STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES &
ENVIRONMENTAL CONTROL
DIVISION OF WATER RESOURCES
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

Surface Water Discharges Section

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APR 17 2001
DEPT. OF TRANSPORTATION
OFFICE OF OPERATIONS

April 9, 2001

CERTIFIED MAIL

Mr. Nathan Hayward III, Secretary
State of Delaware Department of Transportation
P.O. Box 778
Dover, DE 19903

Re: NPDES Permit DE 0051071
Storm Water Discharges from MS4 in
New Castle County, Delaware

Dear Secretary Hayward:

Enclosed please find a copy of the referenced NPDES permit, authorizing the discharge of storm water from/through the municipal separate storm sewer system or "MS4" located in New Castle County. Please note the enclosed permit has an effective date of May 1, 2001.

In addition, please note that a few changes were made to the February 23, 2001 draft permit to address the comments we received from the New Castle County Department of Special Services during the notice period. Specifically, in the second sentence of Part II.A.6.d., "implement" was changed to "promote - through education, public information and other appropriate measures -" the proper management and disposal, etc. Language was added that states the co-permittees are to coordinate their effort with the Delaware Solid Waste Authority, the Department's Division of Air and Waste Management and the Recycling Public Advisory Council and that they are to explore opportunities to facilitate existing programs and identify ways to encourage more participation. Such a change maintains consistency with our original intent and the requirement in 40 CFR Part 122.26(d)(2)(iv)(B)(6).

A provision was added to Part III. Schedules of Compliance to address what was originally proposed as Part V.R. Historic Preservation, i.e., the State Historic Preservation Office's involvement and review, for compliance with Section 106 of the National Historic Preservation Act, of any projects involving ground disturbance, new

construction or demolition of an existing structure, that are undertaken within the scope of the permit. The co-permittees are to develop and implement a programmatic agreement with the Department and the State Historic Preservation Office within two years of the effective date of the permit. Part V.R. was removed from the final permit.

The language in Part II. H. and Part IV.J. was modified to clarify the deadline for submission of the annual report and its coverage. The annual report is to be submitted no later than the anniversary of the effective date of the permit (May 1) and is to cover the preceding calendar year's activities (January 1 through December 31).

Should you have any questions or wish to discuss any of the provisions of the enclosed permit in further detail, please contact me. I can be reached in Dover, at 739-5731.

Sincerely,

Paul J. Janiga

Paul J. Janiga, P.E.
Environmental Engineer
Surface Water Discharges Section

Enclosure

pc: Raymond M. Harbeson, Jr., Chief Engineer, DelDOT
John J. Gilbert, Director, Division of Highway Operations, DelDOT
Joe Wright, Assistant Director, Transportation Engineering, DelDOT
Rob McCleary, Field Services Engineer, DelDOT
Wendy Gillin, Environmental Engineer, DelDOT

State Permit Number:	WPCC 3063/96
NPDES Permit Number:	DE 0051071
Effective Date:	May 1, 2001
Expiration Date:	April 30, 2006

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE LAWS OF THE STATE OF DELAWARE

In compliance with the provisions of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (33 U.S.C. 1251 et seq.), hereinafter referred to as "the Act", and pursuant to the provisions of Title 7, Del.C., §6003,

New Castle County Department of Special Services
187-A Old Churchmans Road
New Castle, Delaware 19720

The Delaware Department of Transportation
P.O. Box 778
Dover, Delaware 19903

And the following municipalities:
The Village of Arden, The Village of Ardentown, The Village of Ardencroft, The Town of Bellefonte, The City of Delaware City, The Town of Elsmere, The Town of Middletown, The Town of Newport, The City of New Castle, The Town of Odessa, The Town of Townsend and the City of Wilmington

are authorized collectively and severally, to discharge storm water from/through all portions of the municipal separate storm sewer system located in New Castle County, Delaware that are owned, operated or maintained by any of the co-permittees listed above, to waters of the State in New Castle County, in accordance with the comprehensive storm water pollution prevention and management program, the discharge limitations, monitoring requirements and other provisions set forth in Parts, I, II, III, IV and V hereof.

This permit and the authorization to discharge under the National Pollutant Discharge Elimination System shall become effective May 1, 2001 and expire at midnight, on April 30, 2006.

Peder Hansen

R. Peder Hansen, P.E., P.G.
Manager, Surface Water Discharges Section
Division of Water Resources
Delaware Department of Natural Resources
and Environmental Control

April 9, 2001
Date Signed

Part I. Discharges Authorized By This Permit

A. Area Covered

This permit covers all areas located within the corporate boundary of New Castle County, Delaware, served by or otherwise contributing to discharges from, the municipal separate storm sewers owned, operated or maintained by the co-permittees.

B. Authorized Discharges

1. This permit authorizes all existing or new point source discharges of storm water to State waters from those portions of the municipal separate storm sewer system owned, operated or maintained by the co-permittees. This permit also authorizes the discharge of storm water commingled with flows contributed by process wastewater, non-process wastewater or storm water associated with industrial activity provided such discharges are authorized under separate NPDES permits or covered under the Department's NPDES General Permit Program regulations.

2. Limitations on Coverage
   The following discharges, whether discharged separately or commingled with municipal storm water, are not authorized by this permit:
   a. Non-storm water and Industrial Storm Water:
      Discharges of materials other than storm water, discharges of storm water associated with industrial activity or other storm water discharges required to obtain an NPDES permit, except where such discharges are:
      (1) regulated by a separate NPDES permit or the discharger has applied for such permit;
      (2) covered under the Department's NPDES General Permit Program regulations; or
      (3) identified by and in compliance with Part II.A.6.

   b. Spills:
      Where the discharge of materials resulting from a spill is necessary to prevent loss of life, personal injury, or severe property damage, the co-permittees shall take, or insure that the party responsible for the spill takes, all reasonable steps to minimize or prevent any adverse effects on human health or the environment. (See also Part II.A.7., page 9.) This permit does not transfer the liability for the spill itself from the party(ies) responsible for the spill nor relieve the party(ies) responsible for the spill from the reporting requirements under 7 Del.C. §6028.

c. Discharges of pollutants in quantities that would cause or contribute to an exceedance of any applicable surface water quality criterion or that would cause or contribute to a violation of any applicable surface water quality standard for the receiving waters, including:
   (1) Discharges of substances or materials in amounts that are toxic, or that would be toxic to humans, fish, aquatic life or wildlife;
   (2) Discharges of floatable debris, oils, scum, foam, or grease in other than trace amounts; and
   (3) Discharges that cause or contribute to degradation or loss of State-designated beneficial uses of the receiving waters.

