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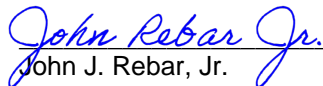
GENERAL PERMIT AUTHORIZATION FOR STORMWATER DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
AND THE LAWS OF THE
STATE OF DELAWARE

PHASE II MS4 TIER I GENERAL PERMIT

This General Permit is 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.) and pursuant to the provisions of Title 7, Del. C., § 6003.

This National Pollutant Discharge Elimination System (NPDES) General Permit covers small municipal stormwater sewer systems (MS4s) located in the State of Delaware that are covered under a current individual MS4 permit issued by the Delaware Department of Natural Resources and Environmental Control (the Department).

Only small MS4s that submit a Notice of Intent (NOI) in accordance with the terms and conditions of this permit and obtain written authorization from the Department are authorized under this Tier I General Permit to discharge stormwater to the waters of the State of Delaware.



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09/28/2023

Date Signed

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Part I. Coverage under this General Permit

A. Permit Coverage

This NPDES General Permit (permit) provides authorization for existing regulated small municipal separate storm sewer systems (MS4s), defined at 40 C.F.R. §122.26(b)(16), as well as the Delaware Department of Transportation (DelDOT), collectively referred to as a small MS4 permittee, located within the State of Delaware to discharge stormwater into waterbodies of the State.

Small MS4 permittees are required under this Tier I permit to reduce the discharge of pollutants from its MS4 to the maximum extent practicable (MEP) and to meet the water quality requirements of the Clean Water Act (CWA) as applicable.

B. Regulated Small MS4s

Entities required to obtain coverage under this Tier I permit are those who own, operate, or have jurisdiction over an MS4 in the State of Delaware which are:

1. Located in urbanized areas as determined by the latest Decennial Census of the United States Census Bureau, or
2. Designated by the Department under the CWA and other associated regulations, or
3. By petition to and designation by the United States Environmental Protection Agency (US EPA).
4. Currently covered under an existing NPDES MS4 permit issued by the Department.

Entities Eligible for Coverage Under Phase II MS4 Tier I General Permit
City of Dover
City of Newark
Delaware Department of Transportation within Phase II
Town of Middletown
University of Delaware

C. Obtaining Coverage

A regulated small MS4 in Delaware is eligible to be authorized to discharge under this permit if:

1. The owner/operator of a small MS4 is currently discharging stormwater pursuant to an individual NPDES Phase II MS4 Permit issued by the Department prior to the issuance of this permit (including Permits DE0051152, DE0051144, DE0051161, and DE0051209).
2. The MS4 is not a large or medium MS4 as defined in 40 C.F.R. §122.26, except DelDOT.
3. The MS4 submits a Notice of Intent (NOI) and obtains written authorization to discharge from the Department.

D. Notice of Intent Process

For permit renewal, permittees shall complete an NOI form which is available on the Department's website and submit it to the Department. MS4 owners and operators who currently have an individual NPDES Phase II MS4 Permit must apply for coverage under this Tier I General Permit and submit it

to the Department within sixty (60) days of the Permit effective date (January 1, 2024).

Notices of Intent shall be submitted to the Department at:

State of Delaware
Department of Natural Resources and Environmental Control
Division of Water/Commercial and Government Services Section/MS4 Program
89 Kings Highway
Dover, DE 19901

The Department may require future NOI submittals to be executed electronically in accordance with 40 C.F.R. Part 127. Upon written notification from the Department all permittees and co-permittees shall transition to eNOI submission in lieu of hardcopy submittals. The eNOI shall be electronically signed.

E. Stormwater Management and Water Quality

The permittee shall write, implement, manage, and enforce a Stormwater Management Program (SWMP) plan in accordance with the Clean Water Act and its implementing NPDES regulations, 40 C.F.R. §122.34(a) to meet the following requirements:

- 1) Effectively reduce pollutants in stormwater discharges or other unauthorized discharges into the MS4 as necessary to comply with Delaware's Surface Water Quality Standards to the maximum extent practicable.
- 2) Reduce the discharge of pollutants from the MS4 for which Total Maximum Daily Loads (TMDLs) have been established and as required by a Pollutant Reduction Plan developed in accordance with this permit.
- 3) Comply with all other provisions and requirements contained in this general permit.
- 4) The SWMP plan shall include a list of all waters that receive a discharge from the MS4 owned or operated by the permittee, including the following information for each such receiving water:
 - a) The number of outfalls discharging to each waterbody.
 - b) Designated uses of each waterbody which can be found on the Department's website at <http://regulations.delaware.gov/AdminCode/title7/7000/7400/7401.shtml>
 - c) Whether the receiving water is listed as impaired in the latest State of Delaware Combined Watershed Assessment Report (305(b)) and the Clean Water Act Section 303(d) List of Waters Needing TMDLs which can be found on the Department's website at <https://documents.dnrec.delaware.gov/swc/wa/Documents/2018%20Final%20Delaware%20IR%201-24-2019.pdf>.

If the water is included on the Combined Watershed Assessment Report as impaired (Integrated Report Code 4, 4a, or 5), provide the following details:

- i) TMDL status or Pollutant Attainment Classification
- ii) Listing of relevant pollutant(s) or stressor(s) causing impairment
- iii) Probable source of pollutant(s) or stressor(s) (according to the 303(d) list)

- iv) A summary of any pollution control strategies or watershed plans and strategies that have been developed for the waterbodies which can be found on the Department's website at <https://dnrec.alpha.delaware.gov/watershed-stewardship/assessment/plans-and-strategies/>
 - v) A description of the permittee's potential sources of relevant pollutants, including description of the sources, their locations, and any structural and nonstructural measures and Best Management Practices (BMPs) that are or can reasonably be taken to reduce their exposure or release to the MS4.
- 5) The SWMP plan shall also include a statement describing what, if any, local public notice requirements apply to the applicant's stormwater program, including the SWMP finalization, if applicable, including a:
- a) Citation to any applicable public notice rules.
 - b) Description of the process for notice and comment as described in the rule.
 - c) Timeline for complying with the rule, which outlines total amount of time required to notice, allow for comment, respond to comments, revise, and finalize the SWMP plan under the applicable rule so that the notice and comment part of the SWMP plan will be accounted for and completed in compliance with the deadline of this permit.
 - d) If there is no local requirement for public notice, the permittee shall state this in the SWMP plan.
 - e) Attestation to the following statement with original signature of a person who is authorized to represent and legally bind the entity.

