



South Carolina

**NPDES GENERAL PERMIT  
FOR  
STORM WATER DISCHARGES  
FROM  
LARGE AND SMALL CONSTRUCTION ACTIVITIES**

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

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Bureau of Water

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Effective: September 1, 2006

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# NPDES General Permit for Storm Water Discharges From Construction Activities

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## **PART 1: COVERAGE UNDER THIS PERMIT**

### **1.1 Introduction**

This Construction General Permit (CGP) authorizes storm water discharges from large and small construction activities where those discharges enter Surface Waters of the State or a municipal separate storm sewer system (MS4) leading to Surface Waters of the State subject to the conditions set forth in this permit. This permit also authorizes storm water discharges from any other construction activity designated by DHEC where DHEC makes that designation based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to Surface Waters of the State. This permit replaces the storm water construction general permit (NPDES # SCR100000) issued January 15, 1998. Any references to the 1998 CGP in this permit refer to that permit.

This permit is presented in a reader-friendly, plain language format. This permit uses the terms “you” and “your” to identify the person(s) who owns or operates a “facility” or “activity” as defined in Appendix A and who must comply with the conditions of this permit. This format should allow you, the permittee and Operator of a large or small construction activity, to easily locate and understand applicable requirements. The goal of this permit is to reduce or eliminate storm water pollution from construction activity by requiring that you plan and implement appropriate pollution control practices to protect water quality.

### **1.2 Permit Area**

This permit covers all areas of South Carolina including Indian lands.

### **1.3 Eligibility**

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

#### **A. Allowable Storm Water Discharges**

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

1. Storm water associated with large and small construction activity as defined in Appendix A;
2. Storm water discharges designated by DHEC as needing a storm water permit under §122.26(a)(1)(v) or §122.26(b)(15)(ii) of SC Regulation 61-9;

3. Discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:
  - a. The support activity is directly related to the construction Site required to have NPDES permit coverage for discharges of storm water associated with construction activity;
  - b. The support activity is not a commercial operation serving multiple unrelated construction Projects by different Operators, and does not operate beyond the completion of the construction activity at the last construction Project it supports; and
  - c. Appropriate controls and measures are identified in a Storm Water Pollution Prevention Plan (SWPPP) covering the discharges from the support activity areas.
4. Discharges composed of allowable discharges listed in Subparts 1.3.A and 1.3.B commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

#### **B. Allowable Non-Storm Water Discharges**

You are authorized for the following non-storm water discharges, provided the non-storm water component of the discharge is in compliance with Subpart 3.5 (Non-Storm Water Discharge Management):

1. Discharges from fire-fighting activities;
2. Fire hydrant flushings;
3. Waters used to wash vehicles where detergents are not used;
4. Water used to control dust in accordance with Subpart 3.4.J;
5. Potable water including uncontaminated water line flushings;
6. Routine external building wash down that does not use detergents;
7. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated ground water or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
11. Uncontaminated excavation dewatering;

12. Landscape irrigation.

### **C. Limitations on Coverage**

1. This permit does not authorize post-construction discharges that originate from the Site after construction activities have been completed and the Site has achieved final stabilization, including any temporary support activity. Post-construction storm water discharges from industrial sites may need to be covered by a separate NPDES permit.
2. This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Subpart 4.2.
3. This permit does not authorize discharges that DHEC, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to a violation of any applicable water quality standard. Where such a determination is made prior to authorization, DHEC may notify you that an individual permit application is necessary in accordance with Subpart 4.2. However, DHEC may authorize your coverage under this permit after you have included appropriate controls and implementation procedures in your SWPPP designed to bring your discharge into compliance with water quality standards.
4. Discharging into Receiving Waters With an Approved Total Maximum Daily Load Analysis
  - a. You are not eligible for coverage under this permit for discharges of pollutants of concern to waters for which there is a total maximum daily load (TMDL) in effect that is applicable stormwater construction discharges unless you incorporate into your SWPPP measures or controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, you must incorporate into your SWPPP any conditions applicable to your discharges necessary for consistency with the assumptions and requirements of such TMDL. If a specific wasteload allocation has been established that would apply to your discharge, you must incorporate that allocation into your SWPPP and implement necessary steps to meet that allocation.
  - b. In a situation where a TMDL has specified a general wasteload allocation applicable to construction storm water discharges, but no specific requirements for construction Sites have been identified in the TMDL, you should consult with the Department to confirm that adherence to a SWPPP that meets the requirements of the CGP will be consistent with the TMDL. Where a TMDL has not specified a wasteload allocation applicable to construction storm water discharges, but has not specifically excluded these discharges, adherence to a SWPPP that meets the requirements of the CGP will generally be assumed to be consistent with the approved TMDL. If the TMDL specifically precludes such discharges, the Operator is not eligible for coverage under the CGP.

### **1.4 Waivers for Certain Small Construction Activities**

Three scenarios exist under which small construction activities (see definition in Appendix A) may be waived from the NPDES permitting requirements detailed in this CGP. These exemptions are predicated on certain criteria being met and proper notification procedures being followed. Details of the waiver options and procedures for requesting a waiver are provided in Appendix B.

## **PART 2: AUTHORIZATION FOR DISCHARGES OF STORM WATER FROM CONSTRUCTION ACTIVITY**

Except for Projects that are located in Horry, Georgetown, Berkeley, Charleston, Dorchester, Colleton, Beaufort, or Jasper County and disturb 0.5 acres or less, to obtain coverage under this CGP, you, the Owner or Operator, must prepare and submit a complete and accurate Notice of Intent (NOI) and the other required information, as described in this Part. Discharges will not be authorized if your NOI is incomplete or inaccurate or if you are not eligible for permit coverage. Unless the Department specifically requests that an NOI be submitted, all Projects that are located in Horry, Georgetown, Berkeley, Charleston, Dorchester, Colleton, Beaufort, or Jasper County and disturb 0.5 acres or less are not required to submit an NOI, but are automatically granted coverage under this general permit provided the appropriate Best Management Practices are being used.

### **2.1 Authorization to Discharge Date**

This permit is effective on September 1, 2006 and is effective for five years, expiring at midnight on August 31, 2011.