C. Co-Permittee Responsibilities

1. Each of the co-permittees is responsible for:
   a. Compliance with permit conditions relating to discharges from those portions of the municipal separate storm sewer system that the permittee operates or maintains;
   b. Implementation of the storm water pollution prevention and management program set forth herein for those portions of the municipal separate storm sewer system that the permittee operates or maintains;
   c. Compliance with the annual reporting requirements specified in Part II.;
   d. Collection of representative wet weather monitoring data required by Part IV, according to such agreements as may be established between or among co-permittees; and
   e. A plan of action to assume responsibility for implementation of storm water management and monitoring programs on their portions of the municipal storm sewer system should inter-jurisdictional agreements allocating responsibility between or among co-permittees be dissolved or in default.

2. Co-permittees are jointly responsible for compliance with permit conditions relating to discharges from portions of the municipal storm sewer system where operation or maintenance of the storm sewer system is shared, where implementation of the storm water management program set forth herein is shared or where responsibility for either system operation or maintenance or storm water management program implementation is transferred from one permittee to another in accordance with legally binding agreements.

D. Discharge Limitations

1. To the maximum extent practicable, all storm water discharges from the municipal storm sewer system covered by this permit shall be managed, treated or otherwise controlled, through full implementation of the comprehensive Storm Water Pollution Prevention and Management Program (SWPP&MP) outlined in Part II, to comply with the following:

    a. No discharge of pollutants in quantities that would cause a violation of ambient surface water quality standards.

    b. No discharge of substances or materials in amounts that are toxic, or that would be toxic to humans, fish, aquatic life or wildlife.

    c. No discharge of floatable debris, oils, scum, foam, or grease in other than trace amounts.

    d. No discharge of non-storm water (except as provided in Part II.A.6.).

    e. No degradation or loss of State-designated beneficial uses of receiving waters as a result of storm water discharges from the municipal separate storm sewer system.

2. If it is determined that any of the preceding discharges persist, notwithstanding implementation of the SWPP&MP and other requirements of this permit, the co-permittees, either singularly or collectively, shall notify the Department and thereafter, shall prepare and submit a report that:

    a. Identifies and describes all BMPs currently being employed in that portion of the municipal separate storm sewer system where the offending discharge(s) persist;

    b. Assesses the effectiveness of those existing BMPs; and

    c. Identifies any improvements to be made or any additional BMPs or control measures to be employed to address the conditions noted, including a schedule for implementing those improvements or additional measures.

3. The assessment report specified herein may be incorporated into the annual SWPP&MP review and update that is prescribed in Part II.G., unless the Department directs an earlier submission. In addition, a copy of the assessment report shall be included with the annual report to be prepared and submitted to the Department in accordance with Part II.H.

Part II. Storm Water Pollution Prevention and Management Program (SWPP&MP)

Each permittee shall contribute to the implementation of a comprehensive storm water pollution prevention and management program as specified herein, including the employment of pollution prevention measures, best management practices, treatment or removal techniques, storm water monitoring, exercise of legal authority, requiring compliance with ordinances, permits, contracts or orders and other appropriate means to control the quality of the storm water discharged from/through the municipal separate storm sewer system referenced herein. The comprehensive storm water pollution prevention and management program ("SWPP&MP") shall be implemented in accordance with Section 402(p)(3)(B) of the Act and the federal NPDES storm water regulations in 40 CFR Part 122.26.

The storm water pollution prevention and management program ("SWPP&MP") shall include controls necessary to effectively prohibit the discharge into the municipal separate storm sewer system of any materials other than storm water and to reduce the discharge of pollutants from/through the municipal separate storm sewer system to the maximum extent practicable ("MEP").

The SWPP&MP shall cover the term of this permit and shall be updated as necessary, or as required by the Department, to ensure compliance with the statutory requirements of Section 402(p)(3)(B) of the Act. Modifications to the SWPP&MP shall be made in accordance with Part II.G.2. The SWPP&MP submitted with the application, as revised October 15, 1998, and all updates or modifications made in accordance with Part II.G.2., are hereby incorporated by reference.

Implementation of the SWPP&MP may be achieved through participation with the other co-permittees, public agencies, or private entities in cooperative efforts to satisfy the requirements of Part II in lieu of creating duplicate program elements for each individual co-permittee. The SWPP&MP, taken as a whole, shall achieve the "effective prohibition of non-storm water discharges" and "MEP" standards from Section 402 (p)(3)(B) of the Act.

A. Storm Water Pollution Prevention and Management Program Requirements

The SWPP&MP shall be implemented in a manner consistent with the following requirements:

1. *Structural Controls and Operation of the Storm Water Collection System:*
   The co-permittees shall operate and maintain the municipal separate storm sewer system and any structural controls incorporated into the system in such a manner as to reduce the discharge of pollutants (including floatables) to the maximum extent practicable.

a. Each co-permittee shall inspect, at least once during the term of this permit, its respective parts of the storm water collection and conveyance facilities, including all components and any structural controls incorporated into the storm sewer system. Each co-permittee shall perform the necessary maintenance and repairs (or notify the responsible party of the need for maintenance and repair, as in the case of privately-owned storm water ponds or basins) to ensure the continued, effective operation of its portion of the storm sewer system. Needed maintenance shall include the clearing of obstructions, removing and properly disposing of accumulated debris, finding and eliminating sources of pollutants from broken pipes, loose joints or cracked inlet boxes, taking measures to reduce or eliminate stream bank erosion at bridges and storm drain outfalls, installing scour counter measures, maintaining vegetation (i.e., mowing, removing and properly disposing of invasive plants and grass clippings), and so forth, in accordance with EPA's storm water guidance (Operation, Maintenance & Management of Stormwater Management, Watershed Management Institute, Inc, & EPA, August 1997), the Delaware Department of Transportation's Maintenance Plan for Stormwater Management Ponds and the State of Delaware's Sediment and Stormwater Regulations. The New Castle County Department of Special Services (the County) and the Delaware Department of Transportation (DelDOT) shall conduct more frequent inspections as specified below.
   (1) The County and DelDOT shall conduct annual inspections of all publicly owned storm water management ponds or basins and any structural BMPs (best management practices) or controls incorporated into their respective storm sewer systems.
   (2) The County shall conduct annual inspections of all privately owned storm water management ponds or basins that have been retrofitted to improve storm water treatment efficiency and provide greater water quality benefit.
   (3) The County and DelDOT shall continue to endeavor to respond to and to resolve any complaints about its storm water collection and conveyance facilities in a timely manner.