"I certify under penalty of law 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 person(s) directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete.

Part II. Stormwater Management Program

A. Permittees Renewing Coverage

A permittee renewing coverage under this permit shall continue to operate pursuant to its current SWMP plan and make progress on permit requirements and report information annually. The permittee shall review its current SWMP plan and revise as needed to be in compliance with this permit. The permittee shall submit an updated SWMP plan for review within (12) months of submitting an NOI to obtain coverage under this permit. The Department shall provide comments and recommendations within sixty (60) days of receipt of the updated SWMP plan.

B. General Requirements

The permittee shall develop a strategy to meet its measurable goals and a schedule of implementation for the minimum control measures (MCMs) described in Section D below. The measurable goals strategy shall include, where appropriate, the following three components:

1. the activity or BMP to be completed,
2. a schedule or date of completion, and

3. a quantifiable target to measure progress toward achieving the activity or BMP.

The permittee shall also provide the contact information for one person who is primarily responsible for implementing and/or coordinating the stormwater management program.

The SWMP plan shall span the entire term of this permit and shall be reviewed and updated as needed, but no less than annually to maintain accuracy. Documentation of the review process and an updated SWMP plan shall be included in the annual report.

C. *Small MS4s Working Together as Co-Permittees*

Small municipalities have an option to be a co-permittee with regulated MS4 permittees in order to implement some of the required minimum control measures. This could help MS4 permittees by sharing their resources to gain operational and cost efficiencies. The process for establishing a co-permittee agreement is with a Memorandum of Understanding (MOU) or other contractual and legally binding agreement. Any Small MS4 that seeks to be covered as a co-permittee by the way of an MOU, shall be identified in the NOI. The NOI will need to be revised if an MOU is established after an NOI has already been submitted. The MOU shall be appended to the SWMP Plan.

1. When two or more entities have decided to enter into a co-permittee relationship, each co-permittee shall deal in good faith with its co-permittee(s), including developing and abiding by the terms of a legal document that clearly defines each co-permittee's responsibilities.
2. If a co-permittee's compliance with this permit is at risk because another co-permittee is failing to meet the terms of the MOU in a timely manner, the at-risk co-permittee(s) shall amend or terminate the MOU and fulfill the requirements of this permit in a timely manner on its own or in conjunction with any remaining co-permittee(s), whichever scenario enables the permittees to comply with the permit. Co-permittees will each be required to maintain the conditions of this permit as agreed upon in the MOU.

D. *Minimum Control Measures*

There are six Minimum Control Measures (MCMs) that comprise the SWMP. The permittee will demonstrate compliance with this permit through the submission of an annual report due to the Department by July 1 of each year.

1. *Public Education and Outreach*

The permittee shall update, implement, and maintain a written public education and outreach program and distribute educational materials to the community and appropriate employees about the consequences of polluted stormwater runoff. The materials must provide actions the public can take to reduce pollutants from entering the stormwater system. Examples of educational materials include web pages, brochures, booklets, and training programs. The education and outreach program may be coordinated with other portions of the permittee's MS4 program or developed independent of other pollution control efforts. The program shall be designed to achieve measurable improvements in the public's understanding of the causes and impacts of stormwater pollution and the actions they can take to prevent pollution. Permittees are encouraged to work with other MS4 permittees, especially those located in the same watershed when educating the public.

The permittee shall update as needed and maintain their public education and outreach program throughout the permit term. Implementation of activities performed to achieve measurable goals shall be recorded and documented in each annual report. In addition, the program shall be

revised as necessary to achieve progress with identified goals. The education and outreach program shall be integrated with other program elements and adjusted to address issues brought to the permittee from the public and from lessons learned in implementing other program elements.

To comply with this MCM, the permittee shall:

- a. Within sixty (60) days of the Permit effective date (January 1, 2024), establish or update a process by which the public can report water quality complaints that must include a 24-hr hotline phone number.
- b. Update the target audience(s) within the MS4 jurisdiction and continue developing engaging materials to educate the audiences on the impact of stormwater pollution. These topics may include water conservation, chemical application on lawns and landscaping, proper car wash procedures, proper disposal of paint and other household hazardous waste, recycling and trash pick-up, and proper pet waste disposal.
- c. Conduct two educational events or campaigns per year that may include distributing educational materials describing the impacts of stormwater pollutant discharges on waterbodies and methods of reducing stormwater pollution. Materials may be distributed through newsletters, websites, or other appropriate methods, radio or television public service announcements, or other events that will reach the target audiences. Submit examples of educational material to the Department as part of the annual report. If using websites with webpage tracking capabilities, report the number of page views to help determine the effectiveness of outreach efforts.
- d. Revise as needed and implement an annual training program for appropriate employees that addresses topics to prevent or reduce the discharge of stormwater pollution into the MS4. Submit topics selected and attendee list to the Department as part of the annual report.
- e. Describe in annual reports how the education programs complement and strengthen other requirements in the MS4 permit.

2. Public Involvement and Participation

Permittees are required to create opportunities for public participation and encourage citizens to engage in the MS4 management program for controlling stormwater discharges. Examples of activities that involve the public include stewardship activities such as adopt-a-stream programs, stream clean-ups, litter pickup days, public surveys, storm drain marking, volunteer water quality monitoring, tree plantings and other pollution prevention events.

This program may be coordinated with other portions of the permittee's MS4 program or developed independent of other pollution control efforts. Permittees are encouraged to work with other MS4 permittees when involving and engaging the public to participate in the SWMP.

The permittee shall update, implement, and continue to maintain its public involvement and participation program. The permittee shall provide program updates in the annual report.

To comply with this MCM, the permittee shall:

- a. Update, implement and maintain a written public involvement and participation program which promotes and provides participation activities available to the community and describes the methods on encouraging the public's involvement and input.

- b. Determine the target audiences within the MS4 jurisdiction to promote public involvement and participation activities. Identify key individuals and groups (public and private), who are interested in or affected by the SWMP.
- c. Specify activities appropriate for each of the target audience groups and promote participation through the permittee's website, print media and other methods.
- d. Perform three public participation activities each year during the permit term and submit a summary of the activity and number of participants in the annual report.
- e. Provide public access to the permittee's MS4 annual reports on a website or by request and consider incorporating substantive public comments received when updating and implementing, and/or making improvements to the SWMP.

