



South Carolina

NPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION CONSTRUCTION ACTIVITIES

In compliance with the provisions of the SC Pollution Control Act (S.C. Code Sections 48-1-10 *et seq.*, 1976) and with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et. seq.*, (hereafter CWA or the Act), as amended by the Water Quality Act of 1987, P.L. 100-4, Operators of construction activities that are described in Section 1.3 of this National Pollutant Discharge Elimination System (NPDES) Permit, except for those activities excluded from authorization of discharge in Section 1.3.C of this Permit, are authorized to discharge pollutants to Surface Waters of the State in accordance with the conditions and requirements set forth herein. Permit coverage is required from the “commencement of construction activities” until “final stabilization” as defined in Appendix A.

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**NPDES General Permit for
Stormwater Discharges from SCDOT Construction Activities**

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ACRONYMS & ABBREVIATIONS

As used in this Permit, the listed acronyms and abbreviations have the following meanings:

BMP - Best Management Practice
C&D - Construction and Development
CEPSCI - Certified Erosion Prevention and Sediment Control Inspector
CFR - Code of Federal Regulations
DOTCGP - Construction General Permit
CWA - Clean Water Act
CZC - Coastal Zone Consistency
DHEC - Department of Health and Environmental Control
EIN - Employer Identification Number
EPA - United States Environmental Protection Agency
EPSC - Erosion Prevention and Sediment Control
GCZC - General Coastal Zone Consistency
GEP - Good Engineering Practices
LA - Load Allocation
MS4 - Municipal Separate Storm Sewer System
NOI - Notice of Intent
NOT - Notice of Termination
NPDES - National Pollutant Discharge Elimination System
OCRM – Ocean and Coastal Resource Management
ONRW - Outstanding National Resource Waters
PCA - South Carolina Pollution Control Act
POTW - Publicly Owned Treatment Works
RCE – Resident Construction Engineer
SCDOT – South Carolina Department of Transportation
SCNW – South Carolina Navigable Waters
SMSCP - Stormwater Management and Sediment Control Plan
SWPPP - Stormwater Pollution Prevention Plan
TMDL - Total Maximum Daily Load
USACOE - United States Army Corps of Engineers
USGS - United States Geological Survey
WLA - Waste Load Allocation
WoS - Waters of the State
WQS - Water Quality Standards

SECTION 1 : COVERAGE UNDER THIS PERMIT

1.1 INTRODUCTION

This South Carolina Department of Transportation Construction General Permit (DOTCGP) authorizes stormwater discharges from construction activities under the jurisdiction of the South Carolina Department of Transportation (SCDOT) where those discharges enter Surface Waters of the State or Municipal Separate Storm Sewer System (MS4), or any conveyance, leading to Surface Waters of the State subject to the conditions set forth in this Permit. This Permit also authorizes stormwater discharges from any other construction activity under the jurisdiction of the South Carolina Department of Transportation designated by DHEC where DHEC makes that designation based on the potential for contribution to a violation of a Water Quality Standard (WQS) or for significant contribution of pollutants to Surface Waters of the State. This Permit provides an alternative to the Stormwater Construction General Permit (NPDES # SCR100000) issued August 1, 2006. Any references to the 2006 CGP in this Permit refer to that Permit.

1.2 PERMIT AREA

This Permit covers all areas under the jurisdiction of the South Carolina Department of Transportation in which SCDOT is the owner or operator, which issues or manages the land disturbing activity.

1.3 ELIGIBILITY

Permit eligibility is limited to discharges from “large” and “small” construction activities, as defined in Appendix A, where the South Carolina Department of Transportation (“Permittee”) is the Operator. This DOTCGP contains eligibility restrictions as well as Permit conditions and requirements. You may have to take certain actions to be eligible for coverage under this Permit. In such cases, you must continue to satisfy those eligibility provisions to maintain Permit authorization. If you do not meet the requirements that are a pre-condition to eligibility, then resulting discharges constitute un-permitted discharges. By contrast, if you do not comply with the requirements of the DOTCGP, you may be in violation of the DOTCGP for your otherwise eligible discharges.

A. ALLOWABLE STORMWATER DISCHARGES

Subject to compliance with the terms and conditions of this Permit, you are authorized to discharge pollutants in:

1. Stormwater discharges from construction activities including clearing, grading, and excavating that result in the land disturbance of one acre or more. In addition, stormwater discharges from Projects of less than one acre of land disturbance are required to obtain authorization under this Permit if the land disturbing activities at the Project are part of a larger common plan of development that comprise of at least one acre of land disturbance.
2. In the State’s Coastal Zone (Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry and Jasper Counties), this Permit also authorizes point source discharges of stormwater from construction activities including clearing, grading and excavating that result in the land disturbance of greater than 0.5 acre located within one-half mile of a coastal receiving water body. Projects located in the Coastal Zone that are not part of a larger common plan of

development that disturb 0.5 acres or less and are located within one-half mile of a coastal receiving water body are automatically granted coverage under this DOTCGP without submitting an NOI to the Department provided the appropriate Best Management Practices are being used and the land disturbing activity is covered under a General Coastal Zone Consistency (GCZC) Certification issued by DHEC's Office of Ocean and Coastal Resource Management. A comprehensive list of GCZC Certifications is currently available at:

<http://www.scdhec.gov/ocrm>

3. Stormwater discharges designated by DHEC as needing a stormwater Permit under §122.26(a)(1)(v) or §122.26(b)(15)(ii) of SC Regulation 61-9 (Water Pollution Control Permits-NPDES and Land Application Permits Regulation):

<http://www.scdhec.gov/environment/water/regs/r61-9.pdf>;

4. Discharges composed of allowable discharges listed in Subsections 1.3.A and 1.3.B commingled with a discharge authorized by a different NPDES Permit and/or a discharge that does not require NPDES Permit authorization.

B. ALLOWABLE NON-STORMWATER DISCHARGES

The following non-stormwater discharges are authorized by this Permit provided the non-stormwater component of the discharge is in compliance with and managed according to Section 3.10 (Management of Non-Stormwater Discharges):

1. Discharges from fire-fighting activities;
2. Fire hydrant flushings;
3. Waters used to wash vehicles where detergents are not used;
4. Water used to control dust in accordance with Section 3.7 (Stormwater Management and Sediment Control Plan);
5. Potable water including uncontaminated water line flushings;
6. Routine external building wash down that does not use detergents;
7. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated ground water or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
11. Uncontaminated excavation dewatering; and
12. Landscape irrigation.

C. LIMITATIONS ON COVERAGE

1. This Permit does not authorize post-construction discharges that originate from the Project after construction activities have been completed and the Project has achieved final stabilization,

including any temporary support activity. Post construction stormwater discharges are authorized by the South Carolina Department of Transportation NPDES Permit for Discharge to Surface Waters from Municipal Separate Storm Sewer Systems.

2. This Permit does not authorize stormwater discharges associated with construction activity that have been covered under an Individual Permit or required to obtain coverage under an Alternative General Permit in accordance with Section 4.2.
3. This Permit does not authorize discharges that DHEC, prior to authorization under this Permit, determines will cause or contribute to a violation of any applicable water quality standard. Where such a determination is made prior to authorization, DHEC may notify you that an Individual Permit application is necessary in accordance with Section 4.2. However, DHEC may authorize your coverage under this Permit after you have included appropriate controls and implementation procedures in your SWPPP designed to bring your discharge into compliance with water quality standards.
4. You are not eligible for coverage under this Permit for discharges of pollutants of concern to waters for which there is an EPA approved or established Total Maximum Daily Load (TMDL) that is applicable to stormwater construction discharges unless you incorporate measures or controls that address the SCDOT TMDL Wasteload Allocation (WLA) into your SWPPP.
5. Discharges from support activities in areas not under SCDOT's jurisdiction such as concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow pits are not covered by this Permit.
6. This Permit does not authorize discharges when local governments (counties, cities, etc.) construct and manage state road construction Projects, as the owner of these road construction Projects during land disturbing activities is the local government.

1.4 EXEMPTIONS

- A. All SCDOT maintenance activities that are performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. Appropriate BMPs should be implemented for these activities.
- B. Any land disturbing activity pursuant to a construction activity which disturbs less than one (1) acre unless within the eight coastal counties. Appropriate BMPs should be implemented for these activities.

SECTION 2 : AUTHORIZATION FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITY

2.1 REQUIREMENTS OF OWNER AND OPERATORS

- A. "Owner" for the purpose of this Permit and in the context of stormwater associated with construction activity is SCDOT. The Owner has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. The SCDOT Director of Construction or an appointed designee must complete and submit, if required, the appropriate NOI form as specified in Section 2.2.

- B. “Operator” for the purpose of this Permit, and in the context of stormwater associated with construction activity, means any person who has day-to-day operational control of activities at a Project, which are necessary to ensure compliance with the SWPPP for the Project or other Permit conditions. This person is typically the SCDOT Resident Construction Engineer (RCE).
- C. “Secondary Operator” for the purpose of this Permit, and in the context of stormwater associated with construction activity, means a contractor hired by SCDOT who has day-to-day operational control of activities at a Project which are necessary to ensure compliance with the SWPPP for the Project or other Permit conditions.
- D. The Permittee’s responsibility to comply with requirements of this Permit extends until Permit coverage is terminated in accordance with requirements of Section 5.
- E. The Prime Contractor hired by SCDOT for a Project will become a Secondary Operator with SCDOT upon signing the awarded contract. The Secondary Operator must complete the agreement found in Appendix B of the SCDOT Contract. The agreement is to be signed in accordance with the signatory requirements of §122.22 of *South Carolina Regulation 61-9*. The agreement is to be maintained with the SWPPP.

2.2 NOTICE OF INTENT AND OTHER REQUIRED INFORMATION

- A. The NOI form provided in Appendix C will be submitted by the Owner. The following information must be provided on the NOI form:
 - 1. Owner name, address, and telephone number, and the SCDOT Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
 - 2. Project name, address, county and latitude/longitude of your construction Project;
 - 3. Whether your Project is located in Indian country and if so, the name of the Reservation, if applicable;
 - 4. Whether the SWPPP has been prepared in accordance with this DOTCGP;
 - 5. Name and classification of the Water(s) of the State into which your Project discharges and identification of proposed impacts, if any, including impacts of construction activities to SC Navigable Waters (SCNW);
 - 6. Identification of proposed impacts, if any, to jurisdictional wetlands, non-jurisdictional wetlands and direct Critical Area.
 - 7. The name of the 303(d) Listed impaired stations and TMDL(s) to which your Project discharges, and an indication whether you address the requirements of applicable TMDLs;
 - 8. Estimated dates of commencement of construction activity and final stabilization (i.e., Project start and completion dates);
 - 9. Total acreage of the Project (to the nearest tenth acre) to be disturbed for which you are requesting Permit coverage; and
 - 10. A certification statement, signed and dated by an authorized representative as defined in §122.22

of SC Regulation 61-9 (see Appendix B of this Permit), and the name and title of that authorized representative. The signature on the submitted NOI should be original.