#### **A. For all Projects except for SC Department of Transportation Projects.**

1. When your SWPPP is reviewed and approved by an implementing entity under SC Regulation 72-300 (if applicable); another local government program acceptable to DHEC; or, when applicable, the owner of the municipal separate storm sewer system that receives your storm water discharges, and if DHEC does not send a letter within 7 business days of the receipt of a complete NOI authorizing coverage, denying coverage, requesting additional information or advising you that DHEC has decided to also review the SWPPP, coverage under this CGP is automatically granted.
2. When DHEC reviews your SWPPP, if DHEC does not send a letter authorizing coverage, denying coverage, or requesting additional information within 20 days of the receipt of the complete NOI, coverage under this CGP is automatically granted.

**B. For SC Department of Transportation Projects,** your SWPPP must be submitted to DHEC. DHEC may require review and approval of your SWPPP prior to granting you coverage under this CGP. If DHEC does not send a letter authorizing coverage, denying coverage, or advising that a review of the SWPPP will take place within 10 business days of receipt of the NOI, coverage will automatically be granted.

**C.** If a US Army Corps of Engineers' 404 Permit is required by Section 404 of the CWA Act for permanent or temporary storm water control structures, DHEC may not grant you coverage under this CGP until the 404 Permit has been issued and is effective.



1. In situations where the 404 Permit decision will not affect the implementation of the SWPPP, the Department will issue approval of the SWPPP and grant coverage under this permit before the 404 Permit decision is effective.
  2. In situations where the 404 Permit decision will affect only a portion of the “Project Area”, the Department may grant the unaffected portion of the “Project Area” coverage under this permit. The remaining portion of the “Project Area” will be considered after the 404 Permit is issued and effective.
  3. In situations where the entire “Project Area” is affected by the 404 Permit decision, the Department will not grant coverage under this general permit until the 404 Permit decision is issued and effective.
- D. When permanent or temporary structures will be placed in State Navigable Waters, the Department will address any issues related to State Navigable Waters’ Program under SC Regulation 19-450 during the review of the SWPPP rather than requiring a separate State Navigable Waters Permit.
- E. DHEC may deny or delay your coverage based on eligibility considerations of Subpart 1.3 (e.g., TMDL concerns).

## **2.2 Notice of Intent Contents and Other Required Information**

- A. You must use the NOI form (or a photocopy thereof) provided by the Department. This form will be made available on our WEB site at:

<http://www.scdhec.net/eqc/admin/html/eqforms.html#Water>

If DHEC makes other NOI forms available (either directly, by public notice, or by making information available on the Internet), you may take advantage of any of those options to satisfy the NOI use requirements of this Subpart.

- B. You must provide the following information on the NOI form:
1. Operator name, address, telephone number, and Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
  2. Project/Site name, address, county or similar governmental subdivision, and latitude/longitude of your construction Project or Site;
  3. Whether your Site is located in Indian country and if so, the name of the Reservation, if applicable;
  4. Whether the SWPPP has been prepared in accordance with this CGP;
  5. Name of the Water(s) of the State into which your Site discharges;

6. Indication whether your discharge is consistent with the assumptions and requirements of applicable TMDLs;
7. Estimated dates of commencement of construction activity and final stabilization (i.e., Project start and completion dates);
8. Total acreage (to the nearest tenth acre) to be disturbed for which you are requesting permit coverage; and
9. A certification statement, signed and dated by an authorized representative as defined in §122.22 of SC Regulation 61-9 (see Appendix C of this permit), and the name and title of that authorized representative.

C. The following information must also be submitted with the NOI form for the NOI application to be complete:

1. The fee for coverage under this CGP. A check made payable to SC DHEC must be submitted. SC Regulation 61-30, Environmental Protection Fees, governs this fee. At the time of issuance of this CGP the fee was \$125.
2. a. For Projects not owned or managed by the SC Department of Transportation:
  - i. If approval of the SWPPP is required under either SC Regulation 72-300 or an applicable MS4 Program or other local program acceptable to DHEC:
    - (1) A copy of the State, MS4, or local application;
    - (2) For non-linear Projects, a copy of the approved SWPPP with the supporting documents and calculations. For linear Projects, this is only applicable if specifically requested. This information is not required if there is a written agreement or memorandum of understanding between DHEC and the Operator of the applicable MS4 or other local program acceptable to DHEC that addresses the availability of the approved SWPPP to DHEC through the local entity that maintains a copy of the approved SWPPP;
    - (3) A copy of the approval of the SWPPP from the entity implementing SC Regulation 72-300 or an applicable MS4 Program or other local program acceptable to DHEC; and
    - (4) If DHEC's Bureau of Water also reviews your SWPPP prior to granting coverage under this CGP, the NPDES plan review fee of \$100 per disturbed acre not to exceed \$2,000.
  - ii. If approval of the SWPPP is not required under SC Regulation 72-300 or an applicable MS4 program or other local program acceptable to DHEC:

- (1) Three copies of the SWPPP;
  - (2) For non-linear Projects, the supporting calculations and documents. Linear Projects must submit supporting calculations and documents when requested; and
  - (3) The plan review fee of \$100 per disturbed acre not to exceed \$2,000.
- b. For SC Department of Transportation Projects:
- i. The SWPPP;
  - ii. The supporting calculations and documents, when requested; and
  - iii. The plan review fee of \$100 per disturbed acre not to exceed to \$2000. The plan review fee is applicable only if DHEC reviews your SWPPP prior to granting coverage under this CGP.
3. For Projects located in Horry, Georgetown, Berkeley, Charleston, Dorchester, Colleton, Beaufort, or Jasper County, a copy of a letter from DHEC's Office of Ocean and Coastal Resource Management that states the proposed Project is consistent with the Coastal Zone Management Plan.