b. The co-permittees shall maintain an internal log or similar reporting mechanism to document all inspection and maintenance activities. The co-permittees shall share information about problems identified and any significant maintenance projects with the other co-permittees, as appropriate.

c. The co-permittees shall monitor the performance of and discharge from the existing (storm water) structural controls. Each co-permittee shall, on an annual basis, review its inspection and maintenance program and assess the effectiveness of its scheduled activities in meeting the objectives outlined herein. The co-permittees shall include a summary of their assessments with each annual report that is to be prepared and submitted to the Department under Part II.H.

2. *Areas of New Development and Significant Redevelopment:*
   The co-permittees shall utilize a comprehensive master planning process, which involves public participation and intergovernmental coordination, to develop, implement, and enforce controls to reduce, to the maximum extent practicable, the discharge of pollutants from areas of new development and significant redevelopment after construction is completed.

3. *Roadways:*
   The co-permittees shall operate and maintain public streets, roads, and highways, in such a manner to reduce, to the maximum extent practicable, the discharge of pollutants. This includes implementing effective programs to remove snow and ice; to manage roadway deicing, salting and sanding activities; to control litter; to maintain cleanliness of roadways (i.e., routine street sweeping) and to reduce contaminated storm runoff (i.e., manage and minimize any transport of pollutants) associated with road repair and maintenance activities (i.e., practices to address spill prevention, material management and good housekeeping).

4. *Flood Control Projects:*
   The co-permittees shall assess and minimize to the maximum extent practicable, the impacts of any flood control projects on receiving water quality. The co-permittees shall also evaluate the feasibility of retrofitting existing flood control devices to provide additional pollutant removal from storm water.

5. *Pesticide, Herbicide, and Fertilizer Application:*
   The co-permittees shall implement controls to reduce, to the maximum extent practicable, the discharge of pollutants related to the application of pesticides, herbicides, and fertilizers by the co-permittee's employees or contractors to public rights of way, parks, and other municipal property or facilities. In addition, the co-permittees shall implement programs to encourage reductions in the discharge of pollutants associated with the commercial application and distribution of pesticides, herbicides and fertilizers.

6. *Illicit Discharges and Improper Disposal:*
   The co-permittees shall implement an on-going program to detect illicit discharges and improper disposal into the storm sewer and to require appropriate corrective action, either elimination of the illicit discharge(s) or notification that a NPDES permit must be obtained if the discharge is to continue.

This program shall include dry weather inspection and field screening activities to locate portions of the municipal separate storm sewer system with suspected illicit discharges and improper disposal (described in Part II.A.11.). Follow-up activities to eliminate illicit discharges and improper disposal may be prioritized on the basis of magnitude and nature of the suspected discharge, sensitivity of the receiving waters, and/or other relevant factors. This program shall establish priorities and schedules for screening the entire municipal separate storm sewer system at least once during the five-year term of this permit. Facility inspections may be carried out in conjunction with other programs (e.g., health inspections, fire inspections, pretreatment inspections of industrial users, etc.), but must include random inspections for facilities not normally visited.

a. Each co-permittee shall effectively prohibit through state, county or municipal statute or ordinance or similar means, the discharge of materials other than storm water to the municipal separate storm sewer system.

b. Unless identified as a significant source of pollutants to waters of the State, the following non-stormwater discharges need not be prohibited from entering the municipal separate storm sewer system, provided such sources are identified and appropriate control measures to minimize the impacts of such sources, are developed under the SWPP&MP:
   (1) water line flushing;
   (2) landscape irrigation;
   (3) diverted stream flows;
   (4) rising groundwaters;
   (5) uncontaminated groundwater infiltration to separate storm sewers;
   (6) uncontaminated pumped groundwater;
   (7) discharges from potable water sources;
   (8) foundation drains;
   (9) air conditioning condensate;
   (10) irrigation water;
   (11) springs;
   (12) water from crawl space pumps;
   (13) footing drains;
   (14) lawn watering;
   (15) individual residential vehicle washing;
   (16) flows from riparian habitats and wetlands;
   (17) dechlorinated swimming pool discharges;
   (18) street wash waters; and
   (19) discharges or flows from emergency fire fighting activities.

c. Each co-permittee shall implement procedures to limit infiltration of seepage from sanitary sewers and to prevent (or require the operator of the sanitary sewer system to eliminate) discharges of dry and wet weather overflows from sanitary sewers into the municipal separate storm sewer system.

d. The discharge or disposal of used motor vehicle fluids, household hazardous wastes, grass clippings, leaf litter, and domestic animal wastes into separate storm sewers shall be prohibited. The co-permittees shall promote - through education, public information and other appropriate measures - the proper management and disposal of used motor vehicle fluids (at a minimum, oil and antifreeze) and household hazardous waste materials (including paint, solvents, pesticides, herbicides, and other hazardous materials). The co-permittees shall coordinate such efforts with the Delaware Solid Waste Authority, the Department's Division of Air and Waste Management and the Recycling Public Advisory Council. The co-permittees shall explore opportunities to facilitate existing recycling and household hazardous waste collection programs and identify ways to encourage more participation.

e. Each co-permittee shall implement a program to reduce the discharge of floatables (e.g., litter and other human-generated solid refuse) to the maximum extent practicable. The floatables control program shall include source controls and, where necessary, structural controls.

f. Each co-permittee shall require the elimination of illicit discharges and improper disposal practices as expeditiously as reasonably possible. Where elimination of an illicit discharge is not possible within thirty (30) calendar days of identification of the source and party responsible for the illicit discharge, an expeditious schedule for removal of the discharge shall be developed and required of the party responsible for the illicit discharge. In the interim, the co-permittee shall require the operator of the illicit discharge to take all reasonable and prudent measures to minimize the discharge of pollutants to the municipal separate storm sewer system.

g. The co-permittees shall maintain, and update as necessary, a list of dischargers to the municipal separate storm sewer system that have been issued a NPDES permit. The list shall include the name, location and NPDES permit number for the discharger.