11. Any other information the Department requires in addition to the information on the NOI form.
- B.** The following information and fees must also be submitted with the NOI form for the NOI submittal package to be complete:
1. A copy of the SWPPP;
 2. When requested by the Department, the supporting calculations and documents;
 3. The fee for coverage under this DOTCGP. SC Regulation 61-30, Environmental Protection Fees, governs this fee;
 4. The plan review fee of \$100 per disturbed acre not to exceed \$2000. The plan review fee is applicable only if DHEC reviews the SWPPP prior to granting coverage under this DOTCGP; and
 5. In the Coastal Zone, submissions must include an application for Coastal Zone Consistency (CZC). An individual CZC certification provided by DHEC's Office of Ocean and Coastal Resource Management (DHEC-OCRM) is required for your proposed construction activities as part of your Notice of Intent unless your proposed construction activities are covered under a General Coastal Zone Consistency (GCZC) Certification issued by DHEC-OCRM. A comprehensive list of GCZC Certifications and CZC application information is available at:

<http://www.scdhec.gov/environment/ocrm/czc.htm>

A 10-calendar day public notice of the CZC application is required as part of the CZC review for construction activities not covered under the GCZC.

2.3 SUBMISSION DEADLINES

Deadlines for submission of an initial or a modified Notice of Intent application and other required information are defined for "New" and "Ongoing" Projects." Appendix A defines a "New Project" as one that commenced construction after the effective date of this Permit. An "Ongoing Project" is one that commenced construction before the effective date of this Permit.

A. NEW PROJECTS

To obtain coverage under this DOTCGP, you must submit a complete and accurate NOI and other information required in Section 2.2 prior to commencement of construction activities. Land disturbing activities may not commence until written approval is granted by the Department in accordance with Section 2.5.

B. PERMITTED ONGOING PROJECTS

If you previously received authorization to discharge for the current phase of your Project under the 2006 NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities (SCR100000), you will be granted coverage under this DOTCGP as long as your Project complies with Section 3.1.D of this Permit. DHEC will notify you in writing that each coverage,

which is active on the Effective Date of this Permit, has been administratively transferred from SCR100000 to the DOTCGP.

C. LATE NOTIFICATIONS

NOIs submitted after initiating clearing, grading, filling and excavation activities, or other similar construction activities for Projects required to obtain authorization under this Permit are considered late. When a late NOI is submitted, authorization for discharges occurs consistent with Section 2.5. DHEC may take enforcement for any unpermitted discharge or violation of laws or regulations that occur between the time construction commenced and discharge authorization.

2.4 WHERE TO SUBMIT

Send your complete and accurate NOI application, consistent with Section 2.2, to the appropriate DHEC office based upon the location of the construction activity:

Non-Coastal Projects	Coastal Zone
<p>S.C. DHEC - Bureau of Water Stormwater Permitting Section 2600 Bull Street Columbia, SC 29201-1708</p>	<p>S.C. DHEC - Bureau of Water Coastal Stormwater Permitting Section 1362 McMillan Ave., Suite 400 Charleston, S.C. 29405</p>

If DHEC makes an electronic NOI available, then NOIs are to be submitted in that format.

2.5 AUTHORIZATION TO DISCHARGE

- A. If DHEC does not send a letter authorizing coverage, denying coverage, or advising that a review of the SWPPP will take place, authorization to discharge is granted 10 business days after receipt of the complete NOI as outlined in Section 2.2.
- B. When DHEC reviews your SWPPP, if DHEC does not send a letter authorizing coverage, denying coverage, or providing review comments, authorization to discharge is granted 20 business days after the request to review the SWPPP.
- C. If a US Army Corps of Engineers’ 404 Permit or DHEC 401 Water Quality Certification is required by Section 404 or 401 of the CWA for permanent or temporary stormwater control structures, the Department may not grant you coverage under this DOTCGP until the 404 and 401 authorizations have been issued and are effective.
 - 1. In situations where the 404 Permit decision will not affect the implementation of the SWPPP, the Department will issue approval of the SWPPP and grant coverage under this Permit before the 404 Permit decision is effective.
 - 2. In situations where the 404 Permit decision will affect only a portion of the Project Area, the Department may grant the unaffected portion of the Project coverage under this Permit. The remaining portion of the Project will be considered after the 404 Permit is issued and effective.
 - 3. In situations where the entire Project is affected by the 404 Permit decision, the Department will

not grant coverage under this General Permit until the 404 Permit decision is issued and effective.

- D. In the Coastal Zone, if a DHEC Critical Area Permit is required for permanent or temporary stormwater control structures, the Department will not grant coverage under this DOTCGP before the Critical Area permit is issued and effective. When impacts to a direct Critical Area also involve a 404 permit, the Department will not grant coverage under this DOTCGP before the Critical Area permit is issued and effective.
 - 1. In situations where the Critical Area Permit decision will not affect the implementation of the SWPPP, the Department will issue approval of the SWPPP and grant coverage under this Permit before the Critical Area Permit decision is effective.
 - 2. In situations where the Critical Area Permit decision will affect only a portion of the Project Area, the Department may grant the unaffected portion of the Project coverage under this Permit. The remaining portion of the Project will be considered after the Critical Area Permit is issued and effective.
 - 3. In situations where the entire Project is affected by the Critical Area Permit decision, the Department will not grant coverage under this General Permit until the Critical Area Permit decision is issued and effective.
- E. When permanent or temporary structures will be placed in State Navigable Waters, the Department will address any issues related to State Navigable Waters' Program under *SC Regulation 19-450* during the review of the SWPPP rather than requiring a separate State Navigable Waters Permit.
- F. DHEC may deny or delay your coverage based on eligibility considerations of Section 1.3 and Section 1.4 (e.g., TMDL concerns).

SECTION 3 : STORMWATER POLLUTION PREVENTION PLANS (SWPPPs)

3.1 STORMWATER POLLUTION PREVENTION PLAN DEVELOPMENT

- A. A Stormwater Pollution Prevention Plan (SWPPP) that provides assurance of compliance with the terms and conditions of this Permit when properly implemented is a fundamental requirement for coverage under this Permit. A SWPPP must be prepared and submitted with the NOI as required in Section 2.2.
- B. The SWPPP must be prepared by a qualified individual in accordance with standard practices for construction Projects covered under this Permit. All SWPPPs must be signed and certified in accordance with *§122.22 of SC Regulation 61-9*. For Projects that disturb more than 2 acres, and construction activities including clearing, grading and excavating that result in the land disturbance of greater than 0.5 acres located within one-half mile of a Coastal receiving water body in the Coastal Zone, the SWPPP must be prepared, amended when necessary, certified, and stamped as allowed by their respective act and regulations by a qualified individual who is licensed as follows:
 - 1. South Carolina registered professional engineers as described in *Title 40, Chapter 22*;

2. South Carolina registered landscape architects as described in *Title 40, Chapter 28, Section 10, item (b)*;
 3. South Carolina registered Tier B land surveyors as described in *Title 40, Chapter 22*; or
 4. Federal government employees as described by *Title 40, Chapter 22, Section 280(A)(3)*.
- C. The approved SWPPP/Comprehensive SWPPP will be made available upon request and will include:
1. The signed Notice of Intent (NOI) that was submitted to DHEC.
 2. A copy of this Permit;
 3. A copy of the letter from DHEC authorizing your coverage under this Permit;
 4. Coastal Zone only: CZC letter;
 5. USACOE approvals including authorizations necessary to allow impacts to Waters of the State or wetlands, when necessary;
 6. Coastal Zone only: Critical Area permit approvals to allow impacts to Critical Area when necessary;
 7. General Project information;
 8. A Project-specific Stormwater Management and Sediment Control Plan;
 9. Construction Project Plans;
 10. Description of the pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in stormwater discharges; and
 11. An engineering report including supporting calculations and documents.
- D. For construction activities previously covered under the 2006 CGP, the construction activity shall maintain full compliance with the approved SWPPP. The Permittee for each of these construction activities will also have to ensure that each approved SWPPP is updated, if necessary, by a qualified individual as outlined in Section 3.1.B, to comply with the conditions of this Permit as outline below. Upon Request, the Permittee shall make the updated SWPPP available for review by DHEC or EPA.
1. The SWPPP approved for coverage under the 2006 CGP, will have to be revised to meet the following requirements to come into compliance with this Permit:
 - a. **3.5 – Non-Numeric Effluent Limits.** The SWPPP must be revised to address all non-numeric effluent limits unless specifically included in Section 3.5.C
 - b. **3.13.A – Frequency of Construction Site Inspections.** All references to construction site inspection frequencies that are greater than once every calendar week must be revised to meet this weekly inspection requirement.
 - c. **3.13.C - Rain Gauge.**
 2. The SWPPP approved for coverage under the 2006 CGP, will not have to meet the following requirements to come into compliance with this Permit:
 - a. **3.11.A – Buffer Zone Requirements**
 - b. **3.8.F – Surface Outlets**

- E. The SWPPP is to be implemented as written (or as updated) from commencement of construction activity until final stabilization is complete. However, this Permit recognizes that linear construction does not take place over the entire Project at any given time. Implementation of the SWPPP may be implemented in phases as the Project progresses.
- F. The SWPPP is to be consistent with the minimum standards, criteria and design requirements of *R.72-400*.
- G. A Comprehensive SWPPP will be submitted when requested by DHEC for construction activities located within SCDOT jurisdiction.
- H. All SWPPPs must be consistent with all applicable federal, state, and tribal requirements for sediment and erosion control and stormwater management, including updates to the SWPPP, as necessary, to reflect any revisions to applicable federal, state, or tribal requirements for sediment and erosion control and stormwater management.

3.2 SWPPP MODIFICATIONS

- A. The Permittee must modify the SWPPP and submit for approval to DHEC for the following Major Modifications:
 1. Resizing sediment or detention basin where the design storage volume is reduced;
 2. Deletion of sediment or detention basin(s);
 3. Changes in grading that alter drainage patterns that result in increased flow greater than the calculated design flows to a sediment or detention basin;
 4. Addition of disturbed area outside the permitted area;
 5. Impacts to State Navigable Water Crossings;
 6. Point discharge or outfall location additions or relocations;
 7. Additional wetland impacts or a change in location of wetland impacts; and
 8. Modifications related to post-construction water quality treatment measures where there is a proposed change in the classification (based on SCDOT's Supplemental Technical Specification [SC-M-815-13](#) or latest revision), type of constructed treatment measure or where there is a need to change from a manufactured to a constructed treatment measure or vice-versa.
- B. The following records must be maintained as part of the SWPPP:
 1. A change in the design, construction, operation, or maintenance based on the following list of Minor Modifications:
 - a. Addition of erosion prevention and sediment control BMPs;
 - b. Relocation of construction entrance;
 - c. Relocation of pond inlet pipes within the pond itself; and
 - d. Omission of disturbed area.