3. Illicit Discharge Detection and Elimination (IDDE)

Permittees are required to update, implement, manage, and enforce a program to detect and reduce to the maximum extent practicable illicit discharges into the MS4. The program shall include a plan to detect and reduce to the maximum extent practicable non-stormwater discharges, including illegal dumping and spills to the MS4. The permittee shall provide program updates in the annual report.

Unless identified by the permittee as a significant source of pollutants to waters of the State, the following non-stormwater discharge categories are allowed to enter the MS4.

- a. water line flushing
- b. landscape irrigation
- c. diverted stream flows
- d. rising groundwaters
- e. uncontaminated groundwater infiltration
- f. uncontaminated pumped groundwater
- g. discharges from potable water sources
- h. foundation drains
- i. air conditioning condensate
- j. irrigation water
- k. springs
- l. water from crawl space pumps
- m. footing drains
- n. lawn watering
- o. individual residential vehicle washing

- p. flows from riparian habitats and wetlands
- q. dechlorinated swimming pool discharges
- r. street wash water (discharges or flows from firefighting activities are excluded from the effective prohibition against non-stormwater and need only be addressed where they are identified as significant sources of pollutants to waters of the United States).

To comply with this MCM, the permittee shall:

- a. Update and maintain a map(s) of the regulated MS4 that identifies all stormwater conveyances, outfalls, stormwater management structures, and waters of the State that receive stormwater discharges from the MS4.
- b. Verify outfall locations and map new conveyances, outfalls, and stormwater management structures as they are constructed or newly discovered within the MS4.
- c. Maintain an ordinance or other regulatory means to implement and enforce a program that includes the prohibition of unauthorized non-stormwater discharges to the MS4.
- d. Update, maintain and enforce a written Illicit Discharge Detection and Elimination (IDDE) program that includes the following elements:
 - 1) Procedures for identifying priority areas that have a higher likelihood of illicit discharges, illicit connections, or illegal dumping. Areas to examine include older infrastructure, historical high-risk activities, and areas with higher incidence of spill or illicit discharge history.
 - 2) Update and continue to implement a screening program to assist in detecting and eliminating illicit discharges.
 - a) The screening program shall include a schedule and methodology to evaluate at least 20% of the permittee's storm sewer system per year using mapping and water quality data to determine areas with high potential for illicit discharges and improper disposal. Dry weather screening and field evaluation activities shall be conducted in these areas.
 - b) Update written procedures to determine which outfalls will receive dry weather screening based on results of field observations, complaints from the public, or investigations from the permittee's trained field staff. When visual observations indicate a potential problem such as discolored flows, foam, surface sheen, and other similar indicators of contamination, the permittee shall sample and analyze for selected indicator pollutants that are defined in the written procedures. Any field evaluations shall be included in the annual report.
 - 3) Implement a system for identifying the source of an illicit discharge when contaminated flow is detected at an outfall and establish procedures for eliminating an illicit discharge when possible. The annual report shall include the written procedures, sample report template, and a summary of all reported illicit discharges including incident description reported, date, response actions, follow-up actions, and enforcement actions.

- 4) Legal mechanism for gaining access to private properties to inspect outfalls and investigate illicit connections or discharges. Examples of mechanisms include town/city ordinances, land easements, and search warrants.
- 5) Record all outfall inspections including flows observed, results of screening and testing, follow up investigations, and corrective actions taken to reduce illicit discharges to the MEP.
- 6) Maintain a system for addressing public reporting of illicit discharges and procedures to inform employees, businesses, and the general public of the hazards associated with illegal discharges and improper waste disposal.
- 7) Within ninety (90) days of the Permit effective date (January 1, 2024), the permittee shall develop procedures to recognize and report any sanitary sewer overflows or leaking on-site sewage disposal systems that discharge into the small MS4 and submit those procedures to the Department for review.

For any SSO that enters the MS4 or that has the potential to impact the MS4, the permittee shall provide program updates in the annual report.

The annual report should include the following information

- a) a description of the discharge, including an estimate of the amounts discharged, and the cause of discharge;
- b) the period of the discharge, including the dates and times of correction and elimination;
- c) actions taken or to be taken to reduce, and mitigate the discharge, and to prevent recurrence of the discharge;

4. Construction Site Stormwater Runoff Control

The permittee shall continue to implement its Construction Stormwater Management Program. All local regulatory mechanisms shall be reviewed and updated in accordance with [Title 7 Delaware Code Chapter 40](#). Modifications or updates to state and/or federal regulations shall be implemented as required to maintain compliance with this permit. The permittee shall modify and update its SWMP plan to meet all the requirements of the updated Delaware Sediment and Stormwater Regulations.

The permittee shall implement and enforce a program to reduce the discharge of pollutants from active construction sites that result in land disturbance of greater than 5,000 square feet. The permittee may fulfill this requirement through a cooperative agreement with a Delegated Agency in accordance with Delaware Administrative Code 5101, Sediment and Stormwater Regulations, or the permittee shall be a Delegated Agency themselves. If the permittee chooses to rely on a Delegated Agency, it shall indicate this in the SWMP plan and ensure that the fully executed cooperative agreement with the Delegated Agency clearly describes each of the participant's responsibilities to coincide with 40 C.F.R. Part 122 and that the cooperative agreement is appended to the SWMP plan.

To comply with this MCM, the permittee or Delegated Agency if there is an MOU in place shall update (or develop upon receiving delegation), and maintain, a program that, shall include:

- a. Requirements for the review and approval of Sediment and Stormwater Plans to ensure compliance with standards in the Delaware Sediment and Stormwater Regulations and

Special Conditions for Stormwater Discharges Associated with Construction Activities (7 Del. C. Ch. 60). The permittee or Delegated Agency will review and approve Sediment and Stormwater Plans, inspect that a copy of the approved Sediment and Stormwater Plan along with the Construction General Permit are on every construction site, which may include electronically available, and document inspections.

