal facilities,

(ii) The volume of effluent applied as specified in the permit.

(iii) Other measurements as appropriate including pollutants in internal waste streams under section 505.45(h), frequency, rate of discharge, etc., for noncontinuous discharges under section 505.45(e); pollutants subject to notification requirements under section 505.42(a); and pollutants in sewage sludge or other monitoring as specified in 40 CFR Part 503 or R.61-9.503 or R.61-9.504; or as determined to be necessary on a case-by-case basis pursuant to section 405(d)(4) of the CWA.

(iv) According to test procedures approved under 40 CFR Part 136 or identified in R.61-9.503 or R.61-9.504 for the analyses of pollutants having approved methods under that part, and according to a test procedure specified in the permit for pollutants having no approved methods.

(2) Requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge.

(3) Permits which do not require the submittal of monitoring result reports at least annually shall require that the permittee report all instances of noncompliance not reported under R.61-9.505.41(1)(1), (4), (5) and (6) at least annually.

(j) Pretreatment program for POTWs. Requirements for POTWs to:

(1) Identify, in terms of character and volume of pollutants, any significant indirect dischargers into the POTW subject to pretreatment standards under section 307(b) of the CWA and R.61-9.403.

(2) Submit a local program when required by and in accordance with R.61-9.403 to assure compliance with pretreatment standards to the extent applicable under section 307(b). The local program shall be incorporated into the permit as described in R.61-9.403. The program shall require all indirect dischargers to the POTW to comply with the reporting requirements of R.61-9.403.

(3) For POTWs which are “sludge-only facilities,” a requirement to develop a pretreatment program under R.61-9.403 when the Department determines that a pretreatment program is necessary to assure compliance with section 405(d) of the CWA.

(k) Best management practices to control or abate the discharge of pollutants.

(l) [Reserved]

(m) Privately owned treatment works. For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this part. Alternatively, the Department may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The Department’s decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works.

(n) [Reserved]

(o) Sewage sludge. Requirements under section 405 of the CWA governing the disposal of sewage sludge from publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established, in accordance with any applicable regulations.



#### **505.45. Calculating Land Application permit and State permit conditions.**

(a) Outfalls and discharge points. Permit effluent limitations, standards and prohibitions shall be established for each outfall or discharge point of the permitted facility, except as otherwise provided under section 505.44(k) (BMPs, where limitations are infeasible) and paragraph (i) of this section (limitations on internal waste streams).

(b) Production-based limitations. Permit effluent limitations, standards, or prohibitions shall be calculated based on design flow, number of units or other methods established by the Department.

(c) Metals. All permit effluent limitations, standards, or prohibitions for a metal shall be expressed in terms of “total recoverable metal” or “total metals” as defined in 40 CFR Part 136, 40 CFR Part 503, or R.61-9.503 unless:

(1) An applicable effluent standard or limitation has been promulgated under the CWA or under R.61-68 which specifies the limitation for the metal in the dissolved or valent or total form; or

(2) In establishing permit limitations on a case-by-case basis under R.61-9.125.3, it is necessary to express the limitation on the metal in the dissolved or valent or total form to carry out the provisions of the CWA; or

(3) All approved analytical methods for the metal inherently measure only its dissolved form (e.g., hexavalent chromium).

(d) Continuous discharges. For continuous discharges, all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, may be stated as:

(1) Maximum daily and average monthly discharge limitations for all dischargers other than publicly owned treatment works and private facilities; and

(2) Average weekly and average monthly discharge limitations for POTWs and private facilities.

(e) Non-continuous discharges. Discharges which are not continuous, as defined in section 122.2, may be particularly described and limited, considering the following factors, as appropriate:

(1) Frequency (for example, a batch discharge shall not occur more than once every 3 weeks);

(2) Total mass (for example, not to exceed 100 kilograms of zinc and 200 kilograms of chromium per batch discharge);

(3) Maximum rate of discharge of pollutants during the discharge (for example, not to exceed 2 kilograms of zinc per minute); and

(4) Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, shall not contain at any time more than 0.1 mg/l zinc nor more than 250 grams (¼ kilogram) of zinc in any discharge).

(f) Mass limitations.