2. Dates when major grading activities occur;
 3. Minor Modifications should be clearly marked on the SWPPP drawings and initialed and dated;
 4. Dates when construction activities temporarily or permanently cease on a portion of the Project should be recorded in inspection reports or construction logs. Notes: Temporarily ceasing construction means ceasing construction on a portion of the Project for more than 14 days. A portion of the Project, means but is not limited to, portions of the Project with dedicated controls (see Subsection 3.7.C);
 5. Dates when stabilization measures are initiated;
 6. Determinations that the SWPPP needs modification to minimize pollutants in stormwater discharges from the construction Project during inspections or investigations by Project staff, or by state, tribal or federal officials; and
 7. Additional or modified BMPs designed to correct problems identified during inspections. Revisions to the SWPPP must be completed within seven (7) calendar days following the inspection.
- C. Electronic storage of the information in Subsection 3.2.B is acceptable provided that it is referenced in the SWPPP and it is readily available.

3.3 SWPPP REVIEW AND APPROVALS

- A. The SWPPP, with the NOI, is required to be submitted to and approved by DHEC before implementation of the SWPPP may commence.
- B. Any Major Modification to the SWPPP, as defined in Subsection 3.2.A, is required to be submitted to and approved by DHEC before implementation of the modified SWPPP may commence.
- C. Any Minor Modification may be made by the Owner, Operator, or Secondary Operator without approval. However, these modifications will be recorded in the SWPPP and be made available upon request by DHEC.

3.4 SWPPP AVAILABILITY

- A. A copy of the SWPPP will be maintained at the office of the SCDOT Resident Construction Engineer. Field and other records, such as inspection reports, records related to stabilization and dates of major activity, may be maintained at the Project location. The SWPPP should be maintained at the construction trailer when one is provided.
- B. SWPPPs must be made available upon request and at the time of an on-site inspection by EPA; DHEC; a tribal or other agency with delegated Permitting Authority.

3.5 NON-NUMERIC EFFLUENT LIMITS

- A. Permittees are required to design, install, implement and maintain effective erosion prevention measures and sediment controls to:

1. Manage stormwater volume and velocity within the Project to minimize soil erosion during construction activity;
 2. Manage stormwater discharges, including both peak flowrates and total stormwater volume, during construction activity to minimize erosion at outlets and to minimize downstream channel and streambank erosion;
 3. Minimize the amount of soil exposed during construction activity;
 4. Minimize the disturbance of existing steep slopes (i.e., slope of 20% or greater), unless infeasible;
 5. Minimize sediment discharges from the Project during construction activity by addressing factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics in the design, installation and maintenance of erosion and sediment controls; and
 6. Minimize soil compaction and, unless infeasible, preserve topsoil.
- B.** Permittees are required to design, install, implement, and maintain effective pollution prevention measures to:
1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters.
 2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the Project to precipitation and to stormwater; and
 3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention response procedures.
- C.** The following discharges from the Project are prohibited:
1. Wastewater from washout of concrete, unless managed by an appropriate control;
 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 4. Soaps or solvents used in vehicle and equipment washing.
- D.** Permittees are required to minimize the discharge of pollutants from dewatering of trenches and excavations. Discharges are prohibited unless managed by appropriate controls.

3.6 GENERAL PROJECT INFORMATION

- A.** Each SWPPP must provide the following general Project information:
1. A description of the nature of the construction activity;
 2. Estimates of the total area of the Project that is expected to be disturbed by excavation, grading, or other construction activities;
 3. Identification of prior uses of the Project site or potential sources of pollution that may reasonably be expected to cause or contribute to a violation of any applicable water quality standard based

upon the existing condition of the Project site;

4. The name of the receiving water(s) and wetland acreage on-site (provided in the permit documents not necessarily on the plan sheets); and
5. Distance to the nearest receiving water body.

3.7 STORMWATER MANAGEMENT AND SEDIMENT CONTROL PLAN

- A. Each SWPPP must include a Stormwater Management and Sediment Control Plan that provides appropriate water quantity and water quality control measures to be implemented at the specific Project in accordance with South Carolina Regulation 72-400.
- B. The Stormwater Management and Sediment Control Plan must:
 1. Identify and describe the location of any stormwater discharge associated with industrial activity other than construction activity at the Project.
 2. Identify and describe all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in stormwater discharges.
 3. Identify and describe all temporary and permanent stabilization practices for the Project.
 4. Identify and describe all structural practices to divert flows from exposed soils; to retain/detain flows; or to otherwise limit runoff and the discharge of pollutants from exposed areas of the Project. Placement of structural practices in floodplains must be in accordance with applicable regulations.
 5. Identify and describe all post-construction stormwater management measures that will be installed during the construction process to control pollutants in stormwater discharges after construction operations have been completed.
 6. Identify and describe all measures to prevent the discharge of building or other similar materials to Surface Waters of the State, except as authorized by a Permit issued under *Section 404 of the CWA* or by a direct Critical Area permit (coastal zone only).
 7. Identify and describe all measures to minimize off-site vehicle tracking of sediments onto paved surfaces and the generation of dust.
 8. Identify proposed measures to control pollutants in stormwater discharges that will occur after construction operations have been completed.
- C. Where land disturbing activities have temporarily or permanently ceased on the Project and will not resume for a period exceeding 14 calendar days, appropriate soil stabilization measures on all disturbed areas must be initiated within 7 calendar days. This condition may require the use of permanent and temporary stabilization measures to protect exposed soils. Where land disturbing activities on a portion of the Project are temporarily ceased, and the land disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the Project. If the Project will not be worked for a period longer than 60 days, then stabilization by seeding is required. For areas where the initiation of stabilization measures is infeasible (e.g., where snow cover, frozen ground, or drought conditions preclude stabilization), stabilization measures will be initiated as soon as practicable.

- D. The Construction Project Plans will be designed according to the most recent edition of the SCDOT Standard Specifications for Highway Construction and the Standard Drawings for Road Construction and are considered to be part of the SWPPP.

3.8 BEST MANAGEMENT PRACTICES (BMPs)

- A. The SWPPP must address the use, installation, maintenance and inspection of pollution control measures (i.e., BMPs) included in the Stormwater Management and Sediment Control Plan. BMPs may be categorized as follows:
 - 1. Soil stabilization practices, which are temporary or permanent treatments that stabilize and protect exposed earthen surfaces from erosion due to rainfall, overland flow and runoff.
 - 2. Structural practices, which are temporary or permanent treatments that protect soil surfaces from erosion by interrupting, diverting and storing water runoff.
 - 3. Pollution mitigation practices, which are used to protect receiving waters from pollutants other than sediments due to erosion.
- B. The design, inspection and maintenance of BMPs described in the SWPPP must be prepared in accordance with any relevant manufacturer specifications and good engineering practices, and at a minimum should be consistent with the most current requirements of the Standards for Stormwater Management and Sediment Reduction and *Regulation 72-405 thru 72-445* and the requirements and recommendations contained in the most current edition of the SCDOT Standard Specifications for Highway Construction, SCDOT Storm Water Quality Design Manual, and SCDOT Storm Water Quality Field Manual.
- C. All Structural BMPs must be designed and installed in compliance with applicable federal, state or tribal requirements.
 - 1. Permanent structural controls can only be placed in Jurisdictional Surface Waters of the US if the US Army Corps of Engineers issues a Permit for the activity under *Section 404 of the CWA*. When State Navigable Waters may be affected, the SWPPP must include appropriate requirements applicable to State Navigable Waters under *SC Regulation 19-450*.
 - 2. Temporary structural controls can only be placed in Jurisdictional Surface Waters of the US if the US Army Corps of Engineers issues a Permit for the activity under *Section 404 of the CWA*. When State Navigable Waters may be affected, the SWPPP must include appropriate requirements applicable to State Navigable Waters under *SC Regulation 19-450*. All temporary structural controls placed in perennial streams must be removed after final stabilization has been accomplished.
 - 3. Temporary structural controls may only be placed in ephemeral and intermittent streams when there is no other feasible alternative. All temporary structural controls placed in ephemeral and intermittent streams must be removed after final stabilization has been accomplished. After removal of the temporary structural controls, the ephemeral or intermittent stream must be restored to its original condition.
- D. **Permanent/ Temporary Structural BMPs in the Coastal Zone.** All US Army Corps of Engineers Permits for the construction of permanent or temporary BMPs must have an accompanying Coastal Zone Consistency certification for the impacts. Placement of temporary structural BMPs into

wetlands may require a Coastal Zone Consistency certification. Structural BMPs, whether temporary or permanent, can only be placed in the Critical Area if DHEC-OCRM issues a permit for the activity under *SC Regulation 30-10 et. seq.* All temporary structural BMPs placed in wetlands or Critical Area must be removed after final stabilization has been accomplished.

- E. Stormwater runoff that drains to a single outfall from land disturbing activities which disturb ten acres or more shall be controlled during land disturbing activities by a sediment basin or equivalent combination of sediment control BMP(s) where sufficient space and other factors allow these BMPs to be used until final stabilization is established.
 - 1. The sediment basin shall be designed and constructed to accommodate the anticipated sediment loading from the land disturbing activity and meet a removal efficiency of 80 percent for suspended solids, or 3600 cubic feet of sediment storage volume per disturbed acre that drains to a single point, or the most current requirements of *Regulation 72-405*, excluding off-site flows, whichever is less. The efficiency should be calculated for the disturbed area for the 10-year, 24-hour design event.
 - 2. The outfall device or system design should take into account the total drainage area to be served by the sediment basin.
 - 3. Other sediment control Best Management Practices (BMPs) may be used if they achieve an equivalent removal efficiency of 80 percent for suspended solids, or 3600 cubic feet of sediment storage volume per disturbed acre that drains to a single point, or the most current requirements of *Regulation 72-405*, excluding off-site flows, whichever is less. The efficiency will be calculated for disturbed conditions for the 10-year, 24-hour design event.
- F. When discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible. Surface dewatering is not required on temporary sediment dams (traps).
- G. Velocity dissipation devices and/or erosion prevention measures must be placed at discharge locations and along the length of any outfall channel to provide non-erosive flow conditions from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

3.9 REQUIREMENTS FOR PROJECTS DISCHARGING TO IMPAIRED WATERS

For Projects with stormwater discharges to a receiving water that is identified as being impaired the following requirements apply:

- A. If a TMDL that is applicable to stormwater construction discharges has been established and is in effect, the requirements of Part 1.3.C.4 must be met.
- B. If the receiving water is listed on the most current South Carolina 303(d) List of Impaired Waters and a TMDL has not been established or is not in effect, you must ensure that the SWPPP does not allow stormwater discharges from the Project that will contribute to the violations of the water quality standards for sediment or sediment-related parameters. To accomplish this, you must:
 - 1. Determine whether or not the stormwater discharge from the Project may contain pollutants that contribute to a sediment or a sediment-related impairment. Applicable sediment or sediment-

related impairments include Turbidity, Total Phosphorous, Total Nitrogen, Chlorophyll A, BIO (macroinvertebrate), and Fecal Coliform in Shellfish Harvesting Waters in the Coastal Zone.