- b. Requirements for the use and maintenance of appropriate structural and nonstructural erosion and sediment controls to reduce polluted discharges to the MS4 during the time when construction is underway. The permittee or Delegated Agency will inspect the construction and maintenance of the erosion and sediment controls at critical stages to verify compliance with the approved plans [7 DE Admin. Code 5101 Section 6.0].
- c. Requirements and procedures for the inspection and enforcement of erosion and sediment controls during construction to ensure that polluted runoff from the construction site is not occurring during active construction, and enforcement, if necessary, as per the Delaware Sediment and Stormwater Regulations a Certified Construction (CCR) shall be utilized as outlined in the Delaware Sediment and Stormwater Regulations. All inspection reports shall be provided on site, which may include electronic. The permittee or Delegated Agency shall review plans to ensure that pollution prevention measures are included in the Sediment and Stormwater Management Plan and that CCR inspections include pollution prevention measure reviews consistent with Delaware Sediment and Stormwater Regulations.
- d. Stormwater Site contractors responsible for inspection shall be certified through a DNREC or DNREC-approved training pursuant to the regulation and CGP.
- e. Ensure completion of stormwater BMP Construction Checklists by CCRs and submission to the permittee or Delegated Agency, as required in the Delaware Sediment and Stormwater Regulations. CCRs shall be on site during critical stages of BMP construction as required.
- f. Summary within the annual report that the Delegated Agency is performing these actions appropriately throughout the MS4 jurisdiction in accordance with the MOU, if applicable.
- g. Development and adoption of an ordinance or other regulatory and enforceable mechanisms for ensuring compliance with this section.
- h. Procedures for receipt and consideration of information submitted by the public.

The permittee shall report the following activities associated with this MCM in the Annual Report:

- 1. number of Sediment and Stormwater Management Plans reviewed.
- 2. number and type of actions that resulted in compliance.
- 3. percent of active construction sites inspected once.
- 4. percent of active construction sites inspected more than once.
- 5. number of construction sites authorized for disturbances of one acre or more.
- 6. summarize CCR training records including topic of training, date, and hours of training.
- 7. effectiveness of the program and assessment of E&S BMP procedures.

5. Post Construction Stormwater Management

The permittee or delegated agency shall continue to implement its Post-Construction Stormwater Management Program. All local regulatory mechanisms shall be reviewed and updated in accordance with Title 7 Delaware Code Chapter 40. Any modifications or updates to the Delaware Sediment and Stormwater Regulations shall be implemented as required. The permittee shall modify and update its SWMP plan to meet all the requirements of the Delaware Sediment and Stormwater Regulations.

The permittee is required to maintain an acceptable SWMP plan in accordance with Delaware Administrative Code 5101, Sediment and Stormwater Regulations to reduce the discharge of pollutants from post construction BMP facilities. The permittee may fulfill some of their requirements under this MCM through an MOU with a Delegated Agency in accordance with Delaware Administrative Code 5101, Sediment and Stormwater Regulations. If the permittee chooses to rely on a Delegated Agency, it shall indicate this in the SWMP plan and ensure that the MOU with the Delegated agency clearly describes each of the participant's responsibilities to coincide with 40 C.F.R. part 122 and that the cooperative agreement is appended to the SWMP plan.

To comply with this MCM, the permittee or Delegated Agency shall update (or develop upon receiving delegation), maintain, and enforce a program that, shall address any amendments to applicable state or federal regulations that may become effective during the term of this permit and update its program accordingly, and shall include the following requirements:

- a. Establish procedures to conduct annual visual inspections of all publicly and privately owned and operated stormwater management systems within the MS4 jurisdiction of the permittee and develop a maintenance program to prioritize repairs in accordance with 7 DE Admin. Code 5101 Section 7.0. A summary of the inspections and corrective actions shall be submitted in the annual report.
- b. The permittee shall identify and map all stormwater management systems which may discharge to the MS4 jurisdiction, and each year conduct a visual inspection of a representative sample of these stormwater management systems in such a manner as to ascertain proper function. A summary of the inspections and findings shall be submitted in the annual report. All stormwater management systems are to be inspected in this manner at a minimum of once every permit term.
- c. The permittee shall update, implement, and enforce a program to address post-construction runoff from new development and redevelopment projects to ensure adequate long-term operation and maintenance of stormwater management systems in accordance with 7 Admin. Code 5101.
- d. A program to ensure appropriate staff are trained in proper BMP design, performance, inspection, and routine maintenance.

6. Pollution Prevention and Good Housekeeping

Permittees are required to update and implement an operations and maintenance program to prevent or reduce to the maximum extent practicable pollutant runoff from municipal operations in accordance with 40 C.F.R. §122.34(b)(6). The permittee will satisfy this MCM by updating, implementing, and maintaining procedures for pollution prevention and good housekeeping at permittee owned or operated facilities, including municipal operations and activities within the MS4 jurisdiction.

To comply with this MCM, the permittee shall:

- a. Ensure that appropriate staff receive training at least annually. The training must be designed to reduce or eliminate the discharge of pollutants during municipal operations. Training may include in-person, online, on-the-job, or other formats, and the permittees may build on existing training activities to fulfill this requirement. Trainings may be coordinated with other MS4 permittees, where appropriate. Topics shall include spill prevention and response, proper disposal of waste, and how to conduct periodic visual inspections to detect and correct potential discharges at properties owned or operated by the permittee. Details of trainings, including date, topic, and attendees, shall be included in the annual report.
- b. Maintain (or update as needed) a good housekeeping plan for permittee owned or operated properties that could contribute to the discharge of pollutants from the MS4. Properties include buildings, roadways, parks, and other locations where the following activities are performed: vehicle or heavy equipment maintenance, storage and use of deicers, fertilizers, pesticides, road maintenance materials, litter or debris, petroleum products or hazardous materials. A standard plan may be created to address multiple properties where similar activities are conducted.