(1) All pollutants limited in permits may have limitations, standards, or prohibitions expressed in terms of mass except:

(i) For pH, temperature, radiation, or other pollutants which cannot appropriately be expressed in mass:

(ii) When applicable standards and limitations are expressed in terms of other units of measurement;  
or

(iii) If in establishing permit limitations on a case-by-case basis under R.61-9.125.3, limitations expressed in terms of mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation (for example, discharges of TSS from certain mining operations), and permit conditions ensure that dilution will not be used as a substitute for treatment.

(2) Pollutants limited in terms of mass additionally may be limited in terms of other units of measurement, and the permit shall require the permittee to comply with both limitations.

(g) Limits for nutrients (e.g., nitrate) may be required based on the information provided by the applicant including but not be limited to, an analysis of the nutrient uptake of the proposed groundcover, crop or silviculture, design application rates, size and soil conditions present, and the total nutrient loading to the site.

(h) Internal waste streams. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by section 505.44(i) shall also be applied to the internal waste streams.

(i) Minimum treatment requirement.

(1) Purpose. This section provides information on the minimum level of effluent quality for specific categories of Land Application permits or State permits.

(2) Definitions. Terms used are defined as follows:

(i) "7-day average." The arithmetic mean of pollutant parameter values of samples collected in a period of 7 consecutive days.

(ii) "30-day average." The arithmetic mean of pollutant parameter values of samples collected in a period of 30 consecutive days.

(iii) "BOD<sub>5</sub>" The five day measure of the pollutant parameter biochemical oxygen demand (BOD).

(iv) "CBOD<sub>5</sub>". The five day measure of the pollutant parameter carbonaceous biochemical oxygen demand (CBOD<sub>5</sub>).

(v) "Effluent concentrations consistently achievable through proper operation and maintenance." For a given pollutant parameter, the 95th percentile value for the 30-day average effluent quality achieved by a treatment works in a period of at least two years, excluding values attributable to upsets, bypasses, operational errors, or other unusual conditions.

(vi) “Facilities eligible for treatment equivalent to secondary treatment.” Treatment works shall be eligible for consideration for effluent limitations described for treatment equivalent to secondary treatment, if:

(A) The effluent BOD<sub>5</sub> and TSS concentrations consistently achievable through proper operation and maintenance exceed the minimum level of the effluent quality set forth in section 505.45(i)(3)(i) and section 505.45(i)(3)(ii).

(B) A trickling filter or waste stabilization pond including aerated lagoon is used as the principal process, and

(C) The treatment works provide significant biological treatment of municipal and/or domestic wastewater.

(vii) “mg/l.” Milligrams per liter.

(viii) “Percent removal.” A percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period.

(ix) “Significant biological treatment.” The use of an aerobic or anaerobic biological treatment process in a treatment works to consistently achieve a 30-day average of at least 65 percent removal of BOD<sub>5</sub>.

(x) “Reclaimed wastewater systems.” A method of advanced wastewater treatment designed to produce an effluent of such a high quality to be suitable for irrigation in areas with public contact such as yard irrigation and public open spaces.

(xi) “TSS.” The pollutant parameter total suspended solids.

(3) The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment for municipal and/or domestic wastewater in terms of the parameters BOD<sub>5</sub> and TSS.

(i) BOD<sub>5</sub>. For all facilities except reclaimed wastewater systems, septic tanks, trickling filters and waste stabilization ponds.

(A) The 30-day average shall not exceed 30 mg/l.

(B) The 7-day average shall not exceed 45 mg/l.

(C) At the option of the Department, in lieu of the parameter BOD<sub>5</sub> and the levels of the effluent quality specified in paragraphs (3)(i)(A) and (3)(i)(B), the parameter CBOD<sub>5</sub> may be substituted with the following levels of the CBOD<sub>5</sub> effluent quality provided:

(I) The 30-day average shall not exceed 25 mg/l.

(II) The 7-day average shall not exceed 40 mg/l.

(ii) TSS. For all facilities except reclaimed wastewater systems, septic tanks, trickling filters and waste stabilization ponds.

(A) The 30-day average shall not exceed 30 mg/l.

(B) The 7-day average shall not exceed 45 mg/l.

(iii) Waste stabilization ponds.