7. *Spill Prevention and Response:*
The co-permittees shall implement a program to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer system. The spill response program may include a combination of spill response actions by the co-permittee(s) and legal requirements for other public and/or private entities within the co-permittee's jurisdiction.

8. *Industrial & High Risk Runoff:*
The co-permittees shall implement a program to identify, monitor, and control pollutants in storm water discharges to the municipal separate storm sewer system from the following "high risk" industrial or commercial facilities: municipal and hazardous waste landfills; industrial facilities that discharge, with or without pretreatment, to the New Castle County sanitary sewer system; hazardous waste treatment, storage and disposal facilities; industrial facilities that are subject to the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), commonly known as SARA Title III, Section 313; and any other industrial or commercial discharge the co-permittees determine are contributing a substantial pollutant load to the municipal separate storm sewer system. Industrial facilities that are covered by an individual NPDES permit may be excluded from this program.

The program shall include:
a. an inventory of all such "high risk" facilities discharging to the MS4; the inventory shall identify the outfall(s) and the surface waterbody to which storm water from the facility drains;
b. priorities and procedures for scheduling and conducting inspections;
c. priorities and procedures for establishing and implementing control measures for any storm water discharge(s) from such "high risk" facilities;
d. a monitoring program (as outlined in Part II.A.11. and Part IV);
e. procedures for maintaining a list of all industrial storm water sources discharging to the municipal separate storm sewer system and updating such list as necessary to keep it current.

9. *Construction Site Runoff:*
The co-permittees shall implement a program to reduce, to the maximum extent practicable, the discharge of pollutants from construction sites, including:
a. requirements for the use and maintenance of appropriate structural and nonstructural best management practices to reduce pollutant discharges to the municipal separate storm sewer system during the time when construction is underway;
b. procedures for site planning which incorporate considerations for potential short term and long term water quality impacts and which minimizes those impacts, to the maximum extent practicable;
c. prioritized inspection of construction sites and enforcement of control measures;
d. appropriate education and training measures for construction site operators; and
e. notification of all construction permit applicants of their potential responsibilities under the NPDES permitting program for construction site runoff.

10. *Public Education:*
The co-permittees shall implement a public education program that includes the following elements:
   a. a program to promote, publicize and facilitate public reporting of the presence of illicit discharges or improper disposal of materials, including floatables, into the municipal separate storm sewer system;
   b. a program to promote, publicize, and facilitate the proper management and disposal of used motor vehicle fluids and household hazardous wastes;
   c. a program to promote, publicize, and facilitate the proper management and disposal of grass clippings, leaf litter and domestic animal wastes; and
   d. a program to promote, publicize, and facilitate the proper use, application, and disposal of pesticides, herbicides, and fertilizers by commercial and private applicators and distributors.

11. *Monitoring Programs:*
In addition to the monitoring specified in Part IV., the co-permittees shall implement the following monitoring programs:

   a. A *Dry Weather Screening Program* to detect the presence of illicit connections and improper discharges to the municipal separate storm sewer system. All areas of the municipal separate storm sewer system shall be screened at least once during the term of this permit. The screening methodology may be modified based on the experience gained during actual field screening activities and need not conform to the protocol at 40 CFR 122.26(d)(1)(iv)(D). Sample collection and analysis need not conform to the requirements of 40 CFR Part 136, unless the sample is taken to confirm a particular illicit connection or improper disposal practice.

   b. A *Wet Weather Screening Program* to identify, investigate, and address areas within the co-permittee's jurisdiction that may be contributing excessive levels of pollutants to the municipal separate storm sewer system. The wet weather screening program shall:

      (1) screen the municipal separate storm sewer system in accordance with the procedures specified in the SWPP&MP;

      (2) specify the sampling and non-sampling techniques to be used for initial screening and follow-up purposes. Sample collection and analysis need not conform to the requirements of 40 CFR Part 136, unless the sample is taken to confirm a particular illicit connection or improper disposal practice.

c. An *Industrial and High Risk Runoff Monitoring Program* to monitor pollutants in storm water discharges from municipal landfills; other treatment, storage or disposal facilities for municipal waste (e.g., transfer stations, incinerators, etc.); hazardous waste treatment, storage, disposal and recovery facilities; facilities that are subject to the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), commonly known as SARA Title III, Section 313; and any other industrial or commercial discharge the co-permittees determine are contributing a substantial pollutant loading to the municipal separate storm sewer system.

(1) Except as provided in Part II.A.11.c. (2), below, the monitoring program shall include the collection of quantitative data on the following constituents:

i. any pollutants limited in an existing NPDES permit for a subject facility;
ii. oil and grease;
iii. chemical oxygen demand (COD);
iv. pH;
v. 5 day biochemical oxygen demand (BOD5);
vi. total suspended solids (TSS);
vii. total Kjeldahl nitrogen (TKN);
viii. nitrate plus nitrite nitrogen;
ix. total phosphorus;
x. any information on discharges required under 40 CFR 122.21(g)(7)(iii) and (iv).

Data collected by the industrial facility to satisfy the monitoring requirements of a NPDES permit may be used to satisfy this requirement. The co-permittee(s) may also require the industrial facility to conduct self-monitoring to satisfy this requirement.

(2) In lieu of monitoring, the co-permittee(s) may accept a certification from a facility that raw materials, waste materials, final and intermediate products, by-products, material handling equipment or activities, industrial machinery or operations, or significant materials from past industrial activity at the site are not presently exposed to storm water and are not expected to be exposed to storm water for the certification period. Where the co-permittee(s) accept such "no exposure" certification, the co-permittee(s) shall conduct at least one site inspection of the facility every five years to verify the facility's exemption under this subparagraph.