### **2.3 Submission Deadlines**

- A. New Projects: Except as given in the first paragraph of Part 2, to obtain coverage under this permit, you must submit a complete and accurate NOI with the other required information and be authorized consistent with Subpart 2.1 prior to your commencement of construction activities.
- B. Permitted Ongoing Projects: If you previously received authorization to discharge for the current phase of your Project under the 1998 CGP, you are automatically covered under this permit without resubmitting an NOI.
1. You must comply with the terms and conditions of the 1998 CGP under which you were previously authorized.
  2. Future phases of the Project must submit an NOI to be covered under this CGP.
- C. Un-permitted Ongoing Projects (only applicable for first 90 days after this permit is issued): If you previously did not receive authorization to discharge for your Project under the 1998 CGP and you wish to obtain coverage under this permit:
1. Except as noted in 2.3.C.2, you must:
    - a. Submit an NOI with the required other information within 90 days of the issuance date of this permit; and

- b. Until you are authorized under this permit consistent with Subpart 2.1, comply with an interim Storm Water Pollution Prevention Plan (SWPPP) consistent with the 1998 CGP.
- 2. If you meet the termination of coverage requirements in accordance with Subpart 5.1 within 90 days of the issuance date of this permit (e.g., construction will be finished and final stabilization achieved) you must comply with an interim Storm Water Pollution Prevention Plan (SWPPP) consistent with the 1998 CGP until permit coverage is no longer required.
- D. *Late Notifications*: Operators are not prohibited from submitting NOIs after initiating clearing, grading, excavation activities, or other construction activities. When a late NOI is submitted, authorization for discharges occurs consistent with Subpart 2.1. DHEC may take enforcement for any unpermitted discharge or violations of laws or regulations that occur between the time construction commenced and discharge authorization.

## **2.4 Where to Submit**

You must send your complete and accurate NOI application to DHEC at the following address:

Construction Storm Water Notice of Intent  
Bureau of Water  
SC DHEC  
2600 Bull Street  
Columbia, SC 29201

## **PART 3: STORM WATER POLLUTION PREVENTION PLANS (SWPPPS)**

### **3.1 Storm Water Pollution Prevention Plan Framework**

- A. A SWPPP must be prepared prior to submission of an NOI as required in Part 2. At least one SWPPP must be developed for each construction Project covered by this permit and a qualified individual in accordance with good engineering practices must prepare such SWPPP. For Projects that disturb more than 2 acres, the SWPPP must be prepared, amended when necessary, certified, and stamped by a qualified individual who is licensed as follows:
  - 1. Registered professional engineers as described in Title 40, Chapter 22;
  - 2. Registered landscape architects as described in Title 40, Chapter 28, Section 10, item (b);
  - 3. Tier B land surveyors as described in Title 40, Chapter 22; or
  - 4. Federal government employees as described by Title 40, Chapter 22, Section 280(A)(3).
- B. The SWPPP must:
  - 1. Identify all potential sources of pollution which may reasonably be expected to affect the

quality of storm water discharges from the construction Site;

2. Describe practices to be used to reduce pollutants in storm water discharges from the construction Site; and
  3. Assure compliance with the terms and conditions of this permit when properly implemented.
- C. Once a definable area has been finally stabilized, you may mark this on your SWPPP and no further SWPPP or inspection requirements apply to that portion of the Site (e.g., earth-disturbing activities around one of three buildings in a complex are done and the area is finally stabilized, one mile of a roadway or pipeline Project is done and finally stabilized, etc).
- D. You must implement the SWPPP as written from commencement of construction activity until final stabilization is complete.

### **3.2 Requirements for Different Types of Operators**

You may meet one or both of the operational control components in the definition of Operator found in Appendix A. Subpart 3.2.C applies to all permittees having control over only a portion of a construction Site.

- A. If you have “operational control over construction plans and specifications” as defined in the definition of “Operator” in Appendix A, you must ensure that:
1. The specifications for the BMPs meet the minimum requirements of this Subpart and all other applicable permit conditions;
  2. The SWPPP indicates the areas of the Site where the Operator has operational control over specifications, including the ability to make modifications in specifications and plans including the SWPPP;
  3. All other co-permittees implementing portions of the SWPPP (or their own SWPPP) who may be impacted by a change to the construction plan are notified of such changes in a timely manner;
  4. The SWPPP indicates the name(s) of the Operator(s) with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions; and
  5. For non-linear Projects that disturb 10 acres or more, you must conduct a pre-construction conference with each co-permittee and contractor who is not a co-permittee in person at the Site prior to that co-permittee or contractor performing construction related work intended to disturb soils at the Site that may affect the implementation of the SWPPP unless it is justified in the SWPPP and approved by the Department to conduct the conference off-site. This pre-construction conference can be with all contractors or the pre-conference may be conducted separately with one or more contractors present so that all contractors who perform land

disturbing activity or construction activity are aware of the requirements of the SWPPP before they start construction.

6. For linear construction of roads or utilities (such as roads built by the SC Department of Transportation and utility construction including electrical power lines, gas lines, main sewer trunk lines, and water distribution lines that are not part of a development) neither of which are a part of a subdivision of other type of development, the conferences with each co-permittee and contractors who are not co-permittees may be conducted off-site unless specifically required by the Department in writing to be conducted onsite. The purpose of the conference is for the preparer of the SWPPP, someone with a registration equivalent to that of the preparer of the SWPPP, or the person with operational control of the plans and specifications to explain the whole SWPPP to the co-permittees and contractors who are not co-permittees and to specifically go over the areas of the SWPPP that are related to the work to be performed by the co-permittee and contractor who is not a co-permittee.

B. If you have “operational control over day-to-day activities” as defined in the definition of “Operator” in Appendix A at the Project that are necessary to ensure compliance with the SWPPP or other Permit conditions, you must ensure that:

1. The SWPPP identifies the parties responsible for implementation of control measures identified in the plan;
2. The SWPPP indicates areas of the Project where you have operational control over day-to-day activities;
3. The SWPPP indicates the name of the party(ies) with operational control over Project specifications (including the ability to make modifications in specifications); and
4. All appropriate contractors have signed either the Co-permittee or non Co-permittee certification and copies of these certifications are in the SWPPP.

C. If you have operational control over only a portion of a larger Project (e.g., one of four homebuilders in a subdivision), you are responsible for compliance with all applicable terms and conditions of this permit as it relates to your activities on your portion of the construction Site, and implementation of best management practices (BMPs) and other controls required by the SWPPP. You must ensure either directly or through coordination with other permittees, that your activities do not render another party’s pollution control ineffective. You must either implement your portion of a common SWPPP or develop and implement your own SWPPP.