2. If your storm water discharges will not contain a pollutant(s) of concern for a sediment or a sediment-related impairment, no additional requirements are necessary.
3. If your stormwater discharge will contain a pollutant(s) of concern for a sediment or a sediment-related impairment, you must carefully evaluate your selected BMPs and their performance to minimize pollutants in the stormwater discharge to not cause or contribute to a violation of water quality standards.
4. For Projects that disturb 25 acres or more, your SWPPP must contain a written quantitative and qualitative assessment that the BMPs selected will control your stormwater discharges so that they will not contribute to or cause a violation of water quality standards. For more information on this subject, please see the DHEC publication entitled “Antidegradation for Activities Contributing to Non-Point Source Pollution to Impaired Waters.” This publication can be downloaded at the following DHEC WEB site:

www.scdhec.gov/eqc/water/pubs/antidegnps.pdf

5. A copy of the most current 303(d) List of Impaired Waters can be obtained from:

<http://www.scdhec.gov/tmdl>

3.10 MANAGEMENT OF NON-STORMWATER DISCHARGES

- A. The SWPPP must identify all allowable sources of non-stormwater discharges listed in Subsection 1.3.B of this Permit, except for flows from fire fighting activities that are combined with stormwater discharges associated with construction activity at the Project. Non-stormwater discharges should be eliminated or reduced to the maximum extent feasible.
- B. The SWPPP must identify and ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the discharge allowed under Section 1.3.B.

3.11 WATERS OF THE STATE AND SENSITIVE WATERS

The SWPPP must identify and delineate all Waters of the State (WoS), including wetlands, located within immediate proximity of any proposed land disturbing activities.

If encroachments (temporary or permanent) to WoS are required, the encroachment will be outlined on the plan sheets and labeled that no work can begin in these encroachment areas until all necessary United States Army Corps of Engineers (USACOE) Permits and DHEC 401 certifications have been obtained.

- A. The SWPPP must address the following Buffer Zone requirements for discharges into any Jurisdictional Surface Waters of the United States.
 1. For non-linear Projects that contain and/or are adjacent to a receiving stream designated as Jurisdictional Surface Waters of the United States, a natural riparian Buffer Zone adjacent to the receiving waterway shall be preserved, to the degree practicable, during construction activities at the Project.

2. The natural Buffer Zone should be established between the top of the stream bank and the disturbed construction area, and the width should be established on an average width basis at a Project, as long as the minimum width of the Buffer Zone is more than 30 feet at any location.
 3. For linear construction Projects, BMPs providing equivalent protection to a receiving stream as a natural Buffer Zone must be used. Such equivalent BMPs must be designed to be as effective in protecting the receiving stream from effects of construction stormwater runoff as the natural Buffer Zone. A justification for use and a design of equivalent BMPs will be included in the SWPPP.
 4. Buffer Zone requirements do not apply to an area that must be cleared in order to perform construction activity authorized by this permit or other activities under the authorization of a USACOE Permit, DHEC 401, or equivalent permits issued by Federal or State authorities. In these areas appropriate sediment and erosion control measures must be implemented.
- B.** The SWPPP will be exempt from the Buffer Zone requirements where certain land uses exist and are to remain in place. A use will be considered existing if it was present within the Buffer Zone as of the date of the NOI for coverage under the DOTCGP. Existing uses include, but are not limited to, buildings, parking lots, roadways, utility lines and on-site sanitary sewage systems. Only the portion of the Buffer Zone that contains the footprint of the existing land use is exempt from the Buffer Zone requirements. Activities necessary to maintain uses are allowed provided that no additional vegetation is removed from the Buffer Zone.
- C. Wetlands and Critical Areas (Coastal Zone Only)** - The SWPPP must identify and delineate all wetlands and Critical Areas located within the Project. Any impacts to wetlands or Critical Areas must be identified on the SWPPP with a description of the proposed activities and the amount and type of impact(s).
1. When a US Army Corp of Engineers permit is not required for wetland impacts, the CZC review of wetland impact(s) will be completed during the coastal zone consistency review associated with the request for coverage under this permit.
 2. Identified areas of Critical Area impact(s) must be labeled on the SWPPP that no work can begin in these areas until all necessary Critical Area and 401 authorizations have been obtained for the work.
 3. If a Structural BMP is proposed to be installed within wetlands or Critical Area the SWPPP must specifically address the requirements listed in Section 3.8.C and 3.8.D of this permit.

3.12 COMPREHENSIVE SWPPP

A Comprehensive SWPPP is to be submitted for construction activities when requested by DHEC. The Comprehensive SWPPP must include all the requirements of the SWPPP as well as the following:

- A.** Legible plan sheets, identifying:
1. Direction(s) of stormwater flow and approximate slopes anticipated after major grading activities, as depicted by the profile and cross section plan sheets;
 2. Areas of soil disturbance and areas that will not be disturbed;
 3. Locations of BMPs identified in the SWPPP;
 4. Locations of all Surface Waters of the State (including wetlands);

5. Location of stormwater outfalls.
- B.** Drainage areas for structural BMPs used to meet water quantity and water quality requirements, or as determined by DHEC identifying (This will be SCDOT plan and profile sheets and cross-sections and topo maps if necessary):
1. Existing and proposed contours within and adjacent to the drainage basin;
 2. Drainage basins and sub-basins in which stormwater collects and drains towards a common outfall location including off-site areas draining on to the Project; and
 3. The location of the BMPs.
- C.** A detailed Engineering Report may contain, but is not limited to, the following calculations:
1. Pre-/post-development hydrologic analysis;
 2. Detention analysis;
 3. Temporary and permanent water quality analysis;
 4. Stable channel analysis;
 5. Storm sewer analysis; and
 6. Riprap apron analysis.
- D.** Location of Project on Federal Emergency Management Agency flood maps and federal and State wetland maps, where appropriate.
- E.** A description of the predominant soil types on the Project, as described by the appropriate soil survey information available.
- F.** Vicinity map that includes the Project boundary outline, north arrow, names of all roadways, towns and landmarks on or adjacent to the construction Project as applicable.
- G.** As-built surveys should be included in the Engineering Report for all previously approved detention ponds and associated structures that will receive flows from proposed disturbed area. As-built surveys will be prepared by a South Carolina Licensed Land Surveyor or Professional Engineer.
- H.** Rainfall data from the [South Carolina DHEC Stormwater Management BMP Handbook](#) (BMP Handbook) or other acceptable sources will be used in all calculations associated with the Comprehensive SWPPP.

3.13 INSPECTIONS

- A.** After construction begins, inspections must be conducted at a minimum at least once every seven (7) calendar days to all areas of the Project disturbed by construction activity.
- B.** Inspection frequency may be reduced to at least once every month for sections of the Project that are temporarily stabilized.
- C.** An on-site rain gauge should be maintained at the Project or the Permittee may use data from a certified weather record (such as a personal weather station or an airport) located within a reasonable

proximity of the Project, to record rainfall records from any significant rainfall event, 0.5 inches or greater. These recorded rainfall amounts must be maintained in a Rain Log located in the on-site SWPPP or in the RCE office. Rainfall records for the day of an inspection and any significant rainfall events since the last inspection must be reported on each weekly inspection report.

- D.** The Department on a case-by-case basis may require the Permittee to conduct inspections on a more frequent basis than prescribed in this Permit. Examples include, but are not limited to, Permittees who have compliance problems and Permittees whose Project's stormwater runoff discharges to environmental Sensitive Waters (such as waters classified as Trout Waters, Outstanding Resource Waters, Shellfish Harvesting Waters).

- E.** All inspections performed on Projects covered by this DOTCGP must be conducted by a "qualified individual." This person must be either the preparer of the SWPPP, an individual who is under the direct supervision of the preparer of the SWPPP, or an individual who has been certified through a Construction Site Inspector Certification Course that has been approved by DHEC, for example, a Certified Erosion Prevention and Sediment Control Inspectors (CEPSCI) in the State of South Carolina. Inspections may also be conducted by a person with a registration equivalent to the preparer of the SWPPP or an individual who is under the direct supervision of the person with an equivalent registration.

- F.** Inspectors must:
 - 1. Look for evidence of, or the potential for, pollutants entering the stormwater conveyance system;
 - 2. Observe sedimentation and erosion control measures identified in the SWPPP to ensure proper operation;
 - 3. Inspect discharge locations to determine whether erosion control measures are effective in preventing violations to SC's Water Quality Standards, where accessible. Where discharge locations are inaccessible, nearby downstream locations will be inspected to the extent that such inspections are practicable;
 - 4. Inspect locations where vehicles enter or exit the Project for evidence of off-site sediment tracking.

- G.** Once a definable portion of the Project has reached final stabilization, the Permittee (RCE) may mark this on the SWPPP and no further SWPPP or inspection requirements apply to that portion of the Project (e.g., one mile of a roadway Project is done and finally stabilized, etc).

- H.** For each inspection required in this Section, an inspection report must be completed and include, when applicable:
 - 1. Project Name, Operator Name and Permit Number;
 - 2. The inspection date;
 - 3. Names, titles, and, if not previously given in an inspection report, the qualifications of personnel making the inspection, unless those qualifications change;
 - 4. Total rainfall since last inspection;
 - 5. Location(s) of discharges of sediment or other pollutants from the Project;
 - 6. Location(s) of BMPs that need maintenance;

7. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
 8. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
 9. Corrective action(s) required including any changes to the SWPPP necessary and implementation dates.
- I. A record of each inspection and of any actions taken in accordance with this Section must be retained as part of the SWPPP for at least three (3) years from the date that Permit coverage expires or is terminated. Inspection records are not considered reports under §122.22 of SC Regulation 61-9 and therefore need only be signed by an individual qualified under Section 3.13.E.
- J. If inspections or other information indicate a BMP has been used inappropriately or incorrectly, the Operator must address the necessary replacement or modification required to correct the BMP within a time frame specified based on the priority value of the deficiency. Revisions to the SWPPP must be completed within seven (7) calendar days following the inspection.