B. Area-specific Storm Water Pollution Prevention and Management Program Requirements

The following SWPP&MP requirements apply only to the areas, discharges, basins, watersheds or municipalities specified.

(Reserved for system-specific; watershed-specific; or water quality-related program elements or requirements.)

C. Deadline for Program Implementation

Except as provided in Part III., full implementation of the comprehensive Storm Water Pollution Prevention and Management Program specified herein shall begin on the effective date of this permit.

D. Roles and Responsibilities of Co-permittees

The comprehensive Storm Water Pollution Prevention and Management Program incorporated herein, together with any attached interagency agreements, shall clearly outline the roles and responsibilities of each co-permittee.

E. Legal Authority

Each co-permittee shall insure adequate legal authority to control discharges to and from/through those portions of the municipal separate storm sewer system over which it has jurisdiction. This legal authority may be a combination of statute, ordinance, permit, contract, order or inter-jurisdictional agreements with those persons with existing legal authority to:

1. Control the contribution of pollutants to the municipal separate storm sewer system by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;
2. Prohibit illicit discharges to the municipal separate storm sewer system;
3. Control the discharge of spills and the dumping or disposal of materials other than storm water (e.g., industrial and commercial wastes, trash, used motor vehicle fluids, leaf litter, grass clippings, animal wastes, etc.) into the municipal separate storm sewer system;
4. Control the discharge of pollutants from one portion of the municipal separate storm sewer system to another through interagency or inter-jurisdictional agreements;
5. Require compliance with conditions in ordinances, permits, contracts or orders; and
6. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance with this permit, including the prohibition of illicit discharges to the municipal separate storm sewer system.

F. Storm Water Pollution Prevention and Management Program Resources

Each co-permittee shall provide adequate resources - finances, staff, equipment, and support capabilities - to implement the SWPP&MP specified herein.

G. Storm Water Pollution Prevention and Management Program Review and Update

1. *Program Review:*
   Each co-permittee shall participate in an annual review of the current SWPP&MP in conjunction with preparation of the annual report required under Part II.H. This annual review shall include:
   a. A review of the status of implementing the SWPP&MP specified herein;
   b. An assessment of the effectiveness of the controls established by the SWPP&MP;
   c. A review of the monitoring data collected and any trends in the estimated cumulative annual pollutant loadings;
   d. An assessment of the need to modify the SWPP&MP to comply with the statutory requirement under Section 402 (p)(3)(B)(iii) of the Act to reduce the discharge of pollutants to the municipal separate storm sewer system to the maximum extent practicable; and
   e. An assessment of the need to modify the SWPP&MP to meet any applicable surface water quality standards for the receiving waters and to protect the designated uses for those waters.

2. *Program Modification and Update:*
   The SWPP&MP incorporated herein shall not be modified without the prior approval of the Department, unless in accordance with items a. through c., below:
   a. Portions of the SWPP&MP not specifically required by Part II.A. may be modified upon written notification to the Department.
   b. Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWPP&MP may be made at any time upon written notification to the Department.
   c. Changes replacing an ineffective or infeasible best management practice or BMP specifically identified in the SWPP&MP with an alternate may be requested at any time. Unless denied by the Department, changes proposed in accordance with the criteria specified below shall be deemed approved and may be implemented within 60 days from submittal of the request. Such requests shall include the following:
      (1) An analysis of why the BMP is ineffective or infeasible (cost may be a factor);
      (2) Expectations on the effectiveness of the replacement BMP; and
      (3) An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.

Modifications made under this paragraph, other than those made in accordance with a., b. or c., above, shall not become enforceable regulatory requirements until such time as the modifications are formally approved.

Any requests to modify the SWPP&MP or notification of changes made to the SWPP&MP shall be signed in accordance with Part V and shall include a certification that all co-permittees were given an opportunity to comment on the proposed change(s) prior to its(their) submittal.

3. *Changes or Updates Required by the Department:*
   Upon notification from the Department that the SWPP&MP does not adequately address the requirements herein, the co-permittee(s) shall modify the plan and submit the changes to the Department within the timeframe specified in the notice.

H. Annual Report

Each co-permittee shall contribute to the preparation of an annual system-wide report. Each annual report shall be submitted no later than the anniversary of the effective date of this permit and shall cover all activities related to this permit during the preceding calendar year. *(The first annual report shall cover activities from January 1, 2001, through December 31, 2001, and shall be submitted no later than May 1, 2002.)*

The annual report shall include the following separate sections, with an overview for the entire municipal separate storm sewer system, and subsections for each municipal jurisdiction covered:

1. The status of implementing the components of the storm water pollution prevention and management program outlined in Part II.A.;
2. Proposed changes to the SWPP&MP, including an update of areas added to the municipal separate storm sewer system due to annexation or other legal means;
3. Revisions, if necessary, to the assessments of controls and the fiscal analysis reported in the permit application or as specified in Part III;
4. A summary of the data, including monitoring data, that is accumulated throughout the reporting year;
5. Annual expenditures and budget for the upcoming fiscal year;
6. A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
7. Identification of any improvement or degradation in water quality noted.

Preparation and submittal of the annual report shall be coordinated by the New Castle County Department of Special Services. The annual report shall indicate which, if any, co-permittee(s) has(have) failed to provide required information on the portions of the municipal separate storm sewer system for which it(they) is(are) responsible. All co-permittees are jointly responsible for timely submittal of the system-wide annual report. Each co-permittee is responsible for the content of the report relating to those portions of the municipal separate storm sewer system for which it is responsible and for failure to provide information for the system-wide annual report. Each co-permittee shall sign and certify the annual report in accordance with Part V. and include a statement or resolution that the co-permittee's governing body or agency has reviewed the annual report.