The plan must include:

- 1) A description of site activities;
 - 2) A list of potential pollutants, including their sources and locations on the site. The plan must consider conveyance of stormwater entering, flowing through, and leaving the site;
 - 3) Written good housekeeping procedures designed to prevent the discharge of pollutants into the permittee's MS4 that includes regular visual inspections to detect potential discharges and any maintenance requirements, with all outfalls and stormwater facilities inspected at least once each permit term.
 - 4) Written procedures for corrective actions to address any release, spill, or leak on site.
 - 5) Documentation of any discharge, release, leak, or spill, including the date, findings of investigation, and response actions.
- c. Quantify and report pollution prevention efforts related to the following activities:
 - 1) Permittees that own, operate, or maintain roads shall develop a street sweeping program which shall be described within the SWMP plan. Permittees must demonstrate by research, modeling, or otherwise appropriate scientific literature that substantiates the adequacy for pollutant removal and improved water quality. The SWMP plan shall also describe procedures for the proper disposal of street sweeping debris and waste. All street sweeping activities should be summarized in an annual report and include information about size, location, and frequency, of area swept. All curbed streets with storm drains owned or operated by the permittee shall be swept a minimum of four times annually, weather and surface conditions permitting, unless and until it is demonstrated that pollutant removal and improved water quality would be adequately achieved otherwise.
 - 2) If the permittee's MS4 contains catch basins, the permittee shall maintain a risk-based program to prioritize catch basin inspection and maintenance. Permittees may use analysis of past data, weather patterns, public complaints, and observations incidental to other field operations to prioritize catch basin inspections so long as this analysis is included in the SWMP plan. A map of the locations of catch basins, a summary of the amount of solids removed and maintenance performed to comply with this permit shall be included in the annual report. All catch basins must be inspected and maintained as

necessary and at a minimum of once during the term of this permit.

- d. Update and maintain a standard operating procedure for proper pesticide/herbicide application, storage, and disposal such as integrated pest management plans or alternative techniques.
- e. Update and maintain a standard operating procedure for fertilizer application such as chemical storage, landscaping with low maintenance/native species, and application procedures.
- f. Update and maintain standard operating procedures for snow and ice control such as use of pretreatment, truck calibration and storage, and salt dome storage and containment.
- g. Update and maintain a program for litter control and floatables that could enter the MS4. Program activities may include marking and maintaining storm drain inlets, inspecting and litter collection of streams and waterbodies, household hazardous waste collection, municipal composting programs, street curb maintenance and sidewalk sweeping. Provide an analysis of the progress toward implementing litter reduction strategies in the annual report. The analysis shall describe the status of trash elimination efforts including resources (e.g., personnel and financial) expended and the effectiveness of all program components.

As part of the public education and outreach strategies, permittees shall incorporate litter control education, outreach, and participation for encouraging an increase in residential and commercial recycling rates, improving trash management, and reducing littering. The permittees are encouraged to coordinate efforts with the Delaware Solid Waste Authority (DWSA), DNREC and local organizations.

- h. Consider incorporating runoff reduction techniques and green infrastructure in the routine upgrade of existing stormwater conveyance systems and municipal properties. Examples may include replacement of closed drainage with grass swales, replacement of existing islands in parking lots with rain gardens or curb cuts to route the flow through below-grade infiltration areas or other low-cost improvements that provide runoff treatment or reduction. The decision to incorporate runoff reduction techniques is at the discretion of the permittee, and the decision to not incorporate shall not be a permit violation.
- i. Require through the use of contract language, training, standard operating procedures, or other measures within the permittee's legal authority that contractors employed by the permittee and engaging in activities with the potential to discharge pollutants use appropriate control measures to minimize the discharge of pollutants to the MS4.

E. Pollutant Reduction Plan (PRP)

1. Total Maximum Daily Loads (TMDLs) and Applicable Water Quality Standards

TMDLs have been established for all waters in the State of Delaware to which the permittee's MS4 may discharge. These TMDLs may assign specific numeric Waste load Allocations (WLAs) located within the MS4 permit area. The loads represent point source and non-point pollutant sources, including urban stormwater, industrial stormwater, agriculture, and septic systems.

This permit does not set numeric effluent limits. While permittees will not be required to meet a numeric allocation within this permit term, the permittee shall implement BMPs that are designed to prevent or reduce the pollutants identified in the TMDL.

The Department has developed Pollution Control Strategies (PCSs) for several watersheds that identify potential BMPs to address TMDL loads. Permittees may incorporate any of the specific plans, strategies, or BMPs associated with an existing PCS. Available PCSs are on the Department's website at <https://dnrec.alpha.delaware.gov/watershed-stewardship/assessment/plans-and-strategies/>

Within twenty-four (24) months from the date of written NOI authorization to discharge issued by the Department, for one watershed with an approved TMDL, the permittee shall submit a PRP that addresses the requirements of the TMDL, including the following elements.

- a. watershed name(s) and pollutant(s) of concern;
- b. any load reduction listed in the TMDL;
- c. identity of high-risk priority area(s) with a higher risk of discharging pollutants into the MS4;
- d. inventory of existing BMPs within the MS4 portion of the watershed and estimated load reductions achieved by each BMP calculated based on available technical data for estimated reductions.
- e. development and implementation of additional BMPs to reduce the pollutant(s) of concern in the impaired waters. BMPs may include project-based BMPs, operational BMPs, and community-based initiatives that exceed permit requirements.
- f. an estimate of costs and implementation schedule describing BMPs after PRP approval by the department. Implementation may extend into future permit terms.

An update for the schedule and implementation of BMPs shall be included in each annual report.

For TMDLs throughout the state, where loads are assigned specific to urban stormwater, the permittee shall be responsible for addressing reductions required by the TMDL as categorized as urban stormwater and shall establish reductions over iterative stages of a long-term program, which shall be outlined in the PRP. Permittee shall coordinate with the Department to determine specific WLAs for the permit coverage area. Approved TMDL reports for each waterbody are available on the Department's website at <https://dnrec.alpha.delaware.gov/watershed-stewardship/assessment/tmdls/>

For the Chesapeake Bay TMDL, as established on December 29, 2010, any permittee within the Chesapeake Bay drainage area shall address reductions categorized as urban stormwater and shall establish reductions over iterative stages of a long-term program consistent with Delaware's most current Chesapeake Bay Watershed Implementation Plan (WIP), the Chesapeake Bay TMDL, and applicable PCS.

For calculating TMDL load reductions for all TMDLs other than the Chesapeake Bay TMDL, all BMPs implemented after the baseline year for establishment of the TMDL and WLAs can be counted toward these reductions. Annual loads, rather than daily loads, are to be used for all local TMDL calculating and reporting.

For calculating TMDL load reductions for the Chesapeake Bay TMDL, all BMPs implemented

after 2005 can be counted toward those reductions.