3.14 MAINTENANCE

- A. All BMPs must have a maintenance plan. Maintenance of BMPs described in the SWPPP must be conducted in accordance with good engineering practices and at a minimum be consistent with the most current requirements of the Standards for Stormwater Management and Sediment Reduction and *Regulation 72-405 thru 72-445* and the most current requirements and recommendations contained in the current edition of the SCDOT Standard Specifications for Highway Construction, SCDOT Storm Water Quality Design Manual, SCDOT Storm Water Quality Field Manual, and SCDOT MS4 Permit (SCS040001).
- B. All erosion and sediment control BMPs and other protective measures identified in the SWPPP must be maintained in effective operating condition. If Project Site inspections required by Section 3.13 identify BMPs that need to be modified or additional BMPs are necessary to comply with the requirements of this Permit, implementation must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable to maintain the continued effectiveness of stormwater controls. If implementation before the next storm event is impracticable, the situation must be documented in the SWPPP and alternative BMPs must be implemented as soon as reasonably possible.
- C. Sediment from sediment dams or sedimentation ponds must be removed as indicated in the SWPPP or when the design capacity has been reduced by 50 percent, whichever occurs first.
- D. Permanent maintenance access to all permanent detention structures must be provided (easements may be needed for structures surrounded by lots).
- E. Permanent stormwater management structures must be routinely maintained to operate per design. After the Project has been completed and accepted, SCDOT maintenance forces must maintain the area with top priority to the continuance of proper erosion and sediment control and stormwater management measures to prevent on-site and off-site damage or contamination of water courses and impoundments.

- F. The Department should be notified in writing of any changes in maintenance responsibility for the stormwater devices at the Project.

SECTION 4 : SPECIAL CONDITIONS, MANAGEMENT PRACTICES AND OTHER NON-NUMERIC LIMITATIONS

4.1 CONTINUATION OF THE EXPIRED GENERAL PERMIT

If this Permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the *SC Administrative Procedures Act* and *SC Regulation 61-9* and remain in force and effect. If you were granted Permit coverage prior to the expiration date, you will automatically remain covered by the continued Permit until the earliest of:

- A. Reissuance or replacement of this Permit, at which time you must comply with the conditions of the new Permit to maintain authorization to discharge; or
- B. Your submittal of a Notice of Termination; or
- C. Issuance of an Individual Permit for the Project's discharges; or
- D. A formal permit decision by DHEC to not reissue this General Permit, at which time you must seek coverage under an Alternative General Permit or an Individual Permit.

4.2 REQUIRING AN INDIVIDUAL PERMIT OR AN ALTERNATIVE GENERAL PERMIT

- A. In accordance with §122.28(b)(3) of *SC Regulation 61-9*, DHEC may require you to apply for and/or obtain an Individual NPDES Permit for a specific Project. Any interested person may petition DHEC to take action under this paragraph. If DHEC requires you to apply for an Individual NPDES Permit, DHEC will notify you in writing that a Permit application is required. This notification will include a brief statement of the reasons for this decision and an application form. In addition, if you are an existing permittee covered under this Permit, the notice will set a deadline to file the application and will include a statement that on the effective date of issuance or denial of the Individual NPDES Permit or the Alternative General Permit as it applies to you, coverage under this General Permit will automatically terminate. Applications must be submitted to DHEC at the address given in Section 2.4. DHEC may grant additional time to submit the application upon your request. If you are covered under this Permit and you fail to submit in a timely manner an Individual NPDES Permit application as required by DHEC, then the applicability of this Permit to you is automatically terminated at the end of the day specified by DHEC as the deadline for application submittal.
- B. If an Alternative General Permit that is more appropriate for your construction activity is available, DHEC may grant you coverage under the Alternative General Permit in lieu of granting you coverage under this General Permit. In accordance with applicable state law and regulation, you have a right to appeal the Department's decision.
- C. You may request to be excluded from the coverage of this General Permit by applying for an Individual Permit. In such a case, you must submit an individual application in accordance with the

requirements of §122.26(c)(1)(ii) of SC Regulation 61-9, with reasons supporting the request, to:

Stormwater Permitting Section
Bureau of Water
SC DHEC
2600 Bull Street
Columbia, SC 29201

The request may be granted by issuance of an Individual Permit or an Alternative General Permit if your reasons are adequate to support the request.

- D. When an Individual NPDES Permit is issued to you, who are otherwise subject to this Permit, or you are authorized to discharge under an Alternative NPDES General Permit, the applicability of this Permit to you is automatically terminated on the effective date of the Individual Permit or the date of authorization of coverage under the Alternative General Permit, whichever the case may be. If you, who are otherwise subject to this Permit, are denied an Individual NPDES Permit or an Alternative NPDES General Permit, the applicability of this Permit to you is automatically terminated on the date of such denial, unless otherwise specified by DHEC.

4.3 RELEASES IN EXCESS OF REPORTABLE QUANTITIES

- A. The discharge of hazardous substances or oil in stormwater discharges from the Project must be minimized in accordance with the SWPPP. This Permit does not relieve you of the federal reporting requirements of *40 CFR Part 110*, *40 CFR Part 117* and *40 CFR Part 302* relating to spills or other releases of oils or hazardous substances.
- B. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either *40 CFR Part 110*, *40 CFR Part 117* or *40 CFR Part 302*, occurs during a 24-hour period:
 - 1. You must notify the Department's Emergency Response Section at (803) 253-6488 and the National Response Center (NRC) (800) 424-8802 in accordance with the requirements of *40 CFR Part 110*, *40 CFR Part 117* and *40 CFR Part 302* as soon as Project staff have knowledge of the discharge; and
 - 2. You must modify the SWPPP as required under Section 3.2 within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, you must review your SWPPP to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and you must modify your SWPPP where appropriate.

4.4 ATTAINMENT OF WATER QUALITY STANDARDS AFTER AUTHORIZATION

You must select, install, implement and maintain BMPs at your construction Project that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general your SWPPP developed, implemented, and updated consistent with Section 3 is considered as stringent as necessary to ensure that your discharges do not cause or contribute to a violation of any applicable water

quality standard.

All written responses required under this part must include a signed certification consistent with §122.22 of SC Regulation 61-9 (see Appendix B of this Permit).

SECTION 5 : TERMINATION OF COVERAGE

5.1 REQUIREMENTS

- A.** Only submit a Notice of Termination (NOT) after one or more of the following conditions have been met:
 - 1. Final stabilization has been achieved on all portions of the Project for which you are responsible;
 - 2. Coverage under an Individual or Alternative General NPDES Permit has been obtained
- B.** The NOT must be submitted within 30 days of one of the conditions in Section 5.1.A being met. Authorization to discharge terminates at midnight of the day the NOT is signed.
- C.** If a NOT has been submitted and the Project does not meet the criteria for termination, then the Project remains subject to the provisions of this Permit.

5.2 SUBMITTING A NOTICE OF TERMINATION

- A.** It is your responsibility to submit a complete and accurate Notice of Termination (NOT), using the form (or a photocopy thereof) provided by the Department. The NOT will be made available at the following web site: www.scdhec.gov/eqc/water/html/swn_apps.html
- B.** If DHEC notifies dischargers (directly, by public notice, or by making information available on the Internet) of other NOT form options (e.g., electronic submission), you may take advantage of those options to satisfy the requirements of Section 5.
- C.** The Notice of Termination must include the following information:
 - 1. DOTCGP NPDES coverage number for the stormwater discharge;
 - 2. The basis for submission of the NOT (final stabilization has been achieved on all portions of the Project for which the permittee is responsible; coverage under an Alternative NPDES Permit has been obtained)
 - 3. Owner's name, address, telephone number and SCDOT's Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
 - 4. The name of the Project and address (or a description of location if no street address is available) of the construction site for which the notification is submitted; and
 - 5. A certification statement, signed and dated by an authorized representative as defined in §122.22 of SC Regulation 61-9 (see Appendix B of this Permit) and the name and title of that authorized representative.

6. For Projects disturbing more than 2 acres, a certification statement, signed and dated by the preparer of the SWPPP or other person with a registration equivalent to that of the preparer of the SWPPP, that to the best of his or her knowledge and belief all work was conducted and completed in accordance with the approved SWPPP and this DOTCGP. This certification must be based on the inspections performed in accordance with Section 3.13 of this DOTCGP and must state that any deficiencies that were noted have been corrected.

D. All original NOTs must be submitted to the following address:

Non-Coastal Projects	Coastal Zone
S.C. DHEC - Bureau of Water Stormwater Permitting Section 2600 Bull Street Columbia, SC 29201-1708	S.C. DHEC – Bureau of Water Coastal Stormwater Permitting Section 1362 McMillan Ave., Suite 400 Charleston, S.C. 29405

SECTION 6 : RETENTION OF RECORDS

Copies of the SWPPP and all documentation required by this Permit, including records of all data used to complete the NOI to be covered by this Permit, must be retained for at least three years from the date that Permit coverage expires or is terminated. This period may be extended by request of DHEC at any time.

SECTION 7 : REOPENER CLAUSE

7.1 PROCEDURES FOR MODIFICATION OR REVOCATION

Permit modification or revocation will be conducted according to §122.62, §122.63, §122.64, and §124.5 of SC Regulation 61-9.

7.2 WATER QUALITY PROTECTION

If there is evidence indicating that the stormwater discharges authorized by this Permit cause or have the reasonable potential to cause or contribute to a violation of any applicable water quality standard, you may be required to obtain an Individual Permit in accordance with Section 4.2 of this Permit. Your Permit may also be modified in accordance with *Section 122.62 of SC Regulation 61-9* to include different limitations and/or requirements as addressed, or your coverage may be terminated in accordance with *Section 122.64 of SC Regulation 61-9*.

7.3 TIMING OF PERMIT MODIFICATION

DHEC may elect to modify the Permit prior to its expiration (rather than waiting for the new Permit cycle) to comply with any new statutory or regulatory requirements, such as effluent limitation guidelines that may be promulgated in the course of the current Permit cycle.

SECTION 8 : STANDARD PERMIT CONDITIONS

South Carolina regulations require that the Standard Conditions provisioned at §122.41 of SC Regulation 61-9 be applied to all NPDES Permits. You are required to comply with the Standard Conditions, provided in Appendix B of this Permit, that are applicable to stormwater discharges.

APPENDIX A - DEFINITIONS

As used in this Permit, the following terms have the definitions indicated in this Appendix:

“Administrator” means the Administrator of the Environmental Protection Agency or any employee of the Agency to whom the Administrator may by order delegate the authority to carry out his functions under *Section 307(a) of the CWA*, or any person who by operation of law is authorized to carry out such functions.

“Allowable Discharges” means stormwater and non-stormwater discharges allowed to discharge to WoS as authorized by this Permit. See Subsections 1.3.A and 1.3.B.

“Alternative General Permit” means another general permit that better fits the category of the discharge.

“Applicant” means a person, firm, or governmental agency applying to the Department for a State or NPDES Permit to obtain approval or a Permit for a land disturbing activity and to obtain approval to discharge (including stormwater) into the Waters of the State.

“Application” means the application form entitled Notice of Intent (NOI) or other specific uniform NPDES application form created or adopted by the State, including subsequent additions, revisions, or modifications.

“As-Built Plans or Record Documents” means a set of engineering or Project drawings that delineate the specific permitted stormwater management facility as actually constructed.

“Best Management Practices” (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to Surface Waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

“Borrow Pit” is an excavation from which erodible material (typically soil) is removed to be fill.

