



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

Mr. F. Paul Calamita
AquaLaw PLC
6 South 5th Street
Richmond, Virginia 23219

Dear Mr. Calamita:

This letter is in response to your June 1, 2020 request for clarification on the question of whether a person who is serving in the role as a plant manager at a municipal wastewater utility pursuant to a contract could serve as a duly authorized representative under the National Pollutant Discharge Elimination System (NPDES) regulations and, therefore, sign a discharge monitoring report (DMR) on behalf of the utility.

EPA's regulations at 40 CFR Section 122.22 specify who can sign NPDES application forms and reports (including DMRs), as well as any other information required by the director of the permitting authority. Section 122.22(b) allows for documents other than permit application forms to be signed by a "duly authorized representative" who has been authorized in writing by one of the persons described in Section 122.22(a) (*e.g.*, a principal executive officer or ranking elected official for a municipality).

Specifically, Section 122.22(b) (*emphasis added*) states:

- (b) All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described in paragraph (a) of this section;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of **plant manager**, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,
 - (3) The written authorization is submitted to the Director.

This regulation identifies the position of plant manager as an example of someone who could serve as a duly authorized representative. The regulation does not prohibit an employee who holds the position of plant manager via a contract from serving as a duly authorized representative. Thus, an individual who is employed by contract as a plant manager can serve as a duly authorized representative and sign a DMR

on behalf of a municipal utility, provided that the other Section 122.22 requirements are met. Please contact me or Andrew Sawyers, director of the Office of Wastewater Management (Sawyers.Andrew@epa.gov) with any additional questions or concerns.

Sincerely,

David P. Ross
Assistant Administrator