(A) The Department may adjust the minimum level of effluent quality set forth for municipal and/or domestic wastewater treatment works subject to this part to conform to the suspended solids concentrations achievable with waste stabilization ponds, provided that:

(I) Waste stabilization ponds, including aerated lagoon systems, are the principal process used for secondary treatment;

(II)

(1) The term “TSS concentrations achievable with waste stabilization ponds” means a TSS value, determined by the Department, which is equal to the effluent concentration achieved 90 percent of the time within the State.

(2) Allowable limits:

(i) The 30-day average shall not exceed 90 mg/l.

(ii) The 7-day average shall not exceed 135 mg/l.

(4) Treatment equivalent to secondary treatment. This section describes the minimum level of effluent quality required for facilities eligible for treatment equivalent to secondary treatment.

(i) BOD<sub>5</sub>. For trickling filters and waste stabilization ponds.

(A) The 30-day average shall not exceed 45 mg/l.

(B) The 7-day average shall not exceed 65 mg/l.

(ii) TSS For trickling filters.

(A) The 30-day average shall not exceed 45 mg/l.

(B) The 7-day average shall not exceed 65 mg/l.

(iii) CBOD<sub>5</sub> limitations: For trickling filters and waste stabilization ponds.

(A) Where data are available to establish CBOD<sub>5</sub> limitations for a treatment works subject to this section, the Department may substitute the parameter CBOD<sub>5</sub> for the parameter BOD<sub>5</sub> on a case-by-case basis provided that the levels of CBOD<sub>5</sub> effluent quality are not less stringent than the following:

(1) The 30-day average shall not exceed 40 mg/l.

(2) The 7-day average shall not exceed 60 mg/l.

(B) Where data are available, the parameter CBOD<sub>5</sub> may be used for effluent quality limitations established under this section. Where concurrent BOD effluent data are available, they must be submitted with the CBOD data as a part of the approval process.

(5) Chemical oxygen demand (COD) or total organic carbon (TOC) may be substituted with Departmental approval for BOD<sub>5</sub> under section 505.45(i)(3) and section 505.45(i)(4), when a long-term BOD:COD or BOD:TOC correlation has been demonstrated.

(6) For reclaimed water systems, with application in areas with a high potential for contact (e.g. residential irrigation systems, multifamily irrigation systems, commercial irrigation systems in common residential areas, public parks, and open spaces).

(i) BOD<sub>5</sub> shall not exceed 5 mg/l monthly average and 7.50 mg/l weekly average.

(ii) Total Suspended Solids (TSS) shall not exceed 5 mg/l monthly average and 7.50 mg/l weekly average.

(iii) Turbidity limits may be established in terms of Turbidity Units, or other means similar to the protection of Drinking Water.

(iv) Total Residual Chlorine (TRC) in the effluent shall be maintained in a manner that a detectable residual chlorine level is maintained in the distribution system and the fecal coliform limits are met. The Department may establish specific total residual chlorine limits for reclaimed water systems based on the site conditions and the distribution system design.

(v) Additional parameters may be required based on the permit application but such needs will be assessed on an individual basis. Any pollutant present in the wastewater may be required to be monitored (in a permit) in the effluent or groundwater.

(7) For tile field systems with Land Application or State Permits.

(i) The technical design standards for Individual Waste Disposal Systems R.61-56, may be utilized by the Department for these facilities.

(ii) The Department may require monitoring and reporting and/or specific limitations for any pollutant present in the wastewater. These requirements may be assessed on an individual project basis.

(8) For dischargers other than POTWs and domestic wastewater. Adequate treatment shall be determined by the Department on an individual project basis.

(9) Fecal coliform limitations.

(i) Land application systems. For all POTW and for those other systems including in the influent a significant amount of, or having a significant effect from, domestic sewage, at least as stringent as 200/100 ml monthly average and 400/100 ml daily maximum, or the bacteriological standard from the nearest surface water body as defined in R.61-68 (if this surface water is classified with a more restrictive standard), except where it can be shown that neither storm water nor wastewater will run off the disposal site to a waterway and that the isolation of the disposal site will eliminate exposure of persons to pathogens. A significant amount or effect is related to the effluent having a reasonable potential to violate the above-stated bacteriological requirement. For all other discharges, the Department may use the previously

identified limits, or establish other fecal coliform limitations to reflect the specific discharge and site conditions. Domestic sewage is defined at R.61-9.503.9.