For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different Operators at a Site to prepare and participate in a comprehensive SWPPP is encouraged. Individual Operators at a Site may, but are not required to, develop separate SWPPPs that cover only their portion of the Project provided reference is made to other Operators at the Site. In instances where there is more than one SWPPP for a Site, cooperation between the permittees is encouraged to ensure the storm water discharge controls and other measures are consistent with one another.

#### D. Contractor Certifications and Co-permittee Status.

1. The Owner of a Project, as the applicant for the NPDES permit, is responsible for compliance with all the terms and conditions of this permit and the SWPPP. The Owner may rely on other Persons to assist in compliance with this permit and the SWPPP. As such, the Project Owner and contractors and subcontractors who will conduct construction activities intended to disturb soils may elect to be Co-permittees. Further, all contractors who will conduct construction related work intended to disturb soils at the Site that may affect implementation of the SWPPP, regardless of whether or not they are Co-permittees, must be listed in the SWPPP and attend a pre-construction conference before they can conduct construction activity at the Site.
2. All contractors and subcontractors identified in the plan as Co-permittees must sign a copy of the certification statement given below:

"I certify by my signature below that: a) for Sites that disturb 10 or more acres, I participated in a pre-construction conference onsite or, when allowed, offsite with the individual who is responsible for the operational control of the Storm Water Pollution Prevention Plan (SWPPP); and b) I accept the terms and conditions of SWPPP as required by the general National Pollutant Discharge Elimination System (NPDES permit number SCR100000) issued to the Owner/Operator of the construction activity for which I have been contracted to perform construction related professional services. Further, by my signature below, I understand that I am becoming a Co-permittee with the Owner/Operator and other contractors that have become Co-permittees to the general NPDES permit issued to the Owner/Operator of the facility for which I have been contracted to perform professional construction services. As a Co-permittee, I understand that I, and my company, as the case may be, am legally accountable to the SC Department of Health and Environmental Control (DHEC), under the authorities of the CWA and the SC Pollution Control Act, to ensure compliance with the terms and conditions of the SWPPP. I also understand that DHEC enforcement actions may be taken against any specific Co-permittee or combination of Co-permittees if the terms and conditions of the SWPPP are not met. Therefore, having understood the above information, I am signing this certification and am receiving Co-permittee status to the aforementioned general NPDES permit."

3. All contractors and subcontractors identified in the plan to perform construction related work intended to disturb soils at the Site that may affect the implementation of the SWPPP but who will not be Co-permittees must sign the certification statement given below:

"I certify by my signature below that: a) for Sites that disturb 10 or more acres, I participated in a pre-construction conference onsite or, when allowed, offsite with the individual who is responsible for the operational control of the Storm Water Pollution Prevention Plan (SWPPP); and b) I understand the terms and conditions of SWPPP as required by the general National Pollutant Discharge Elimination System Permit (NPDES permit number SCR100000) issued to the Owner/Operator of the construction activity for which I have been contracted to perform construction related professional services. I understand that I, and my company, as the case may be, may be legally accountable to the SC Department of Health and Environmental Control (DHEC), under the authorities of the CWA and the SC Pollution Control Act, to ensure



compliance with the terms and conditions of the SWPPP.”

4. The date of the signature, the title of the Person providing the signature, and the name, address, and telephone number of the contracted firm, shall also be provided. In the event the owner amends the SWPPP, such amendments should be incorporated to the plan and the contractors and subcontractors should acknowledge by signature. Co-permittees who have completed their work prior to the amendments do not have to sign the amendments.
5. The signatory requirements of §122.22 of South Carolina Regulation 61-9 (see Appendix C of this permit) are applicable to each contracted entity that must sign one of the contractor's certification statements. Upon signing the Co-permittee certification, the contractor is a Co-permittee and becomes accountable to DHEC to ensure the terms and conditions of this permit are implemented. All Co-permittees are subject to DHEC enforcement actions if permit conditions are not met. Enforcement actions may be taken against any specific Co-permittee or combination of Co-permittee, with consideration given to the party responsible for the violation. The Owner/Operator submitting the NOI shall retain all contractor certifications for at least three years after a contractor has completed work at the Site. Contractors who sign the certification for being a Co-permittee may be liable to DHEC enforcement actions related to their work at the Site. All certifications must be included in the storm water pollution prevention plan.
6. Copies of all contractor certifications and a copy of this permit shall be kept with the SWPPP. For construction Sites that disturb 10 acres or more, the first monthly report or copies of the first month's inspection forms (refer to Part 3.10.H) submitted by the Owner/Operator to the Department after construction begins on the facility must include the original and one copy of all Co-permittee and other contractor certifications. If additional Co-permittees or other contractors are added later on, the original and one copy of the additional Co-permittee or contractor certifications must be submitted along with the monthly reports or copies of the inspection forms submitted after the signing of the certification. For construction Sites that disturb less than 10 acres, the Owner/Operator of the facility covered by this permit shall make all contractor certifications available to DHEC upon request. The Department may on a case-by-case basis require the submittal of the Co-permittee and other contractor certifications.

### **3.3 Pollution Prevention Plan Contents: Site and Activity Description**

- A. The SWPPP must identify all Operators for the Project Site, and the areas of the Site over which each Operator has control.
- B. The SWPPP must describe the nature of the construction activity, including:
  1. The function of the Project (e.g., low density residential, shopping mall, highway, etc.);
  2. The intended sequence and timing of planned major activities that disturb soils such as clearing and grubbing, initial and final grading, and cut and fill activities at the Site (except for SC Department of Transportation Projects, unless known at the time the SWPPP is prepared);



3. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities, including dedicated off-site borrow and fill areas; and
4. A general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with enough detail to identify the location of the construction Site and Surface Waters of the State within one mile of the Site.