“Buffer Zone” is a strip of dense, undisturbed, perennial native vegetation, either original or reestablished, that borders Jurisdictional Surface Waters of the United States. Buffer zones are established for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the discharge of potential sediment, nutrients or pollutants to receiving surface waters.

“Certified Construction Inspector” or **“Certified Erosion Prevention and Sediment Control Inspector” (CEPSCI)** means a person certified by the State with the responsibility of conducting inspections during construction and maintenance inspections after the land disturbing activity is completed for an appropriate inspection approval agency as certified by the Commission.

“CFR” means the Code of Federal Regulations, as amended.

“Clean Water Act” (CWA) means the Clean Water Act or the *Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.*

“Clearing” in the definition of discharges associated with construction activity, typically refers to removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, clearing forested land in order to convert forestland to pasture for wildlife management purposes. Clearing, grading and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for sight distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. The clearing of land for agricultural purposes is exempt from federal and state stormwater NPDES permitting.

“Coastal Receiving Water Body” means a receiving water body as defined in the Policies and Procedures of the South Carolina Coastal Zone Management Program, updated July 1995. This includes all regularly tidally influenced salt and fresh water marsh areas, all lakes or ponds which are used primarily for public recreation or a public drinking water supply, and other water bodies within the coastal zone, excluding wetlands, swamps, ditches and stormwater management ponds which are not contiguous via an outfall or similar structure with a tidal water body.

“Coastal Zone” means all lands and waters in the counties of the State, which contain any one or more of the critical areas. The counties included in the coastal zone are Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper and Georgetown. The coastal zone also includes all coastal waters and submerged lands seaward to the States jurisdictional limits.

“Coastal Zone Consistency determination” (CZC) refers to the review of a permit application conducted by DHEC-OCRM where the staff must determine whether or not a new, regulated construction activity proposed in the coastal zone is consistent with the policies of the Coastal Zone Management Program. A Coastal Zone Consistency determination is required for all state and federal permits. The CZC review is triggered by the submission of a permit application and does not occur independently. Specific requirements for certification are contained in the South Carolina Coastal Program Document and associated refinements.

“Coastal Zone Management Program” (CZMP) is a coastal management and certification program that was established in 1979 in accordance with the South Carolina Coastal Tidelands and Wetlands Act of 1977 also known as the South Carolina Coastal Zone Management Act (CZMA). The policies and directives contained in the CZMP are administered by DHEC’s Office of Ocean and Coastal Resource Management (DHEC-OCRM). The CZMP and CZMA task DHEC-OCRM to review any state permit, federal permit, federal license or direct federal activity for consistency with the CZMP. Some main goals of the program are to protect both salt and fresh water wetlands, beach/dune systems, marshlands, tidelands and designated geographic areas of particular concern that include but are not limited to areas of special historic, archeological and cultural significance and threatened or endangered species habitat. The policies and directives of the CZMP can be found in the South Carolina Coastal Program Document (1979), the Coastal Zone Management Program Refinements (1993), and the associated excerpt containing refinements entitled Policies and Procedures of the South Carolina Coastal Management Program, updated July 1995 all located at http://www.scdhec.gov/environment/ocrm/czmp.htm#program_doc.

“Commencement of Construction Activities” means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities (e.g., installation of perimeter controls, stockpiling of fill material, etc).

“Commission” means the South Carolina Land Resources Conservation Commission.

“Comprehensive Stormwater Pollution Prevention Plan” as used in this Permit means the Stormwater Pollution Prevention Plan (SWPPP) prepared according to requirements outlined in Section 3.12 of this permit. A Comprehensive SWPPP contains additional information such as the Engineering Report and drainage maps.

“Construction Activities” as defined in this Permit means earth-disturbing activities, such as the clearing, grading, and excavation of land that meet the definition of either “Large Construction Activities” or “Small Construction “ activities as defined in §122.26(b)(14)(x) and §122.26(b)(15), respectively.

“Construction General Permit” (DOTCGP) or “General Permit” as defined at §122.2 of SC Regulation 61-9 means an NPDES Permit issued under Section 122.28 authorizing a category of discharges or activities under the PCA and CWA within a geographical area.

“Contractor” means a person, group, company, etc. hired by the Developer to commence and complete construction activities covered by these regulations.

“Control Measure” as used in this Permit, refers to any Best Management Practice (BMP) or other method used to prevent or reduce the discharge of pollutants to Waters of the State.

“Critical Area” – means any of the following: (1) coastal waters; (2) tidelands; (3) beaches; (4) beach/dune system which is the area from the mean high-water mark to the setback line as determined in Section 48-39-280 of the Coastal Zone Management Act.

“CWA and Regulations” means the Clean Water Act (CWA) and applicable regulations promulgated thereunder and includes State NPDES program requirements.

“Department” means the South Carolina Department of Health and Environmental Control (SCDHEC or DHEC).

“Designated Watershed” means a watershed designated by a local government and approved by the Commission, Department of Health and Environmental Control and the South Carolina Water Resources Commission and identified as having an existing or potential stormwater, sediment control, or nonpoint source pollution problem.

“Detention Structure” means a permanent stormwater management structure whose primary purpose is to temporarily store stormwater runoff and release the stored runoff at controlled rates.

“Develop Land” means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

“Developer” means a person undertaking, or for whose benefit, activities covered by these regulations are commenced and/or carried out.

“Direct discharge” means the “discharge of a pollutant” from source directly into a receiving water body.

“Discharge” means any discharge or discharge of any sewage, industrial wastes or other wastes into any of the waters of the State, whether treated or not. When used without qualification, means the “discharge

of a pollutant.’’

“**Discharge of a Pollutant**” as defined at §122.2 of SC Regulation 61-9:

1. Means
 - a. Any addition of any pollutant or combination of pollutants to Waters of the State from any point source or
 - b. Any addition of any pollutant or combination of pollutants to the Waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft, which is being used as a means of transportation.
2. Includes additions of pollutants into Waters of the State from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

“**Discharge of Stormwater Associated with Construction Activity**” as used in this Permit, refers to a discharge of pollutants in stormwater from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, concrete truck washout, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

“**District**” means any soil and water conservation district created pursuant to *Chapter 9, Title 48, S.C. Code of Laws*.

“**Drainage Area**” means that area contributing runoff to a single point.

“**Drainage Area Map**” means a map showing areas of a Project contributing runoff to a single point.

“**Easement**” means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

“**Effluent limitation**” means any restriction imposed by the Department on quantities, discharge rates, and concentrations of pollutants, which are discharged from point sources into Waters of the State, the waters of the contiguous zone, or the ocean.

“**Effluent limitations guidelines**” means a regulation published by the Administrator under *Section 304(b) of CWA* to adopt or revise effluent limitations.

“**Effluent Standards and Limitations**” means restrictions or prohibitions of chemical, physical, biological, and other constituents which are discharged from point sources into State waters, including but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, pretreatment standards and schedules of compliance. Limits are based on applicable technology-based and water quality-based standards.

“**Eligible**” means qualified for authorization to discharge stormwater under this General Permit.

“Engineering Report” as applied to the Permit refers to the report or document submitted to the Department containing the specific Project design calculations and supporting documents. This report includes as a minimum, calculation of parameters and design criteria specified in *SC Regulation 72-400* and identified in Section 3.12 of this Permit. The Engineering Report must be included in the Comprehensive SWPPP.

“Environmental Protection Agency” (EPA) means the United States Environmental Protection Agency.

“Environmental Quality Control” (EQC) for purposes of this Permit refers to the Office of Environmental Quality Control (EQC) which is one of two environmental deputy areas Department of Health and Environmental Control. EQC is responsible for the enforcement of federal and state environmental laws and regulations, and for the issuing of Permits, licenses and certifications for activities, which may affect the environment. EQC is composed of four program areas, each concerned with a specific aspect of environmental protection.

“Ephemeral Streams” mean streams that generally have defined natural watercourses that flow only in direct response to rainfall or snowmelt, and in which discrete periods of flow persist no more than 29 consecutive days per event.

“EQC Regional Office” for purposes of this Permit refers to eight (8) Environmental Quality Control (EQC) regions that provide local support to the Department and the public as described in the [EQC Regional Offices Web page](#).

“Erosion” means the wearing away of land surface by the action of wind, water, gravity, ice, or any combination of those forces.

“Erosion and Sediment Control” means the control of solid material, both mineral and organic, during a land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.

“Exemption” means those land-disturbing activities that are not subject to the sediment and stormwater requirements contained in these regulations.

“Facility” or “Activity” means any point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

“Federal Facility” means any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal government.

“Final Stabilization” means that all soil-disturbing activities at the Project have been completed and either of the two following criteria is met:

1. A uniform (e.g., evenly distributed, without large bare areas) vegetative cover with a density of 70 percent of the vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures; or
2. Equivalent permanent stabilization measures (such as the use of riprap, pavement, and gravel) have been employed.

“General Coastal Zone Consistency” or “GCZC” means a general consistency issued by DHEC OCRM authorizing small project impacts in the eight county coastal zone. A comprehensive list of GCZC Certifications and CZC application information is currently available at:

<http://www.scdhec.gov/environment/ocrm/czc.htm>

"Good Engineering Practice" (GEP) is a term applied to engineering and technical activities to ensure that a company manufactures products of the required quality as expected by the relevant regulatory authorities. Good engineering practices are to ensure that the engineering development methodology generates deliverables that support the requirements for qualification or validation.

“Grading” means excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.

“Groundwater” means water below the land surface in a zone of saturation.

“Impaired waters” means any segment of surface waters that has been identified by the Department as failing to support classified uses. The Department periodically compiles a list of such waters. The Department will notify Applicants and permittees if their discharge is into, or is affecting, impaired waters. For the purpose of this Permit, pollutants of concern include, but are not limited to siltation (silt/sediment) and habitat alterations. A list of the streams and lakes not meeting water quality standards can be found at <http://www.scdhec.gov/environment/water/tmdl/>

“Implementing Agency” means the Commission or conservation district with the responsibility for receiving stormwater management and sediment control plans for review and approval, reviewing plans, issuing Permits for land disturbing activities, or conducting inspections and enforcement actions in a specified jurisdiction.

“Indian Country ”or “Indian Land” is defined at §122.2 of SC Regulation 61-9 to mean:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-ways running through the same.

“Indirect discharge” means the discharge of a pollutant from a source indirectly into a receiving water body (i.e., an indirect source may discharge to a POTW, which in turn discharges into the receiving water body.)

“Individual Permit” is a Permit specifically tailored to an individual facility.

“Industry” means a private person, corporation, firm, plant or establishment which discharges sewage, industrial wastes or other wastes into the Waters of the State.

“Infiltration” means the passage or movement of water through the soil profile.