Part III. Schedules of Compliance

To achieve compliance with the requirements set forth in Parts II and IV, the co-permittees shall supplement/modify the proposed comprehensive Storm Water Pollution Prevention and Management Plan (SWPP&MP) submitted with their permit application, as revised October 15, 1998, by developing and implementing the following components of their SWPP&MP within the timeframes specified herein:

The Delaware Department of Transportation (DelDOT) shall inspect a minimum of 20% of its drainageways per year. While doing so, DelDOT shall: 1. Stencil each drainage inlet with a public message pertaining to water quality and 2. Identify which of its drainage inlets provide some level of treatment or reduction in pollutants transported via storm water runoff and function as catch basins. Within five (5) years of the effective date of this permit, DelDOT shall compile a system-wide inventory of all of its catch basins which identifies the location of each catch basin. DelDOT shall include a summary of its progress in completing the catch basin inventory with the annual report that is to be prepared and submitted to the Department under Part II.H.

Within five (5) years of the effective date of this permit, at a rate of 20% per year, the New Castle County Department of Special Services shall compile a field inventory of all privately owned storm water management ponds/basins in New Castle County. The inventory shall identify the location of each storm water management pond or basin and include an assessment of its condition and potential for retrofit. The County shall include a summary of its progress in completing the inventory of privately owned storm water ponds/basins with the annual report that is to be prepared and submitted to the Department under Part II.H.

Within one (1) year of the effective date of this permit, the co-permittees shall assess the water quality impacts of their existing and ongoing development planning activities. In conducting this assessment, the co-permittees shall:

a) identify the practices that reduce polluted runoff, practices that decrease impervious surfaces and practices that abate flooding to the extent that flooding impacts water quality;
b) assess how existing planning efforts, at their respective level, relate to the Department's water quality requirements and goals;
c) identify those aspects of the planning process that don't adequately consider water quality needs;
d) propose solutions or alternative planning methods to address those aspects identified in c); and
e) propose a schedule for implementing the solutions proposed or changing the existing planning process, at each respective level (state, county or municipal), to better address water quality.

The co-permittees shall submit this assessment to the Department as an attachment to the first annual report to be prepared and submitted under Part II.H.

Within one (1) year of the effective date of this permit, the County shall provide a flood mitigation plan that incorporates consideration of water quality measures. In addition, the County shall, within six (6) months of submitting the aforementioned flood mitigation plan, and no later than eighteen (18) months of the effective date of this permit, develop and prioritize a list of projects that involve retrofitting existing structural flood control devices to provide additional pollutant removal and greater water quality benefit. The County shall include an estimated or projected construction schedule for implementing the retrofit projects listed.

Within six (6) months of the effective date of this permit, the co-permittees shall submit to EPA and to the Department a systematic inspection program to uncover illicit discharges and connections to the storm sewer system as described in Part II.A.6. The co-permittees shall implement the program within six (6) months of receiving both agencies' approval.

Within six (6) months of the effective date of this permit, the County shall develop a program to identify, monitor and control pollutants in storm runoff from "high risk" industrial and commercial facilities, as outlined in Part II.A.8. The County shall submit the program to the EPA and to the Department on or before October 31, 2001. The County shall implement the program within three (3) months of receiving both agencies' approval.

Within six (6) months of the effective date of this permit, the co-permittees shall develop and implement a public education program that includes the elements outlined in Part II.A.10.

Within two (2) years of the effective date of this permit, the co-permittees shall develop and implement a programmatic agreement with the Department and the State Historic Preservation Office (SHPO). The programmatic agreement shall address coordination with the SHPO and the SHPO's review of any projects to be undertaken in accordance with this permit that involve ground disturbance, new construction or demolition of an existing structure, for compliance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

Part IV. Monitoring and Reporting Requirements

A. Storm Event Monitoring

The co-permittees shall implement a wet-weather monitoring program for the municipal separate storm sewer system to provide the data necessary for the following tasks:

1. To assess the effectiveness and adequacy of the control measures implemented under the SWPP&MP;
2. To estimate the annual cumulative pollutant loadings from the municipal separate storm sewer system;
3. To estimate the event mean concentrations and seasonal pollutants in discharges from major outfalls;
4. To identify and prioritize portions of the municipal separate storm sewer system requiring additional controls; and
5. To identify improvements or degradation in surface water quality.

B. Wet Weather Screening Program

The co-permittees shall implement a monitoring program to screen all major sewer-sheds for the presence of illicit connections and improper discharges to the municipal separate storm sewer system.

C. Dry Weather Monitoring

The co-permittees shall implement a program to detect the presence of illicit connections and improper discharges to the municipal separate storm sewer system.

a. The co-permittees shall field screen at least 20% of their storm sewer system per year in order to identify any dry weather or illicit discharges. The investigative procedures and follow-up measures shall be as outlined in the SWPP&MP (for detecting illicit discharges and taking corrective action).
b. The co-permittees shall maintain an internal log or similar reporting mechanism to document the results of all field screening and inspection activities.
c. The co-permittees shall include a summary of their dry weather monitoring activities with each annual report that is to be prepared and submitted to the Department under Part II.H.

D. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit. Any monitoring locations specified herein shall not be changed without notification to and the approval of the Department.

E. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to insure that the accuracy of the measurements are consistent with the accepted capability of that type of device.

F. Test Procedures

Test procedures for the analysis of pollutants shall conform to the applicable test procedures identified in 40 CFR, Part 136, unless otherwise specified in this permit.

G. Penalties for Tampering

State law, 7 Del. C. §6013, provides that any person who falsifies 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 $5,000 or by imprisonment for not more than 6 months, or by both.

H. Record Contents

For each measurement or sample taken pursuant to the requirements of this permit, the co-permittees shall record the following information:

1. The date, exact place, time and method of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed each analysis;
5. The analytical techniques or methods used; and
6. The results of such analyses; and
7. Any quality assurance information.

I. Retention of Records

All records and information resulting from the monitoring activities required by this permit, all records of analyses performed, records of calibration and maintenance of instrumentation, all original strip chart recordings from continuous monitoring instrumentation and copies of all reports required by this permit shall be retained for three (3) years. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the co-permittees, or as requested by the Department.

J. Annual Report

The system-wide annual report specified in Part II.H. shall be submitted no later than the anniversary of the effective date of this permit and shall cover the preceding calendar year's activities (from January 1 through December 31).

K. Certification and Signature of Reports

All reports required herein and other information requested by the Department shall be signed in accordance with Part V.