(ii) Tile field and rapid infiltration. No limits, unless specifically required by the Department.

(iii) Reclaimed wastewater. Coliform limitations (for those activities covered under the reclaimed water description) similar to the standards in State Primary Regulations (R.61-58) shall be met in the effluent and the distribution system. Other uses of reclaimed water (e.g., golf course irrigation) would be covered under land application systems or for surface water discharges covered under R.61-9.122.

(iv) Overland Flow. Effluent limits for discharge to surface waters of  $2^{00}/_{100}$  ml monthly average and  $4^{00}/_{100}$  ml daily maximum, or fecal coliform standard for the surface water body as defined in R.61-68.

(10) Nitrate monitoring or limitations (as N).

(i) Land application systems. Monitor and Report effluent Nitrate (as N) concentrations. Monitor and Report Nitrate (as N) concentrations for sludge and septage application. No limits, unless specifically required by the Department. The Department may eliminate this requirement for wastes with minimal, or no nitrate loading (such as water plant sludges).

(ii) Tile field and rapid infiltration. No limits, unless specifically required by the Department.

(iii) Reclaimed wastewater. Monitor and Report effluent Nitrate (as N) concentrations. No limits, unless specifically required by the Department.

(iv) Overland Flow. Monitor and Report effluent Nitrate (as N) concentrations. No limits, unless specifically required by the Department. The Department may eliminate this requirement for wastes with minimal, or no nitrate loading.

#### **505.46. Duration of Land Application permits and State permits.**

(a) A Land Application permit issued (except for permits issued for activities covered under 40 CFR Part 503) pursuant to State law and this regulation shall be effective for a fixed term not to exceed ten (10) years. A Land Application permit issued for activities covered under 40 CFR Part 503 pursuant to State law and this regulation shall be effective for a fixed term not to exceed five (5) years. An issued State permit shall remain effective until cancelled or revoked by the Department.

(b) Except as provided in R.61-9.505.6, the term of a Land Application permit shall not be extended by modification beyond the maximum duration specified in this section.

(c) The Department may issue any permit for a duration that is less than the full allowable term under this section.

#### **505.47. Schedules of compliance.**

(a) General. The State or Land Application permit may, when appropriate, specify a schedule of compliance leading to compliance with CWA, PCA, and regulations.

(1) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible, or as provided for under section 505.47(c).

(2) The first Land Application permit or State permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For recommencing dischargers, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of discharge.

(3) Interim dates. Except as provided in paragraph (b)(1)(ii) of this section, if a permit establishes a schedule of compliance which exceeds nine (9) months from the date of permit issuance, the schedule shall set forth interim requirements and the date for their achievement.

(i) The time between interim dates shall not exceed nine (9) months, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

(ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than nine (9) months and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(4) Reporting. The permit shall be written to require that no later than 14 calendar days following each interim date and the final date of compliance, the permittee shall notify the Department in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if paragraph (a)(3)(ii) is applicable.

(b) Alternative schedules of compliance. A State or Land Application permit applicant or permittee may cease conducting regulated activities (by terminating of discharge for State or Land Application permit sources) rather than continuing to operate and meet permit requirements as follows:

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(ii) The permittee shall cease conducting permitted activities before non-compliance with any interim or final compliance schedule requirement already specified in the permit.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline.

(3) If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two schedules as follows:

(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner, if the decision is to continue conducting regulated activities;

(ii) One schedule shall lead to timely compliance with applicable requirements, no later than the statutory deadline;

(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements no later than the statutory deadline.

(iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under paragraph (b)(3)(i) of this section, it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination, if the decision is to cease conducting regulated activities.

(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation.

(c) Terms and Conditions of Permits: Schedules of Compliance.

(1) A person issued a Land Application permit or State permit by the Department who is not in compliance with applicable effluent standards and limitations or other requirements contained therein at the time the permit is issued, shall be required to achieve compliance within a period of time as set forth by the Department, with effluent standards and limitations, with water quality standards, or with specific requirements or conditions set by the Department. The Department shall require compliance with terms and conditions of the permit in the shortest reasonable period of time as determined thereby or within a time schedule for compliance which shall be specified in the issued permit.