“Inspector” for the purposes of the Permit means a person certified by the State or Department that performs and documents required inspections of stormwater construction activities, paying particular attention to time-sensitive Permit requirements such as stabilization and maintenance activities. An Inspector must successfully complete the “CEPSCI” or similar DHEC-approved certification course and typically has the following responsibilities:

1. Oversee the requirements of other construction-related Permits, such as Aquatic Resources Alteration Permit or Corps of Engineers Permit for construction activities in or around Waters of the State;
2. Update On-site SWPPPs excluding design modifications;
3. Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
4. Inform the Permit holder of activities that may be necessary to gain or remain in compliance with the DOTCGP and other environmental Permits.

“Intermittent streams” means streams that generally have defined natural watercourses which do not flow year around, but flow beyond periods of rainfall or snowmelt.

“Jurisdictional Surface Waters of the United States” for this permit is defined as surface waterbodies, including wetlands, under the jurisdiction or control of the United States federal government. Federal jurisdiction may overlap and be concurrent with a state. *Section 404 of the Clean Water Act* regulates the placement of dredged or fill material into Waters of the United States, including wetlands.

“Jurisdictional Waters of the State” is defined as water bodies, including wetlands, over which a state may exercise jurisdiction or control. Jurisdiction may overlap and be concurrent with the federal government, or it may be reposed only to the state.

“Jurisdictional Waters of the United States” or **“Waters of the U.S.”** is defined as waterbodies, including wetlands, under the jurisdiction or control of the United States federal government. Federal jurisdiction may overlap and be concurrent with a state. *Section 404 of the Clean Water Act* regulates the placement of dredged or fill material into Waters of the United States, including wetlands. The [Army Corps of Engineers \(Corps\)](#) is the agency responsible for the processing and issuing of Permits for proposed Projects that will impact Waters of the United States, including wetlands.

“Land Disturbing Activity” as defined in *SC Regulation 72-400* means any use of the land by any person that results in a change in the natural cover or topography that may cause erosion and contribute to sediment and alter the quality and quantity of stormwater runoff.

“Large Construction Activity” is defined at *40 CFR §122.26(b)(14)(x) of SC Regulation 61-9* and incorporated here by reference. A large construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land or will disturb less than five acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the Project.

“Linear Project” is a land disturbing activity as conducted by an underground/overhead utility or

SCDOT, including but not limited to any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for communications; or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear Project activities also include the construction of access roads, and staging areas associated with the linear Project. Land disturbance specific to the development of a residential and/or commercial subdivision is not considered a linear Project.

“Local Government” means any county, municipality, or any combination of counties or municipalities, acting through a joint program pursuant to the provisions of this chapter.

“Modification” refers to the requirements defined in Sections 3.1 and 3.2 for making and documenting major and minor revisions to an approved Stormwater Pollution Prevention Plan (SWPPP). Revisions to an approved SWPPP that present minor changes to design, construction, operation, or maintenance, thus minor changes in potential impacts to WoS are termed

1. **Minor Modifications** - Require only on-site documentation of the modified construction activity or facility on the SWPPP. Revisions to an approved SWPPP that present major changes to design, construction, operation, or maintenance, thus major changes in potential impacts to WoS are termed.
2. **Major Modifications** - Reviewed and approved by the Department as outlined in this Permit for inclusion in the SWPPP previously approved by the Department.

“Modified SWPPP” means a stormwater pollution prevention plan submitted to the Department to incorporate revisions or modifications to the Project in accordance with Sections 3.1 and 3.2 of this DOTCGP or as required to meet submission deadlines for ongoing Projects as defined in Section 2.3.

“Municipality” means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under *Section 208 of CWA*.

“Municipal Separate Storm Sewer System” (MS4) is defined at §122.26(b)(8) of SC Regulation 61-9 to mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under *Section 208 of the CWA* that discharges to Surface Waters of the State;
2. Designed or used for collecting or conveying stormwater;
3. Which is not a combined sewer; and
4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at §122.2 of SC Regulation 61-9.

“National Pollutant Discharge Elimination System” (NPDES) as defined at §122.2 of SC Regulation

61-9 means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing Permits, and imposing and enforcing pretreatment requirements, under *Sections 307, 402, 318, and 405 of CWA*.

“**Natural Waterways**” means waterways that are part of the natural topography. They usually maintain a continuous or seasonal flow during the year and are characterized as being irregular in cross-section with a meandering course. Construction channels such as drainage ditches are not considered natural waterways.

“**Navigable Waters**” or “**South Carolina Navigable Waters**” (SCNW), as defined in *33 CFR 329*, means those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce while the waterway is in its ordinary condition. Navigable waters are waters that provide a channel for business (commerce) and transportation of people and goods. Jurisdiction over navigable waters belongs to the federal government rather than states or municipalities. The federal government can determine how the waters are used, by whom, and under what conditions. It also has the power to alter the waters, such as by dredging or building dams. Section 10 of the *Rivers and Harbors Act of 1899* (*33 U.S.C. 403*), approved 3 March 1899, prohibits the unauthorized obstruction of a navigable Water of the U.S. This statute also requires a Permit from the [U.S. Army Corps of Engineers](#) for any construction in or over any navigable water, or the excavation or discharge of material into such water, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters.

“**New Project**” means the “commencement of construction activities” occurs after the effective date of this General Permit.

“**Non-Numeric Effluent limitations**” for purposes of this Permit means design of Project-specific non-numeric erosion and sediment control methods and practices (i.e., minimizing amount of exposed soil during construction activity, maximizing infiltration, structural Best Management Practices, etc.) and other practices and procedures to meet effluent limitations imposed by the Department. Non-numeric effluent limitations will apply to all permitted C&D Projects, regardless of disturbed area.

“**Non-Point Source Pollution**” means pollution contained in stormwater runoff from ill-defined, diffuse sources such as runoff from urbanized or agricultural areas. The majority of agricultural facilities are defined as non-point sources and are exempt from NPDES regulation.

“**Notice of Intent (NOI)**” as used in this Permit means the NPDES application form developed by the Department to review and approve land disturbing activities and sediment and erosion control measures proposed to minimize impacts to Waters of the State. Required information and contents are as defined in Section 2.0 of this Permit.

“**Notice of Termination**” (NOT) as used in this Permit means the NPDES application form developed by the Department to terminate land disturbing activities and sediment and erosion control measures proposed to minimize impacts to Waters of the State. Required information and contents are as defined in Section 5.0 of this Permit.

“**NPDES form**” or “**Application**” means any uniform Permit application or any uniform form used by the Department or developed for use in the NPDES program, including a NPDES application, a Refuse Act Permit application and a reporting form.

“NPDES Permit” means a Permit issued by the Department to a discharger pursuant to NPDES regulations for all point source discharges into surface waters and constitutes a final determination of the Department.

“Ocean and Coastal Resource Management” (OCRM) refers to DHEC’s Office of Ocean and Coastal Resource Management (DHEC-OCRM). OCRM is responsible for protection and enhancement of the State's coastal resources by preserving sensitive and fragile areas while promoting responsible development in the eight county coastal zone of South Carolina.

“Ongoing Project” means the “commencement of construction activities” occurs before the effective date of this General Permit.

“Operator” for the purpose of this Permit and in the context of stormwater associated with construction activity, means any person who has “operational control over day-to-day activities” at a Project which are necessary to ensure compliance with a SWPPP for the Project or other Permit conditions (e.g., they are authorized to direct workers at a Project to carry out activities required by the SWPPP or comply with other Permit conditions).

“Outfall” A single outlet of stormwater discharge at the location of exit at the Project property or rights-of-way boundary.

“Outstanding National Resource Waters” (ONRW) means a classification intended to protect unique and special waters having excellent water quality and of exceptional state or national ecological or recreational significance. Such waters may include, but are not limited to: waters in national or state parks or wildlife refuges; waters supporting threatened or endangered species; waters under the National Wild and Scenic Rivers Act or South Carolina Scenic Rivers Act; waters known to be significant nursery areas for commercially important species or known to contain significant commercial or public shellfish resources; or waters used for or having significant value for scientific research and study.

“Owner”, for the purpose of this Permit and in the context of stormwater associated with land disturbing activity, is SCDOT. The Owner has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications.

“Perennial Stream” or “Perennial River” is a stream or river (channel) that has continuous flow in parts of its bed all year round during years of normal rainfall. "Perennial" streams are contrasted with "intermittent" streams which normally cease flowing for weeks or months each year, and with "ephemeral" channels that flow only for hours or days following rainfall. During unusually dry years, a normally perennial stream may cease flowing, becoming intermittent for days, weeks, or months depending on severity of the drought.

“Permit” means an authorization, license, or equivalent control document issued by the Department to implement the requirements of this regulation, *40 CFR Parts 123, and R.61-9.124*. Permit includes an NPDES General Permit (*Section 122.28*). Permit does not include any Permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

“Permitting Authority” means the United States Environmental Protection Agency, EPA, a Regional Administrator of the Environmental Protection Agency or an authorized representative.

“Person” means any individual, public or private corporation, political subdivision, association,

partnership, corporation, municipality, State or Federal agency, industry, copartnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

“Person Responsible for the Land Disturbing Activity” Means

1. The person who has or represents having financial or operational control over the land disturbing activity; and/or
2. The landowner or person in possession or control of the land who directly or indirectly allowed the land disturbing activity or has benefitted from it or who has failed to comply with any provision of the act, these regulations, or any order or local ordinance adopted pursuant to this act as imposes a duty upon him.

“Point Source” means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include introduction of pollutants from non point-source agricultural and silvicultural activities, including stormwater runoff from orchards, cultivated crops, pastures, range lands, and forest lands or return flows from irrigated agriculture or agricultural stormwater runoff.

“Point Source Discharge” means a discharge which is released to the Waters of the State by a discernible, confined and discrete conveyance, including but not limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which waste is or may be discharged. Typical point source dischargers include discharges from publicly owned treatment works (POTWs), discharges from industrial facilities, and discharges associated with urban runoff.

“Pollutant” is defined at §122.2 of SC Regulation 61-9. Typical construction site pollutants include sediment, oil and grease, fertilizers, pollutants from construction wastes, and pollutants from construction materials.

“Pollution Control Act” (PCA) as defined in §122.2 of SC Regulation 61-9 means the South Carolina Pollution Control Act (PCA), S.C. Code Ann. Section 48-1-10 et seq. (1976).

“Post-Development” or “Post-Construction” means the conditions which exist following the completion of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction stormwater runoff.

“Pre-Development” or “Pre-Construction” means the conditions, which existed prior to the initiation of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff.

“Project” means:

1. Construction activities including clearing, grading, and excavating that result in the land disturbance under the jurisdiction of the South Carolina Department of Transportation in which SCDOT is the owner or operator which issues or manages the land disturbing activity.
2. The areas on the construction site where stormwater discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development,

or other ground disturbance activities occur) and the immediate vicinity.