C. The SWPPP must contain a legible Site map, showing the entire Site, identifying:

1. Direction(s) of storm water flow and approximate slopes anticipated after major grading activities;
2. Areas of soil disturbance and areas that will not be disturbed;
3. Locations of structural and nonstructural BMPs identified in the SWPPP;
4. Locations where stabilization practices are expected to occur;
5. Locations of off-site material, waste, borrow or construction equipment storage areas, excluding rolloff containers (not applicable to SC Department of Transportation Projects);
6. Locations of all Surface Waters of the State (including wetlands);
7. Locations where storm water discharges to a surface water; and
8. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.

D. The SWPPP must describe and identify the location and description of any storm water discharge associated with industrial activity other than construction at the Site. This includes storm water discharges from dedicated asphalt plants and dedicated concrete plants, that are covered by this permit.

### **3.4 Pollution Prevention Plan Contents: Controls to Reduce Pollutants**

- A. The SWPPP must include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. For each major activity identified in the Project description, the SWPPP must clearly describe control measures necessary to comply with this permit and applicable laws and regulations, the general sequence during the construction process in which the measures will be implemented, and which Operator is responsible for the control measure's implementation.
- B. The SWPPP must include a description of interim and permanent stabilization practices for the Site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the Site are stabilized. Use of impervious surfaces for stabilization should be avoided.

C. For Sites with storm water discharges to a receiving water that is listed as impaired in South Carolina's 303(d) List of Impaired Waters the following requirements apply:

1. If a TMDL that is applicable to stormwater construction discharges has been established and is in effect, the requirements of Part 1.3.C.4 must be met.
2. If a TMDL has not been established or is not in effect, you must ensure that your SWPPP does not allow storm water discharges that will contribute to the violations of the water quality standards. To accomplish this, you must:
  - a. First determine whether or not your discharge may contain any pollutant that has caused the impairment.
  - b. If your storm water discharges will not contain the pollutant(s) of concern, no additional requirements are necessary.
  - c. If your discharge will contain the pollutant(s) of concern, you must carefully evaluate your selected BMPs and their performance to ensure that stormwater discharges will not contribute to or cause a violation of water quality standards. For Projects that disturb 25 acres or more, your SWPPP must contain a written quantitative and qualitative assessment that the BMPs selected will control your stormwater discharges so that they will not contribute to or cause a violation of water quality standards. For more information on this subject, please see the DHEC publication entitled "Antidegradation for Activities Contributing to NonPoint Source Pollution to Impaired Waters." This publication can be downloaded at the following DHEC WEB site:

[www.scdhec.gov/eqc/water/pubs/antidegnps.pdf](http://www.scdhec.gov/eqc/water/pubs/antidegnps.pdf)

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

Water Quality Division  
Bureau of Water  
SC DHEC  
2600 Bull Street  
Columbia, SC 29201

or it can be downloaded at the following DHEC WEB site:

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

D. The following records must be maintained as part of the SWPPP:

1. Dates when major grading activities as identified in Part 3.3.B occur;
2. Dates when construction activities temporarily or permanently cease on a portion of the Site.

Notes: Temporarily ceasing construction means ceasing construction on a portion of the Site for more than 14 days. A portion of the Site, means but is not limited to, portions of the Site with dedicated controls (see also Subpart 3.13.D of this permit); and

3. Dates when stabilization measures are initiated.

Electronic storage of the above mentioned information is acceptable provided that it is referenced in the SWPPP and it is readily available.

- E. The SWPPP must include a description of structural practices: to divert flows from exposed soils; to retain/detain flows; or to otherwise limit runoff and the discharge of pollutants from exposed areas of the Site. Placement of structural practices in floodplains must be in accordance with applicable regulations.
- F. The SWPPP must include a description of all post-construction storm water management measures that will be installed during the construction process to control pollutants in storm water discharges after construction operations have been completed.
- G. Structural measures should be placed on upland soils to the degree practicable. Such measures must be designed and installed in compliance with applicable federal, local, state or tribal requirements.
  - 1. Permanent structural controls can only be placed in Surface Waters of the State (including wetlands and ephemeral and intermittent streams) if the US Army Corps of Engineers issues a permit for the activity under Section 404 of the CWA. When State Navigable Waters may be affected, the SWPPP must include appropriate requirements applicable to State Navigable Waters under SC Regulation 19-450.
  - 2. Temporary structural controls can only be placed in perennial Surface Waters of the State if the US Army Corps of Engineers issues a permit for the activity under Section 404 of the CWA. When State Navigable Waters may be affected, the SWPPP must include appropriate requirements applicable to State Navigable Waters under SC Regulation 19-450. All temporary structural controls placed in perennial streams must be removed after final stabilization has been accomplished.
  - 3. Temporary structural controls may only be placed in ephemeral and intermittent streams when there is no other feasible alternative. All temporary structural controls placed in ephemeral and intermittent streams must be removed after final stabilization has been accomplished. After removal of the temporary structural controls, the ephemeral or intermittent stream must be restored to its original condition.
- H. The SWPPP must describe measures to prevent the discharge of building or other similar materials to Surface Waters of the State, except as authorized by a permit issued under section 404 of the CWA.
- I. The SWPPP must describe measures to minimize, to the extent practicable, off-site vehicle

tracking of sediments onto paved surfaces and the generation of dust.

- J. The SWPPP must include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP must also include a description of controls, including storage practices such as rolloff containers, to minimize exposure of the materials to storm water, and spill prevention and response practices.
- K. The SWPPP must include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those Sites to minimize pollutant discharges. If these areas are located off the construction area on property not owned by the owner of the Project, they can be either included in the SWPPP for the construction Site with the owner of the dedicated facility being a Co-permittee under the construction general permit or the owner of the dedicated facility can obtain: 1) his own construction general permit coverage to build the dedicated facility; and 2) his own coverage under the Stormwater General Permit for Industrial Activity, Permit # SCR000000 or other appropriate permit. The method(s) selected to deal with dedicated facility areas must be addressed in the SWPPP.