2. Pollutant Reduction Assessment

As part of the PRP and consistent with 40 C.F.R. §122.44(i), the permittee shall develop and implement a strategy for assessment of the expected pollutant load reductions using existing data on BMP performance utilizing current engineering standards and scientific literature to estimate pollutant reduction.

Alternatively, the permittee may develop and implement a method to assess PRPs for their effectiveness in reducing the pollutant loads. Monitoring may include BMP, outfall, or in-stream monitoring, as appropriate, to estimate pollutant reductions. The permittee may conduct monitoring, utilize existing data, establish partnerships, or collaborate with other MS4 permittees or other third parties, as appropriate. The methodology used for assessment shall be described in the PRP.

Analytical methods for any monitoring shall be conducted according to procedures approved under 40 C.F.R. Part 136 or alternative methods approved by the Department. Where an approved method does not exist, the permittee must use a method consistent with the applicable TMDL.

The permittee shall submit their monitoring or load reduction assessment strategies to the Department for approval as part of the PRP. PRP monitoring and assessment strategies shall not be changed without notification to and approval from the Department.

If additional or modified BMPs are , the permittee shall modify the PRP in accordance with the requirements of this permit to include additional BMPs and modifications, the expected additional pollutant load reductions associated with the BMPs and modifications, and the associated schedule for implementing the BMPs and modifications.

3. Nutrient Banking, Offset, and Trading

Trading with other sectors can be used as an alternative method to achieve pollutant reductions. If the permittee elects to use this option to achieve pollutant reductions, it shall be explained in the PRP that is submitted to the Department.

Part III. Program Evaluation and Assessment, Recordkeeping, Reporting and Program Review

A. Evaluation and Assessment

The permittee shall assess and evaluate the BMPs described in the SWMP plan. The assessment is the process of evaluating the actual BMP's effectiveness. The evaluation is conducted to determine whether the BMP is performing as intended to achieve its water quality goals as defined in the SWMP plan. In this evaluation, the permittee shall consider the appropriateness of the BMPs and whether other or additional BMPs would be more effective in pursuing those goals. If, as a result of the evaluation, the permittee determines that additional or other BMPs could advance the SWMP plan toward the goals more effectively, the permittee shall incorporate those BMPs into its SWMP plan. Assessment and evaluation activities shall be documented in the annual report as defined in this part, section C below.

B. Recordkeeping

The permittee shall keep records for at least 5 years after the expiration of this general permit. In addition to the information required in MS4 annual reports specified below, permittees must submit

any additional supporting documentation at the request of the Department. The permittee shall make its MS4 program information, including records, available to the public during regular business hours.

C. Reporting

The permittee shall prepare and submit an annual report. The annual report shall document the activities, and best practices implemented by the permittee to demonstrate compliance with this General Permit.

If more than one entity is permitted via the same written NOI authorization to discharge under this permit, one comprehensive annual report shall be submitted with input from each principal and co-permittee. The permittee(s) shall submit the annual report to the Department's Commercial Services and Government Section no later than **July 1st of each year** after issuance of written NOI authorization to discharge and shall describe all activities related to this permit during the preceding calendar year. The permittee shall include a summary of the data documenting compliance with this permit in the annual report.

All permittees are jointly responsible for timely submittal of the system-wide annual report, and each section addressed within the annual report shall identify individual tasks along with the jurisdiction responsible for performing them. The annual report shall indicate any missing information. Each permittee is responsible for the content of the report related to those portions of the MS4 for which it is responsible, as determined in the MOU.

After issuance of this permit, the first annual report submission shall include reporting information from the existing SWMP plan as described in the most recent annual report submitted to the Department until the final SWMP plan is developed by the permittee. Once the new SWMP plan is developed and implemented, the annual report shall contain information relevant to the most recent SWMP plan. The permittee shall ensure that all MOUs or other legally binding agreements entered into during the formation of the SWMP plan are contained in the annual report following their finalization.

The permittee shall include a summary of the data documenting its/their compliance with this permit in the annual report, in addition to one "MS4 Summary Report Form" per permittee which is available at [https://documents.dnrec.delaware.gov/wr/Information/SWDInfo/Documents/Draft%20Appendix%20B.%20Summary%20Report%20\(1\).pdf](https://documents.dnrec.delaware.gov/wr/Information/SWDInfo/Documents/Draft%20Appendix%20B.%20Summary%20Report%20(1).pdf).

D. Program Review

The Department will review all annual reports and other documentation to assess the permittee's compliance with this permit. Additional reviews, inspections, and audits of MCM implementation and other permit requirements may be conducted at any time by the Department to determine compliance with permit conditions.

Part IV. Standard Permit Conditions

A. Legal Authority

The permittee shall maintain the legal authority to implement the programs outlined in the SWMP plan as stated in the NOI.

B. Duty to Comply

The permittee shall comply with all conditions of this permit. All discharges authorized herein shall be consistent with the terms and conditions of this permit. The violation of any 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 this permit; or for denial of a permit renewal application. Pursuant to 7 Del. C. §6019, the Department may, in its discretion, seek voluntary compliance by way of warning, notice of violation, or technical assistance, as appropriate.

C. Alternative Compliance Clause

Non municipal permittees who do not have the authority or ability to fulfill all permit requirements may request alternative protocols for compliance with those specified elements, such as a cooperative agreement with other agencies. Such requests should be made in writing to the Commercial Services and Government Section, Richardson and Robbins Building, 89 Kings Highway, Dover DE 19901. The department will review the request and provide a written determination of exemptions and/or offer alternative compliance arrangements within 30 days.

D. Facilities Operation

The permittee shall, at all times, maintain in good working order and operate efficiently all structural controls and other best management practices, facilities, systems, and related appurtenances installed or used by the permittees to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance include, but are not limited to, effective performance based upon design, adequate funding, effective management, adequate operator staffing and training, and appropriate quality control procedures.

E. Removed Substances

The permittee shall dispose of solids, floatables, litter, sludges, backwashes, or other similar substances that are removed in the course of stormwater infrastructure maintenance or in the course of collection or treatment of the discharges authorized herein in a manner such as to prevent any pollutant from such materials from entering surface waters or groundwaters. All removed substances must be properly disposed of in accordance with applicable State and federal regulations.

F. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act and the Freedom of Information 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. 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.

G. Test Procedures

Analyses of pollutants shall conform to the applicable procedures identified in 40 C.F.R., Part 136, unless otherwise specified in this permit.