Part V. Standard Permit Conditions

A. Duty to Comply

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The violation of any effluent limitation or of any other condition specified in this permit shall be grounds for enforcement as provided in 7 Del. C. §6005; for loss of authorization to discharge pursuant to this permit; for permit revocation and reissuance or modification pursuant to Part V.H.; or for denial of a permit renewal application. Pursuant to 7 Del.C. §6019, the Department may seek voluntary compliance by way of warning, notice or other educational means. However, the law does not require that such voluntary means be used before proceeding by way of compulsory enforcement.

B. Adverse Impact

The co-permittee(s) shall take all reasonable steps to minimize any adverse impact on the environment resulting from noncompliance with this permit. This includes such accelerated or additional monitoring as necessary to determine the nature and extent of noncompliance and to assess its impact.

C. Facilities Operation

The co-permittee(s) shall at all times maintain in good working order and operate as efficiently as possible all structural controls, collection and treatment facilities and systems (and related appurtenances) installed or used by the co-permittee(s) to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes, but is not limited to effective performance (based upon design), adequate funding, effective management, adequate operator staffing and training and adequate laboratory and process controls including appropriate quality control procedures.

D. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of collection or treatment of the discharges authorized herein shall be disposed of in a manner such as to prevent any pollutant from such materials from entering surface waters or groundwaters.

E. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act, all reports prepared in accordance with the terms and conditions of this permit shall be available for public inspection at the offices of the Department of Natural Resources and Environmental Control. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for under 7 Del.C. §6013.

F. Transfer of Permit

In the event of any change in ownership or control of facilities from which the authorized discharges emanate, this permit may be transferred to another person if:

1. The current permittee notifies the Department, in writing, of the proposed transfer at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the transferor and the transferee, indicating a specific date for transfer of permit responsibility, coverage, and liability; and
3. The Department within thirty (30) days of receipt of the notification of the proposed transfer does not notify the current permittee and the new permittee of intent to modify, revoke and reissue, or terminate the permit and require that a new application be submitted.

G. Reapplication for a Permit

At least 180 days before the expiration date of this permit, the co-permittees shall submit a new application for a permit. In the event that a timely and sufficient reapplication has been submitted and the Department is unable, through no fault of the co-permittees, to issue a new permit before the expiration date of this permit, the terms and conditions of this permit are automatically continued and remain fully effective and enforceable.

H. Permit Modification, Revocation and Reissuance, and Termination

1. After notice and opportunity for a hearing, this permit may be modified, terminated, or revoked and reissued in whole or in part during its term for cause including, but not limited to, the following:
   a. Violation of any terms or conditions of this permit;
   b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
   c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge(s);
   d. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

2. In addition, this permit may be modified, revoked and reissued in whole or in part, but not terminated, after notice and opportunity for a hearing, for cause including, but not limited to, the following:

   a. Facility modifications, additions, and/or expansions that are not otherwise sanctioned either by this permit or by the programs administered by the co-permittees in accordance with this permit;
   b. Material and substantial changes or additions to the co-permittees' operation or activities which justify the application of permit conditions that are different or absent from this permit;
   c. Information newly acquired by the Department, including but not limited to the results of the studies, planning, or monitoring described and/or required by this permit;
   d. Revision, withdrawal or modification of State surface water quality standards or effluent limitations guidelines promulgated by the Department or the United States Environmental Protection Agency, but only when the permit term or condition requested to be modified or revoked was based on a State water quality standard or an effluent limitation guideline duly promulgated by the Department or the United States Environmental Protection Agency that was revised, withdrawn or modified;
   e. Judicial remand of effluent limitation guidelines promulgated by the United States Environmental Protection Agency, if the remand concerns that portion of the guidelines on which the permit term or condition was based and the request is filed within ninety (90) days of the judicial remand;
   f. Any modification or revocation and reissuance of permits specifically authorized by the Clean Water Act;
   g. To comply with any applicable standard or limitation promulgated or approved under sections 301(b)(2)(C) and (D), 304(b)(2) and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:
      (i) Contains different conditions or is otherwise more stringent than any effluent limitations in the permit; or
      (ii) Controls any pollutant not limited in the permit.
      The permit as modified or reissued under this subparagraph shall also contain any other requirements of the Act then applicable;
   h. To contain a schedule of compliance leading to termination of the direct discharge by a date which is no later than the statutory deadline;
   i. To modify a schedule of compliance in an issued permit for good and valid cause by a date which is no later than the statutory deadline.

3. 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. When a permit is modified, only conditions subject to modification are reopened.

I. Right of Entry

The co-permittee(s) shall allow the Secretary of the Department of Natural Resources and Environmental Control, the EPA Regional Administrator, and their authorized representatives, jointly and severally, upon the presentation of credentials and such other documents as may be required by law:

1. To enter upon the co-permittee's premises where a regulated facility or activity is located or conducted, or where any records are required to be kept under the terms and conditions of this permit; and
2. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; to inspect any structural controls, collection, treatment, pollution management, or discharge facilities required under this permit; and to sample any discharge of pollutants.

J. Signatory Requirements

All applications, monitoring reports, storm water pollution prevention and management program reports, certifications or other information required by this permit, whether submitted to the Department or maintained by the co-permittee(s), shall be signed as follows:

1. By a principal executive officer or ranking elected official; or
2. A duly authorized representative of that person. A person is a duly authorized representative only if:
   a. The authorization is made in writing by the person described above and is submitted to the Department.
   b. 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 manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

For purposes of this paragraph, the principal executive officer of a federal, state, or public agency includes: (i) The chief executive officer of the agency (e.g., cabinet secretary); or (ii) A senior executive officer having responsibility for the overall operation of a principal geographic unit of the agency (e.g., the Regional Administrator of EPA).

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

K. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the co-permittees from civil or criminal penalties for noncompliance.

L. Discharge of Pollutants

Any person who causes or contributes to the discharge of a pollutant into waters of the State or the United States either in excess of any conditions specified in this permit or in absence of a specific permit condition, shall report such an incident to the Department as required under 7 Del.C. §6028.

M. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the co-permittees from any responsibilities, liabilities, or penalties to which the co-permittees are or may be subject under 7 Del. C. Chapter 60.

N. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the co-permittees from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation.

O. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

P. Construction Authorization

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

Q. Severability

The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected.

Part VI. Definitions

"Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or the Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub.L. 95-217, Pub.L. 95-576, Pub.L. 96-483, Pub.L. 97-117, Pub. L. 100-4 (the Water Quality Act of 1987), Pub. L. 100-688, Pub. L. 100-581, Pub.L. 102-580, Pub. L. 102-240; 33 U.S.C. 1251 et.seq.

"Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs can be applied before, during or after pollution generating activities to reduce or eliminate the introduction of pollutants into receiving waters.

"CFR" means the Code of Federal Regulations in effect on July 1, 1999.

"Department" means the State of Delaware Department of Natural Resources and Environmental Control.

"Discharge" for the purpose of this permit, when used without qualification, refers to the discharge of a pollutant.

"Discharge of a pollutant" means any addition of any pollutant, or combination of pollutants, to State waters.

"Illicit connection" means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

"Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except those sanctioned by a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting and other activities referenced in Part II.A.6. of this permit.

"Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.

"Land application unit" means an area where wastes are applied onto or incorporated into the soil surface (excluding manure-spreading operations) for treatment or resource utilization.

"Land disturbing activities" means a land change or construction activity for residential, commercial, silvicultural, industrial, and institutional land use which may result in soil erosion from water, or wind or movement of sediments or pollutants into State waters or onto lands in the State, or which may result in accelerated storm water runoff, including but not limited to, clearing, grading, excavating, transporting, and filling of land.

"Maximum extent practicable" or "MEP" means a level of performance that reflects the best effort possible after taking into consideration cost, feasibility, existing technology and logistics in light of overall facility operations or project purposes.

"MS4" refers to a Municipal Separate Storm Sewer System.

"Municipal Separate Storm Sewer" means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by a city, town, county, district, association, or other public body created by or pursuant to State law having jurisdiction over the disposal of wastes, storm water, or other wastes, storm water management, drainage or flood control.

"Permittee" or "co-permittee" refers to any of the entities listed on the title page of this permit (i.e., the New Castle County Department of Special Services, the Delaware Department of Transportation, the Village of Arden; the Village of Ardentown; the Village of Ardencroft; the Town of Bellefonte; the City of Delaware City, the Town of Elsmere; the Town of Middletown; the Town of Newport; the City of New Castle; the Town of Odessa; the Town of Townsend; and the City of Wilmington).

"Person" means any individual, trust, firm, corporation (including a government corporation), partnership, association, institution, enterprise, federal agency, state, municipality, commission, agency, political subdivision of a state or an interstate body, or an agent or employee thereof.

"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 return flows from irrigated agriculture or agricultural storm water runoff.

"Pollutant" means any substance, radioactive material, or waste heat, which causes or contributes to, or may cause or contribute to, pollution. The term includes dredge spoil and other dredged materials, fill material, solid waste, incinerator residue, filter backwash, sewage, garbage, sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, hydrocarbons, oil, product chemicals, and industrial, municipal, agricultural and other wastes discharged into water. It does not mean sewage from vessels.

"Pollution" or "water pollution" means the man-made or human-induced alteration of the physical, chemical, biological or radiological properties of any State waters as will create or is likely to create a nuisance or render such waters:

(i) Harmful or detrimental or injurious to the public health, safety, or welfare, or to the health of animals, fish, or aquatic life;
(ii) Unsuitable for use as present or possible future sources of public water supply; or
(iii) Unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses.

"Practicable" means available and capable of being done after taking into consideration cost, feasibility, existing technology and logistics in light of overall facility operations or project purposes.

"SWPP&MP" is an acronym for Storm Water Pollution Prevention and Management Program.

"Secretary" means the Secretary of the State of Delaware Department of Natural Resources and Environmental Control.

"Section 313 water priority chemical" means a chemical or chemical categories which:
1. Are listed at 40 CFR 372.65 pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, also titled the Emergency Planning and Community Right-to-Know Act of 1986;
2. Are present at or above threshold levels at a facility subject to SARA Title III, Section 313 reporting requirements; and
3. That meet at least one of the following criteria: (i) Are listed in Appendix D of 40 CFR 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) Are listed as a hazardous substance pursuant to section 311 (b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) Are pollutants for which EPA or the Department has published acute or chronic water quality criteria.

"Significant materials" means substances, products, or wastes that can contribute pollutants to storm water runoff because they are or may be exposed to precipitation. This term includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or section 102 of CERCLA (see 40 CFR 302.4) or State regulations promulgated pursuant to 7 Del. C., Chapter 60, §6028.

"Significant redevelopment" means:

- an activity that substantially degrades the character and/or increases the volume of storm water runoff;
- any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvements;
- any construction or alteration that increases the number of travel lanes on an existing roadway; any construction or alteration that reclaims for public use previously abandoned bridges or roadway alignments; or
- any capital improvement budgeted in the DelDOT System Expansion budget as authorized in the Annual Bond and Capital Improvements Act that has such effects.

"Storm Water" means storm water run-on or runoff, snow melt, surface runoff and drainage.

"Structural controls" means curbs, dikes, berms, walls, sheds, impervious pads, ditches, diversions or other structures which limit the contribution or transport of significant materials and pollutants to storm water.

"Waste pile" means any non-containerized accumulation of solid, nonflowing waste.

"Waters of the State" or "State waters" means all water, on the surface and under the ground, wholly or partially within, or bordering the State of Delaware, or within its jurisdiction including but not limited to:

(a) Waters which are subject to the ebb and flow of the tide including, but not limited to, estuaries, bays and the Atlantic Ocean;
(b) All interstate waters, including interstate wetlands;
(c) All other waters of the State, such as lakes, rivers, streams,(including intermittent and ephemeral streams), drainage ditches, tax ditches, creeks, mudflats, sandflats, wetlands, sloughs, or natural or impounded ponds;
(d) All impoundments of waters otherwise defined as waters of the State under this definition;
(e) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in (a)-(d).

Waste and storm water treatment systems that would otherwise meet this definition, are not "waters of the State" or "State waters".