### **3.5 Management of Non-Storm Water Discharges Allowed Under Part 1.3.B**

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

### **3.6 Maintenance of Controls**

- A. All erosion and sediment control measures and other protective measures identified in the SWPPP must be maintained in effective operating condition. If Site inspections required by Subpart 3.10 identify BMPs that are not operating effectively, maintenance must be performed as soon as practical or as reasonably possible and before the next storm event whenever practicable to maintain the continued effectiveness of storm water controls.
- B. If existing BMPs need to be modified or if additional BMPs are necessary to comply with the requirements of this permit and/or SC's Water Quality Standards, implementation must be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation must be documented in the SWPPP and alternative BMPs must be implemented as soon as reasonably possible.
- C. Sediment from sediment traps or sedimentation ponds must be removed as indicated in the SWPPP or when the design capacity has been reduced by 50 percent, whichever occurs first.

### **3.7 Reserved**

### **3.8 Copy of Permit Requirements**

Copies of this permit, the signed and certified NOI form that was submitted to DHEC, the Co-permittee certifications required by Subpart 3.2.D, and, if applicable, any local approval must be included in the SWPPP. Also, upon receipt, a copy of the letter from the DHEC authorizing your coverage under this CGP must also be included as a component of the SWPPP.

### **3.9 Applicable State, Tribal, or Local Programs**

The SWPPP must be consistent with all applicable federal, state, tribal, or local requirements for soil and erosion control and storm water management, including updates to the SWPPP as necessary to reflect any revisions to applicable federal, state, tribal, or local requirements for soil and erosion control. Except for Projects exempted from the requirements of SC Regulation 72-300 by Section 72-302 of SC Regulation 72-300, all Projects located outside MS4s must after June 30, 2006 meet the minimum standards and criteria of South Carolina Regulation 72-300.

### **3.10 Inspections**

- A. After construction begins, inspections must be conducted at a minimum in accordance with one of the two schedules listed below and you must specify in your SWPPP which schedule you will be following.
  - 1. At least once every 7 calendar days, or
  - 2. At least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.
- B. Inspection frequency may be reduced to at least once every month if the entire Site is temporarily stabilized.
- C. The Department on a case-by-case basis may require any permittee who has coverage under this CGP to conduct inspections on a more frequent basis than prescribed in this CGP. Examples include, but are not limited to, permittees who have compliance problems and permittees whose Site's stormwater discharges to environmental sensitive waters (such as waters classified as Trout Waters, Outstanding Resource Waters, Shellfish Harvesting Waters, etc.).
- D. Inspections must be conducted by qualified personnel (provided by the Operator or cooperatively by multiple Operators). For Projects that disturb more than 2 acres, "Qualified personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction Site that could impact storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity. After June 30, 2006, this person must be either the preparer of the SWPPP or an individual who is under the direct supervision of the preparer of the approved SWPPP and who meets the requirements in this paragraph or an individual who has been certified through a Construction Site Inspector Certification Course that has been approved by DHEC. Inspections may also be conducted by a

person with a registration equivalent to the registration of the preparer of the SWPPP and who meets the qualifications of this paragraph or an individual who is under the direct supervision of the person with an equivalent registration and who meets the requirements in this paragraph. For Projects that disturb 2 acres or less, the permittee or his designee may perform these inspections provided the preparer of the SWPPP or someone with a registration equivalent to that of the preparer of the SWPPP explains the SWPPP including implementation along with the inspection requirements to the person who will be conducting the inspections.

- E. Inspections must include all areas of the Site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors must look for evidence of, or the potential for, pollutants entering the storm water conveyance system. Sedimentation and erosion control measures identified in the SWPPP must be observed to ensure proper operation. Discharge locations must be inspected to ascertain whether erosion control measures are effective in preventing violations to SC's Water Quality Standards, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the Site must be inspected for evidence of off-site sediment tracking.
- F. Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may limit the access of inspection personnel to the areas described in Subpart 3.10.E above. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected on the same frequencies as other construction Projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction Site for 0.25 mile above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction Site and allows access to the areas described above. The conditions of the controls along each inspected 0.25 mile segment may be considered as representative of the condition of controls along that reach extending from the end of the 0.25 mile segment to either the end of the next 0.25 mile inspected segment, or to the end of the Project, whichever occurs first. Representative inspections must include any areas where stormwater discharges to environmental sensitive waters (such as waters classified as Trout Waters, Outstanding Resource Waters, Shellfish Harvesting Waters, etc.).
- G. For each inspection required above, you must complete an inspection report. At a minimum, the inspection report must include:
  - 1. The inspection date;
  - 2. Names, titles, and, if not previously given in an inspection report, the qualifications of personnel making the inspection, unless those qualifications change;
  - 3. Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether you know if any discharges occurred;



4. Weather information and a description of any discharges occurring at the time of the inspection;
5. Location(s) of discharges of sediment or other pollutants from the Site;
6. Location(s) of BMPs that need maintenance;
7. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
8. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
9. Corrective action required including any changes to the SWPPP necessary and implementation dates.

A record of each inspection and of any actions taken in accordance with this Part must be retained as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated. The report must be signed in accordance with §122.22 of SC Regulation 61-9 (see Appendix C of this permit).

H. For construction Sites disturbing 10 acres or more, a monthly report must be submitted to DHEC and, if applicable, the appropriate MS4. The report must be signed in accordance with §122.22 of SC Regulation 61-9 (see Appendix C of this permit). In lieu of submitting monthly reports, the reports may be stored electronically in a manner in which DHEC personnel will have access to review this data, such as on a dedicated website that DHEC personnel will have unlimited access to. Other forms of electronic storage of monthly reports may be utilized once arrangements have been made with DHEC. For construction Sites that disturb less than 10 acres, DHEC may require monthly reports to be submitted on either a Project-by-Project basis or Operator-by-Operator basis. If the information required in this Subpart is already included on the inspection forms, only copies of the inspection forms need to be submitted to DHEC. If the information required in this Subpart is not included on the inspection form, then the monthly reports must include, at a minimum, the following additional information:

1. A summary of the results of the inspections conducted during the month;
2. A listing of all deficiencies noted during inspections with the date the deficiency was noted;
3. For each deficiency noted that required corrective action:
  - a. A listing of the name(s), address(es), and telephone number(s) of the party or parties responsible; and
  - b. A statement whether this deficiency was previously listed in a monthly report;
4. A listing of the corrective actions that were taken to remedy any deficiencies noted and the date

the corrective actions were completed;