H. 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 less than \$500 nor more than \$10,000 or by imprisonment for not more than six (6) months, or by both.

I. Record Contents

For each measurement or sample taken pursuant to the requirements of this permit, the permittee taking such sample shall record the following information:

- a. the date, exact place, time, and method of sampling or measurements.
- b. the individual(s) who performed the sampling or measurements.
- c. the date(s) analyses were performed.
- d. the individual(s) who performed each analysis.
- e. the analytical techniques or methods used.
- f. the results of such analyses.
- g. any quality assurance information.

J. Retention of Records

The permittee shall retain all records and information resulting from the activities required by this permit, as well as any voluntary monitoring records including 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 for a period of five (5) 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 permittee. The permittee shall make records available to the Department within the timeframe specified by the Department at the time of request.

K. Transfer of Permit

In the event of any change in ownership or control of facilities covered by this permit, this permit may be transferred to another entity if all of the following elements apply.

- a. The current permittee notifies the Department, in writing, of the proposed transfer at least 30 days in advance of the proposed transfer date.
- b. The notice includes a written agreement between the transferor and the transferee,

indicating a specific date for transfer of permit responsibility, coverage, and liability.

- c. Within thirty (30) days of receipt of the notification of the proposed transfer the Department 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.

L. Reapplication for a Permit

The permittee shall submit a new NOI within 60 days of the effective date of a new General Permit unless permission for a later date has been granted in writing by the Secretary. Failure to submit an application for renewal within this period may cause a lapse in permit coverage and also may result in enforcement action. In the event that the Department is unable, through no fault of the permittee, to issue a new permit before the expiration date of this permit, the terms and conditions of this permit are automatically continued through an administrative extension and remain fully effective and enforceable until the Department issues a new permit.

M. Permit Modification, Revocation and Reissuance, and Termination

This permit may be modified, revoked, and reissued, or terminated for cause, including but not limited to violation of any terms or conditions of this permit; obtaining this permit by misrepresentation or failure to disclose all relevant facts; or a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge. 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.

N. Right of Entry

The permittee shall allow the Secretary, the EPA Regional Administrator, or their authorized representatives, jointly and severally, upon the presentation of credentials and such other documents as may be required by law:

- a. To enter upon the premises of the permittee 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.
- b. 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 structural controls, collection, treatment, pollution management, or discharge facilities required under this permit; and to sample any discharge.

Failure to allow access or provide records in accordance with this provision constitutes a violation of the permit for which enforcement actions may be taken.

O. Duty to Provide Information

The permittee shall furnish to the Department or the EPA, during normal business hours, any requested information to determine compliance with this permit. The permittee shall also furnish, upon request, copies of records required to be kept by this permit [40 C.F.R. §122.41(h)]. The permittee shall submit records to the Department within 30 days or a timeframe specified by the Department upon time of request.

P. Signatory Requirements

The permittee shall sign all applications, reports, the SWMP plan, certifications or other information required by this permit, whether submitted to the Department or maintained by the permittee, as follows:

- a. by a principal executive officer or ranking elected official.
- b. a duly authorized representative of that person.

A person is a duly authorized representative only if:

- i. authorization is made in writing by the principal executive officer or ranking elected official and is submitted to the Department and
- ii. 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, the permittee must submit a new notice satisfying the requirements of this paragraph to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative no later than 30 days prior to the date of the next due deliverable.

Q. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from administrative, civil, or criminal penalties for noncompliance.

- a. Penalties for Falsification of Reports

Section 309(c)(4) of the CWA provides that any person who knowingly makes a false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance, shall upon conviction, be punished by a fine of not more than \$10,000 as adjusted by law for inflation or by imprisonment for not more than two years or by both.

- b. Penalties for Violations of Permit Conditions

Part 309 of CWA provides significant penalties for any person who violates a permit condition implementing Parts 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any such section in a permit issued under Part 402. Any person who violates any permit condition of this permit is subject to a civil penalty not to exceed \$27,500 as adjusted by law for inflation per calendar day of such

violation, as well as any other appropriate sanction provided by Part 309 of CWA.

Any person who violates 7 Del. C. Chapter 60 or any rule or regulation duly promulgated thereunder, or any permit condition or any order of the Secretary, shall be subject to the appropriate civil and administrative penalties pursuant to 7 Del. C. §6005 or criminal penalties pursuant to 7 Del. C. §6013.

R. 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.

S. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or to relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee(s) is/are or may be subject under 7 Del. C. Chapter 60.

T. Fiscal Resources

The permittee shall provide the appropriate resources, including but not limited to finances, staff, equipment, and support capabilities, to comply with this permit, including but not limited to, implementation of the SWMP plan. The permittee shall include in each annual report a demonstration of sufficient fiscal capability meets permit requirements.

U. 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.

V. 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.

W. State Laws

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

X. Severability

The provisions of this permit are severable. If any provision of this permit is held invalid, the remainder of this permit shall not be affected. If the application of any provision of this permit to any circumstance is held invalid, its application to other circumstances shall not be affected.

Part V. Definitions

“Act” means the Federal 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 activities, prohibitions of activities, procedures, structures, and other means to prevent or reduce the discharge of pollutants. BMPs may 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.

“C.F.R.” means the Code of Federal Regulations.

“Catch basin” means a depression, trench, or pit, which is a collection point for drainage, either water or spilled oil, which provides a means of containment for and prevents the uncontrolled discharge of the collected liquid from a facility or oil storage area.

“Co-Permittee” refers to the entity that is applying for coverage under the Phase II MS4 General Permit in combination with another entity or entities, which own or operate a MS4.

“Delegated Agency” means the Conservation District, county, municipality, or State agency that has accepted responsibility in a jurisdiction for implementation of one or more elements of the Sediment and Stormwater Program as part of the Delaware Sediment and Stormwater Regulations 7 Del. Admin Code 5101, within that jurisdiction.

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

“Designated Uses” means those uses specified in water quality standards for each water body or segment whether or not they are being attained.

“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.

“Dry Weather” means a period in which there has not been a measurable precipitation event within a twenty-four (24) hour period.

“Existing Permittee” means any permittee that has been operating under a Phase II MS4 Permit issued by the Department.

“Illicit Discharge” means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except that which is sanctioned by a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and that which results from firefighting and other activities listed in Part II.D.3 of this permit.