3. The areas where stormwater discharges flow from the construction site to the point of discharge into receiving waters.
4. The areas where stormwater from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge.
5. The areas where stormwater BMPs will be constructed and operated, including any areas where stormwater flows to and from BMPs.
6. The areas upstream and /or downstream from construction activities that discharge into a stream segment that may be affected by the said discharges.

“Publicly Owned Treatment Works” (POTW) means a treatment works as defined by *Section 212 of the Clean Water Act*, which is owned by a state or municipality (as defined by *Section 502[4] of the CWA*). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality, as defined in *Section 502(4) of the CWA*, which has jurisdiction over the Indirect Discharges to and the discharge from such a treatment works.

“Qualified Individual” means an individual who, with or without reasonable accommodation, can perform the essential functions of the position an individual holds or desires.

“Receiving Water” or “Receiving Water Body” (RWB) means the Waters of the State, as defined in *§122.2 of SC Regulation 61-9* into which the regulated stormwater discharges.

“Receiving Water Body” as it relates to additional Coastal Zone stormwater management requirements means all regularly tidally influenced salt and fresh water marsh areas, all lakes or ponds which are used primarily for public recreation or a public drinking water supply, and other water bodies within the coastal zone, excluding wetlands, swamps, ditches and stormwater management ponds which are not contiguous via an outfall or similar structure with a tidal water body.

“Redevelopment” means a land disturbing activity that alters the current use of the land but does not necessarily alter the pre-development runoff characteristics.

“Refuse Act Permit application” means an application for a permit issued under authority of *Section 13 of the United States Rivers and Harbors Act* of March 3, 1899.

“Regional Administrator” means the Regional Administrator of Region IV of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

“Responsible Personnel” means any foreman, superintendent, or similar individual who is the on-site person in charge of land disturbing activities.

“Retention Structure” means a permanent structure whose primary purpose is to permanently store a given volume of stormwater runoff. Release of the given volume is by infiltration and/or evaporation.

“SCDHEC” or “DHEC” means Department or South Carolina Department of Health and Environmental Control or Department.

“**Section 404 Permit**” refers to Permits issued by the U.S. Army Corps of Engineers for certain activities conducted in wetlands or other U.S. waters as defined in *Section 404 of the Clean Water Act*. Construction projects affecting wetlands in any state cannot proceed until a §404 Permit has been issued.

“**Sediment**” means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, ice, or gravity from its site of origin.

“**Sediment Basin**” means a temporary basin used as a sediment control structure that is created by constructing an embankment or excavation. The size and shape of the sediment basin depends on the location, size of drainage area, incoming runoff volume and peak flow, soil type, eroded particle size, and land cover.

“**Sedimentation**” means the action or process of forming or depositing sediment.

“**Sensitive Waters**” are Trout Waters, Outstanding Resource Waters, and Shellfish Harvesting Areas.

“**Shellfish**” mean bivalve mollusks, specifically clams, mussels, or oysters.

“**Site**” means the SCDOT rights-of-way and construction easements of the Project.

“**Small Construction Activity**” is defined under the definition of “Stormwater discharge associated with small construction activity” at §122.26(b)(15) of *SC Regulation 61-9*.

“**Soil**” means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of plants.

“**Stabilization**” means the prevention of soil erosion by stormwater runoff or wind through the establishment of a soil cover through the implementation of vegetation, mulch or other structural erosion prevention measures.

“**State**” means the State of South Carolina.

“**Steep Slope**” means a natural or created slope of 20% grade or greater and an elevation change of 20 feet or more. Designers of Projects with steep slopes must pay special attention to stormwater management in the SWPPP to engineer runoff non-erosively around or over a steep slope. In addition, Project managers should focus on erosion prevention on the slope(s) and stabilize the slope(s) as soon as practicable to prevent slope failure and/or sediment discharges from the Project.

“**Stormwater**” means rainfall stormwater runoff, snowmelt runoff, and surface runoff and drainage.

“**Stormwater Discharge-Related Activities**” as used in this Permit, include activities that cause, contribute to, or result in stormwater point source pollutant discharges, including but not limited to: excavation, Project development, grading and other surface disturbance activities; and measures to control stormwater including the siting, construction and operation of BMPs to control, reduce or prevent stormwater pollution.

“**Stormwater Management**” means, for:

1. Quantitative control, a system of vegetative or structural measures, or both, that control the

increased volume and rate of stormwater runoff caused by manmade changes to the land;

2. Qualitative control, a system of vegetative, structural, or other measures that reduce or eliminate pollutants that might otherwise be carried by stormwater runoff.

“Stormwater Management and Sediment Control Plan” (SMSCP) as defined in *SC Regulation 72-400* means a set of drawings, other documents, and supporting calculations prepared to apply to land disturbing activity, which contains all of the information and specifications to support the design

“Stormwater Pollution Prevention Plan (SWPPP)” means a plan written in accordance with Section 3 of this Permit that includes the identification of construction/contractor activities that could cause pollutants in the stormwater and a description of measures or practices to control these pollutants. It is submitted by an Applicant as a prerequisite to obtaining a Permit to undertake a land disturbing activity, and should contain all of the information and specifications required by an implementing agency. A SWPPP as used in this Permit, generally means the Storm Water Pollution Prevention Plan required for land disturbances, unless specific reference is given to the Comprehensive SWPPP.

“Stormwater Runoff” means direct response of a watershed to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm sewer or other concentrated flow during and following the precipitation.

“Support Activities” means secondary activities or facilities included at a Project that are directly related to and implemented as support to a primary construction activity or facility. Typical support activities include concrete or asphalt batch plants, equipment staging yards, material storage areas, and excavated material disposal areas.

“Surface Water” means water the surface of which is exposed to the atmosphere, such as water collecting on the ground or in a stream, river, lake, wetland, or ocean. It is related to water collecting as groundwater or atmospheric water. Surface water is naturally replenished by precipitation and naturally lost through discharge to evaporation and sub-surface seepage into the ground.

“Surface Waters of the State” means “Waters of the State” as defined in §122.2 of *SC Regulation 61-9* except for groundwater.

“Temporary Stabilization” means the prevention of soil erosion by temporarily protecting disturbed areas at the Project that would otherwise lay bare for a period of 14 days before work resumes or the area is protected by final stabilization.

Ten-Year Frequency Storm” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedence probability with a 10 percent chance of being equaled or exceeded in any given year.

“Total Maximum Daily Load” or “TMDL” means the sum of the individual waste load allocations (WLAs) for point sources and load allocations (LAs) for non-point sources and natural background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any non-point sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

“Tracking Number” refers to the file numbering system used by the Department to track each Notice of Intent (NOI) application. The tracking number is generally formatted as XX-XX-XX-XXX.

“Turbidity” is the cloudiness in water from light scattering due to colloidal suspension of materials such as clay-sized particles.

“Twenty-Five Year Frequency Storm” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It also may be expressed as an exceedence probability with a 4 percent chance of being equaled or exceeded in any given year.

“Two-Year Frequency Storm” means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedence probability with a 50 percent chance of being equaled or exceeded in any given year.

“Water Quality” means those characteristics of stormwater runoff from a land disturbing activity that relate to the physical, chemical, biological, or radiological integrity of water.

“Water Quality Standards” means measurable parameters of standards established as criteria to evaluate characteristics of stormwater runoff from a land disturbing activity that relate to the physical, chemical, biological, or radiological integrity of water.

“Water Quantity” means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff to downstream areas resulting from land disturbing activities.

“Watershed” means the drainage area contributing stormwater runoff to a single point.

“Waters of the State” (WoS) is defined in §122.2 of SC Regulation 61-9 means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

“Waters of the United States” or “Waters of the U.S.” is defined in §122.2 of SC Regulation 61-9 means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate “wetlands;”
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. Which are used or could be used for industrial purposes by industries in interstate commerce;

4. All impoundments of waters otherwise defined as Waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs (1) through (4) of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (1) through (6) of this definition.
8. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not Waters of the United States.

The intent of this definition is to cover all possible waters within federal jurisdiction under the Commerce Clause of the Constitution.

“Wetland” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

APPENDIX B - SECTIONS 122.41 AND 122.22 OF SC REGULATION 61-9

Section 122.41 of SC Regulation 61-9

122.41. Conditions applicable to all permits. The following conditions apply to all NPDES permits. Additional conditions applicable to NPDES permits are in section 122.42. All conditions applicable to NPDES permit shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to the federal regulations (or the corresponding approved State regulations) must be given in the permit.

(a) **Duty to comply.** The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Clean Water Act and 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) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

(2) 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 40 CFR Part 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 NPDES permit, or the State law is subject to the actions defined in the State law.

(b) **Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. (But see 122.4(g)(2)).

(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 this 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 this 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 performance of daily treatment facility inspections by a certified operator of the appropriate grade 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 operation 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 certified operator of the appropriate grade ("the operator") is normally required only on days when treatment 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 under (A), (B), (C), and (D) above may be subject to compliance with the 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 NPDES. 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 (122.41(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. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(g) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

(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 this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

(i) Inspection and entry. 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 is located or conducted, or where records must be kept under the conditions of this permit;

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

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

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

(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 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 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.

(iv) The Department may require that a permittee monitor parameters in the stream receiving his permitted discharge as necessary to evaluate the need for and to establish limits and conditions and to insure compliance with water quality standards (i.e., R.61-68).

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 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 this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

(3) Records of monitoring information shall include:

- (i) The date, exact place, and time of sampling or measurements;
- (ii) The individual(s) who performed the sampling or measurements;
- (iii) The date(s) analyses were performed;
- (iv) The individual(s) who performed the analyses;
- (v) The analytical techniques or methods used; 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 this permit shall, upon conviction, be punished by a fine of not more than \$25,000 or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment provided by the Clean Water Act is also by imprisonment of not more than 4 years.

(k) Signatory requirement.

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

(2) The PCA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than two years per violation, or by both.

(l) Reporting requirements.

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

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in section 122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under section 122.42(a)(1).

(iii) The alteration or addition results in a significant change in the permittee's sewage sludge or industrial 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 (included in the NPDES permit directly or by reference);

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

(3) Transfers. This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of permittee and incorporate such other requirements as may be necessary under the Pollution Control Act and the Clean Water Act. (See section 122.61; 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 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 or 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 this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See section 122.44(g)).

(B) Any upset which exceeds any effluent limitation in the permit.

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

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (1)(6)(i) 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 (1)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(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.

(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 notice).

(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. A 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.

(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, contemporaneous 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 was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph (1)(6)(ii)(B) of this section (24 hour notice).

(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 NPDES discharge 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.

Section 122.22 of SC Regulation 61-9.

122.22. Signatories to permit applications and reports.

(a) Applications. All permit applications shall be signed as follows:

(1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term

environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency or public facility: By either a principal executive officer, mayor, or other duly authorized employee or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(i) The chief executive officer of the agency, or

(ii) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator, Region IV, EPA).

(b) All reports required by permits, and other information requested by the Department, 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 Department.

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

(d) Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."