5. A statement on whether or not the SWPPP was updated to deal with any deficiencies noted; and
  6. A copy of each inspection conducted during the month attached in an appendix to the monthly report.
- I. For construction Sites disturbing 10 acres or more, in addition to the information required in subpart 3.10.H above, the first monthly report submitted after construction has started must include the original and one copy of the Co-permittee and contractor certifications. Subsequent monthly reports on construction Sites that disturb 10 acres or more must include the original and a copy of the certification for the Co-permittees and contractors added after construction has started. For each Co-permittee and contractor certification submitted to the Department, the preparer of the SWPPP or someone with a registration equivalent to that of the preparer of the SWPPP must certify that either an on-site or, when applicable, off-site pre-construction conference was held with the Co-permittee or contractor in accordance with this permit. This certification must give the date of the conference and the responsibilities of each Co-permittee and contractor.
  - J. For construction Sites disturbing less than 10 acres, the Owners/Operators may be required to submit the Co-permittee and contractor certifications on a case-by-case basis. When the Owner/Operator is required to submit the Co-permittee and contractor certifications, the preparer of the SWPPP or someone with a registration equivalent to that of the preparer of the SWPPP must certify that either an on-site or off-site pre-construction conference was held with the Co-permittees and contractors in accordance with this permit. This certification must give the date of the conference and the responsibilities of each Co-permittee and contractor.
  - K. Each monthly report with one copy must be submitted to DHEC on or before the 28<sup>th</sup> day of the month following the reporting period. For example, the monthly report for July 2006 is due after July 31, 2006 and on or before August 28, 2006.
  - L. Until construction starts, the monthly report may just state that construction activity has not started.
  - M. Monthly reports, when required, must be submitted until the Notice of Termination is submitted to DHEC. When the Notice of Termination is submitted, it must contain a signed statement by the preparer of the SWPPP or a person with a registration equivalent to that of the preparer of the SWPPP that all work was completed to the best of his or her knowledge and belief in accordance with the approved SWPPP and this CGP. For Projects disturbing more than 2 acres, the certifying person's knowledge and belief must be based on the results of the periodic inspections conducted by the preparer of the SWPPP (or a person with an equivalent registration) or by a qualified individual under his or her direct supervision in accordance with this CGP or by an individual certified through a Construction Site Inspector Certification Course that has been approved by DHEC.
  - N. Copies of inspection forms and monthly reports (reports required only if information requested in Part 3.10.H is not included on the inspection form) must be submitted to DHEC at the following address:



Compliance Assurance Division  
Bureau of Water  
SC DHEC  
2600 Bull Street  
Columbia, SC 29201

or to a designated DHEC email address, when available.

A copy of the inspection forms or monthly reports must be submitted to the MS4 that receives your stormwater discharges when requested in writing by the MS4.

### **3.11 Maintaining an Updated Plan**

- A. The SWPPP, including the Site map, must be amended whenever there is a change in design, construction, operation, or maintenance at the construction Site that will result in discharges that will cause, have the reasonable potential to cause, or contribute to violations to SC's Water Quality Standards.
- B. The SWPPP must be amended if during inspections or investigations by Site staff, or by local, state, tribal or federal officials, it is determined that the SWPPP is ineffective in either eliminating, when reasonably possible, or significantly minimizing pollutants in storm water discharges from the construction Site.
- C. Based on the results of an inspection, the SWPPP must be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed within seven (7) calendar days following the inspection. Implementation of these additional or modified BMPs must be accomplished as described in Subpart 3.6.B.
- D. All design modifications of the SWPPP must be made in accordance with Subpart 3.1.A.

### **3.12 Signature, Plan Review and Making Plans Available**

- A. A copy of the SWPPP (including a copy of the permit), NOI, and CGP coverage letter from DHEC must be retained at the construction Site (or other location easily accessible during normal business hours to: DHEC, EPA, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; and the Operator of a Municipal Separate Storm Sewer System (MS4) receiving discharges from the Site) from the date of commencement of construction activities to the date of final stabilization. If you have day-to-day operational control over SWPPP implementation, you must have a copy of the SWPPP available at a central location on-site for the use of all those identified as having responsibilities under the SWPPP whenever they are on the construction Site. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction Site. For linear construction of roads or utilities (such as roads built by the SC Department of Transportation and utility construction including electrical power lines, gas lines, main sewer trunk lines, and water distribution lines that are not part of a development)

neither of which are a part of a subdivision or other type of development Projects, the updated copies of the approved SWPPP must be sent to the appropriate EQC Regional Office in situations where it is not practical to have the approved SWPPP on location. For SC Department of Transportation Projects where there is no construction trailer on Site, the SWPPP may be kept in the office of the SC DOT resident engineer.

- B. SWPPPs must be made available upon request by EPA; DHEC; a tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; and the Operator of a Municipal Separate Storm Sewer System (MS4) receiving discharges from the Site to the requestor. The copy of the SWPPP that is required to be kept on-site or locally available must be made available, in its entirety, to DHEC or the EPA staff for review and copying at the time of an on-site inspection.
- C. All SWPPPs must be signed and certified in accordance with §122.22 of SC Regulation 61-9 (see Appendix C of this permit).

### **3.13 Management Practices**

- A. All control measures must be properly selected, installed, and maintained in accordance with any relevant manufacturer specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the Operator must replace or modify the control for Site situations as soon as practicable.
- B. If sediment escapes the construction Site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts unless: access to the off-site property cannot be reasonably obtained from the property owner and DHEC is also unable to get permission for you to access the off-site property; or DHEC agrees that it is appropriate to leave the off-site accumulations in place.
- C. Litter, construction debris, oils, fuels, and building products with significant potential for impact (such as stockpiles of freshly treated lumber) and construction chemicals that could be exposed to storm water must be prevented from becoming a pollutant source in storm water discharges.
- D. Except as provided below, stabilization measures must be initiated as soon as practicable in portions of the Site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the Site has temporarily or permanently ceased.
  - 1. Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.
  - 2. Where construction activity on a portion of the Site is temporarily ceased, and earth-disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the Site.
- E. A combination of sediment and erosion control measures is required to achieve maximum pollutant

removal.