(2) If a time schedule for compliance specified in a Land Application permit or State permit which is established by the Department pursuant to paragraph (c)(1) above, exceeds nine (9) months, the time schedule shall provide for interim dates of achievement for compliance with certain applicable terms and conditions of the permit.

(d) Terms and Conditions of Permits: Compliance Reports by Dischargers.

(1) Within fourteen (14) calendar days after an interim date of compliance or the final date of compliance specified in a Land Application permit or State permit, a permittee shall provide the Department with written notice of his compliance or noncompliance with the requirements or conditions specified to be completed by that date.

(2) Failure to submit the written notice to the Department is just cause for the Department to pursue enforcement action against the discharger pursuant to the State law or this regulation.

(e) Noncompliance. A discharger who fails or refuses to comply with an interim or final date of compliance specified in a State or a Land Application permit, may be deemed by the Department to be in violation of the permit and may be subject to enforcement action prescribed in the State law or this regulation.

**505.48. Requirements for recording and reporting of monitoring results.**

(a) All permits shall specify:

(1) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate).



(2) Monitoring shall include type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(3) Applicable reporting requirements based upon the impact of the regulated activity and as specified in section 505.44. Reporting shall be no less frequent than specified in the above regulation.

(4) That a permittee required to monitor a waste discharge shall maintain records of all information resulting from such monitoring, including the date, place and time of sampling; the dates analyses were performed; the person performing the analyses; the analytical techniques, procedures or methods used; and the results of such analyses. All records and results of monitoring activities and calibration and maintenance records shall be retained by the permittee a minimum of three (3) years, unless otherwise required or extended by the Department.

(b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required by the Department to be maintained as a condition in a permit, or who alters or falsifies the results obtained by such devices or methods, shall be deemed to have violated a permit condition and shall be subject to the penalties provided pursuant to 48-1-320 and 48-1-330 of the Code.

#### **PART D**

### **TRANSFER, MODIFICATION, REVOCATION AND REISSUANCE, AND TERMINATION OF LAND APPLICATION PERMITS AND STATE PERMITS**

#### **505.61. Transfer of Land Application permits and State permits.**

(a) Transfers by modification. Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under section 505.62(e)(2)), or a minor modification made (under section 505.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under PCA.

(b) Other transfers. As an alternative to transfers under paragraph (a) of this section, any Land Application permit or State permit may be transferred to a new permittee if:

(1) The current permittee notifies the Department at least 30 days in advance of the proposed transfer date, and complies with the requirements in paragraph (b)(2) of this section;

(2) The notice includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

(3) Permits are non-transferable except with prior consent of the Department. A modification under this subparagraph may also be a minor modification under section 505.63.

#### **505.62. Modification or revocation and reissuance of Land Application permits and State Permits.**

(a) When the Department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see section 505.41), receives a request for modification or revocation and reissuance under R.61-9.124.5, or conducts a review of the permit file), it may determine whether or not one or more of the causes listed in paragraphs (d) and (e) of this section for modification or revocation and reissuance or both exist.

(b) If cause exists, the Department may modify or revoke and reissue the permit accordingly, subject to the limitations of R.61-9.124.5(c), and may request an updated application, if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. See R.61-9.124.5(c)(2).

(c) If a permit modification satisfies the criteria in section 505.63 for “minor modifications” the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in R.61-9.124 followed.

(d) Causes for modification. The following are causes for modification or revocation and reissuance of permits.

(1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee’s sludge use or disposal practice) which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(2) Information. The Department has received new information.

(3) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued.

(4) Compliance schedules. The Department determines good cause exists for modification of a compliance schedule or terms and conditions of a permit, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. See also section 505.63(c) (minor modifications).

(5) [Reserved]

(6) 307(a) toxics. When required to incorporate an applicable 307(a) of the CWA toxic effluent standard or prohibition (see R.61-9.122(b)(1)).

(7) Reopener. When required by the “reopener” conditions in a permit, or when established in the permit under R.61-403.10(e)(pretreatment program).