“Maximum Extent Practicable” for the purpose of this general permit, means using measures that are capable of being done after taking into consideration cost, feasibility, existing technology, and logistics in light of overall facility operations and project purposes.

“Minimum Control Measures” refers to the six programmatic elements that are expected to result in the reduction of the discharge of pollutants in receiving waters. The programmatic elements include: (1) Public Education and Outreach, (2) Public Involvement and Participation, (3) Illicit Detection and Elimination, (4) Construction Site Stormwater Runoff Control Stormwater, (5) Post Construction Stormwater Management, (6) Pollution Prevention and Good Housekeeping.

“MS4” means a Municipal Separate Storm Sewer System.

“Municipal Separate Storm Sewer” means: (1) a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, pipes 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 sewage, industrial waste, stormwater, or other wastes, stormwater management, drainage or flood control, which is: (2) designed or used for collecting or conveying stormwater; (3) not a combined sewer; and (4) not part of a publicly owned treatment works as defined at 40 C.F.R. §122.2.

“Outfall” means a point source as defined by 40 C.F.R. §122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.

“Permittees” refers to all of the entities listed on the Notice of Intent and may include individual permittees and co-permittees.

“Person” means any individual, trust, firm, corporation (including a government corporation), partnership, association, institution, enterprise, 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 stormwater runoff.

“Pollutant”, for the purpose of this general permit, means any substance, which causes or contributes to, or may cause or contribute to, the degradation of water, air, and soil resources or to the health of humans, animals, or aquatic life. Examples may include, but are not limited to excess nutrients, chemicals, toxic substances, industrial, municipal, or agricultural wastes, etc.

“Pollution” or **“Water Pollution”** means the man-made or human-induced alteration of the physical, chemical, biological, or radiological integrity of any State waters.

“Redevelopment”, including brownfield development, means any construction, alteration, or improvement, including, but not limited to, the demolition or building of structures, filling, grading, paving, or excavating, where existing land use is residential, commercial, industrial, or institutional. Ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements are not considered to be redevelopment activities for the purposes of this general permit.

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

“Stormwater” means stormwater run-on or runoff, snow melt runoff, surface runoff and drainage.

“Stormwater management systems” means vegetative, structural, and other facilities or measures, singularly or in combination, as defined in DE Admin. Code 5101 Section 11.0, that provide stormwater management.

“Structural controls” means installed or constructed curbs, dikes, berms, walls, sheds, impervious pads, ditches, diversions, or other structures which limit the contribution or transport of significant materials and pollutants to stormwater.

“Surface Water Quality Standards” means the Delaware Surface Water Quality Standards as amended and as subsequently revised and incorporated by reference (7 Del. C. §7401).

“SWMP” means Stormwater Management Program as required by 40 C.F.R. §122.34(a).

“Total Maximum Daily Load” (TMDL) is a calculation of the maximum amount of a pollutant that a waterbody can receive and still safely meet water quality standards.

“Waters of the State” “State Waters” “Receiving Waters” “Waterbody” 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 stormwater treatment systems that would otherwise meet this definition are not “Waters of the State” or “State Waters”.

“Watershed” means the defined land area that drains water to one of the 45 Delaware watersheds and waterbodies defined in regulation, or regulatory defined minor sub-watersheds not explicitly associated with any other designated stream basin.

“Wetlands” those areas that are inundated or saturated by surface or ground water 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.

Appendix A: SWMP Development Milestones Chart

Program Element	Milestone Date	Notes
Notice of Intent Due	March 1, 2024	Within 60 days of the permit effective date
Public Education and Outreach		
Spill Hotline	March 1, 2024	Within 60 days of the permit effective date
Employee Training	Annually	Revise as needed, implement annually
Education Outreach	2 /YR	Conduct two educational events or campaigns per year
Public Involvement and Participation		
Promote participation events	Update	Update and maintain
Determine target audiences and specify activities	Update	Identify key individual or groups
Public participation activities	3/YR	Perform three public participation activities each year
Public access to annual reports	Update	On website or by request
Illicit Discharge, Detection and Elimination Program		
Sanitary Sewer Overflow Procedures	March 31, 2024	Within 90 days of the permit effective date
Adopt an IDDE Ordinance	Update	Update and maintain
Mapping MS4 Conveyance System	Update	Update and maintain
High Priority Area for Illicit Discharges	Update	Update and maintain
Screening	Update	Update, the program shall include a methodology to evaluate at least 20 % of the permittee's storm sewer system per year. Update procedures to determine which outfalls will receive dry weather screening based on permit criteria.
Construction Activities		
Delegated Agencies	Update	Continue to implement and enforce Construction Stormwater Management Program and update plan with current S&S regulations. MOU with delegated agency. Review and approval of S&S plans. Erosion and sediment controls. Inspection and enforcement. Pollution prevention measures. Training and CCR reports.
Ordinance	Update	Develop and adopt ordinance or other regulatory and enforceable mechanisms for ensuring compliance
Post Construction Activities		
Delegated Agencies	Update	Continue to implement and enforce Post Construction Stormwater Management Program

		and update plan with current S&S regulations. MOU with delegated agency. Mapping and inspections.
Ordinance	Update	Update, implement and enforce a program to address post-construction runoff to ensure adequate long-term operation and maintenance of stormwater management systems.
Pollution Prevention and Good Housekeeping		
Municipal Properties	Update	Update and implement an operations and maintenance program at municipal operations. Training (annually), good housekeeping plan, quantify and report on street sweeping program, catch basin inspection and maintenance program,
Standard Operating Procedures	Update	Pesticide, herbicide, and fertilizer SOPs. Snow and ice control, litter control and floatables, incorporation of green infrastructure, if possible.
Other Milestones		
SWMP Plan	Within 12 months of NOI submittal	Review and revise plan within 12 months of submitting an NOI, the department will not approve but provide recommendations if needed within 60 days of receipt of the plan
Annual Reports	July 1 st	Submit annual reports documenting the progress of the stormwater management program each year by July 1 st
Pollutant Reduction Plan	Within 24 months of authorization	TMDLs and Applicable Water Quality Standards, Within 24 months from the date of written NOI authorization. Pollutant Reduction Assessment
Evaluation	July 1 st	Part of annual report due on July 1 st every year
The milestone chart is a guide and should not be used to replace permit requirements		