(8) [Reserved]

(9) Pretreatment. As necessary under R.61-9.403.8(e) (compliance schedule for development of pretreatment program).

(10) [Reserved]

(11) Non-limited pollutants. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which may cause an adverse impact to surface or groundwaters.

(12) [Reserved]

(13) [Reserved]

(14) [Reserved]

(15) To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

(16) When the discharger has installed the treatment technology considered by the permit writer when developing effluent limits and has properly operated and maintained the facilities, but nevertheless has been unable to achieve those effluent limitations.

(17) [Reserved]

(18) Land application plans. When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.

(e) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

(1) Cause exists for termination under section 505.64, and the Department determines that modification or revocation and reissuance is appropriate.

(2) The Department has received notification (as required in the permit, see section 505.41(1)(3)) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (section 505.61(b)); but it will not be revoked and reissued after the effective date of the transfer, except upon the request of the new permittee.

(3) There is a violation of any terms or conditions of the permit, or of a State surface or groundwater standard.

(4) The permittee has obtained a permit by misrepresentation or has failed to disclose all relevant facts to the Department. This includes providing inaccurate or misleading information to the Department on a permit application, or conditions have changed and the permit application does not reflect the actual conditions.

### **505.63. Minor modifications of Land Application permits and State permits.**

The Department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of R.61-9.124. Any Land Application permit modification not processed as a minor modification under this section must be made for cause and with R.61-9.124 draft permit and public notice as required for Land Application Permits in section 505.62. Minor modifications may only:

(a) Correct typographical errors;

(b)(1) Require more frequent monitoring or reporting by the permittee, change the monitoring day, or make other changes which do not result in the discharge of other or more pollutants;

(2) Change or add a requirement to use an analytical method.

(c)(1) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement or

(2) Delete schedules of compliance or specific interim limits, if final limits are placed in effect.

(d) Approve permit transfer for a Change in Ownership, as follows:

(1) Allow for a change in ownership or operational control of a facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department.

(2) Whenever there occurs a change in the ownership of treatment works which are the subject of a Land Application permit or State permit, the new owner shall notify the Department of this change in ownership within thirty (30) days thereof and shall be bound by all the terms and conditions of said permit or permits.

(3) Change facility name.

(4) Permits are non-transferable except with the prior consent of the Department.

(e) Delete a discharge when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.

(f)(1) Add intermediate, lower-flow-capacity pages of effluent limits that have no loadings higher than the current permit (e.g., adding a 0.5 MGD page [requiring secondary treatment] if the permit already has a 1 MGD page [requiring secondary treatment]).

(2) Add or revise CWA section 208 certification requirements.

(3) [Reserved]

(4) Change sludge disposal sites from one approved landfill to another.

(g) Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in R.61-9.403.11 (or a modification thereto that has been approved in accordance with the procedures in R.61-9.403.18) as enforceable conditions of the POTW's permits.

(h)(1) Change the operator grade or other operator requirements, including revision to frequency of operator visits.

(2)(i) Change a sampling date stated in the permit or add a sampling date,

(ii) Add specific sample locations if unclear in the issued permit,

(iii) Reduce sampling frequency after some period of time, if specifically allowed in an issued permit.

(3) Add the treatment system reliability classification.

(4) Require submittal of closure plans.

(5) Change page numbers of the issued permit.

(6)(a) Comply with 403.8(c) concerning pretreatment programs.

(b) Add a compliance schedule to require development of a new pretreatment program, requiring, where appropriate, that the permittee comply with 403.8(b) Deadline for Program Approval.

**505.64. Termination of Land Application permits and State permits.**

(a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:

(1) Noncompliance by the permittee with any condition of the permit or of a State surface or groundwater standard:

(2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(4)(i) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

(ii) Cessation of substantially all manufacturing operations, which are a basis for effluent limits or which contribute to a discharge, for a period of 180 days or longer.

(5) A permittee with a permit which requires connection to a regional sewer system or other treatment facilities under the water quality management plan under section 208 of the CWA is ineligible for reissuance of a permit once notified by the Department that the regional sewer system is operational.

(6) The permittee's failure to comply with the Environmental Protection Fees Regulation R.61-30.

(b) The Department shall follow the applicable procedures in R.61-9.124 in terminating any Land Application permit under this section.