1. Sediment Basins: For common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from the drainage area from at least a 10-year, 24-hour storm, or equivalent control measures, must be provided where attainable until final stabilization of the Site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing at least 3,600 cubic feet of storage per acre drained, or equivalent control measures, must be provided where attainable until final stabilization of the Site. When computing the number of acres draining into a common location, it is not necessary to include flows from off-site areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. In determining whether installing a sediment basin is attainable, the Operator may consider factors such as Site soils, slope, available area on-site, etc. In any event, the Operator must consider public safety as a design factor for the sediment basin, and alternative sediment controls must be used where Site limitations would preclude a safe design.
  2. For drainage locations that serve 10 or more disturbed acres at one time and where a temporary sediment basin or equivalent controls are not attainable, smaller sediment basins and/or sediment traps should be used. Silt fences, vegetative buffer strips, or a combination of sediment controls that are equivalent to sediment basins and/or sediment traps are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual Site conditions).
  3. For drainage locations serving less than 10 acres, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual Site conditions) of the construction area unless a sediment basin providing storage for a calculated volume of runoff from at least a 10-year, 24-hour storm or at least 3,600 cubic feet of storage per acre drained is provided. If a basin is not provided, each structural control used must be designed to handle the entire drainage area it serves.
  4. The Department may on a case-by-case or watershed-by-watershed basis require the use of a larger storm event and/or a larger storage volume when designing sediment basins.
- F. Velocity dissipation devices must be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

### **3.14 Documentation of Permit Eligibility Related to Total Maximum Daily Loads That Are Effective and Applicable to Stormwater Construction Discharges**

The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have a TMDL that is effective and applicable to stormwater construction discharges,

including:

- A. Identification of whether your discharge (construction stormwater) is identified, either specifically or generally, in a TMDL and any associated allocations, requirements, and assumptions identified for your discharge;
- B. Measures taken by you to ensure that your discharge of pollutants from the Site is consistent with the assumptions and requirements contained in the TMDL that is applicable to your stormwater discharge, including any specific wasteload allocation that has been established that would apply to your discharge.

See Subpart 1.3.C.4 for further information on determining permit eligibility related to TMDLs.

#### **PART 4: SPECIAL CONDITIONS, MANAGEMENT PRACTICES AND OTHER NON-NUMERIC LIMITATIONS**

##### **4.1 Continuation of the Expired General Permit**

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

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

##### **4.2 Requiring an Individual Permit or an Alternative General Permit**

- A. In accordance with Section 122.28(b)(3) of SC Regulation 61-9, DHEC may require you to apply for and/or obtain an individual NPDES permit. Any interested person may petition DHEC to take action under this paragraph. If DHEC requires you to apply for an individual NPDES permit, DHEC will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and an application form. In addition, if you are an existing permittee covered under this permit, the notice will set a deadline to file the application, and will include a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to you, coverage under this general permit will automatically terminate. Applications must be submitted to DHEC at the address given in Subpart 2.4. DHEC may grant additional time to submit the application upon your request. If you are covered under this permit and you fail to submit in a timely manner an individual NPDES

permit application as required by DHEC, then the applicability of this permit to you is automatically terminated at the end of the day specified by DHEC as the deadline for application submittal.

- B. If an alternate general permit that is more appropriate for your construction activity is available, DHEC may grant you coverage under the alternate general permit in lieu of granting you coverage under this general permit. In accordance with applicable state law and regulation, you have a right to appeal the Department's decision.
- C. You may request to be excluded from the coverage of this general permit by applying for an individual permit. In such a case, you must submit an individual application in accordance with the requirements of §122.26(c)(1)(ii) of SC Regulation 61-9, with reasons supporting the request, to:

Storm Water and Agricultural Section  
Bureau of Water  
SC DHEC  
2600 Bull Street  
Columbia, SC 29201

The request may be granted by issuance of an individual permit or an alternative general permit if your reasons are adequate to support the request.

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

#### **4.3 Releases in Excess of Reportable Quantities**

- A. You must prevent or minimize the discharge of hazardous substances or oil in storm water discharges from the construction Site in accordance with the SWPPP. This permit does not relieve you of the federal reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 relating to spills or other releases of oils or hazardous substances.
- B. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117 or 40 CFR Part 302, occurs during a 24-hour period:
  - 1. You must notify the Department's Emergency Response Section at (803) 253-6488 and the National Response Center (NRC) (800) 424-8802 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 as soon as Site staff have knowledge of the discharge; and

2. You must modify the SWPPP as required under Subpart 3.11 within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, you must review your SWPPP to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and you must modify your SWPPP where appropriate.

#### **4.4 Attainment of Water Quality Standards After Authorization**

You must select, install, implement and maintain BMPs at your construction Site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general your SWPPP developed, implemented, and updated consistent with Part 3.0 is considered as stringent as necessary to ensure that your discharges do not cause or contribute to a violation of any applicable water quality standard.

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

### **PART 5: TERMINATION OF COVERAGE**

#### **5.1 Requirements**

You may only submit a Notice of Termination (NOT) after one or more of the following conditions have been met:

- A. Final stabilization has been achieved on all portions of the Site for which you are responsible;
- B. Another Operator has assumed control, according to §122.41(1)(3) of SC Regulation 61-9 (see Appendix C of this permit), over all areas of the Site that have not been finally stabilized;
- C. Coverage under an individual or alternative general NPDES permit has been obtained; or
- D. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

The NOT must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates at midnight of the day the NOT is signed.

#### **5.2 Submitting a Notice of Termination**

It is your responsibility to submit a complete and accurate Notice of Termination (NOT), using the form (or a photocopy thereof) provided by the Department. The NOT will be made available at our WEB site at:

<http://www.scdhec.net/eqc/admin/html/eqforms.html#Water>

If DHEC notifies dischargers (either directly, by public notice, or by making information available on



the Internet) of other NOT form options (e.g., electronic submission), you may take advantage of those options to satisfy the requirements of Part 5.

The Notice of Termination must include the following information:

1. Your CGP NPDES coverage number for the storm water discharge;
2. The basis for submission of the NOT, including: final stabilization has been achieved on all portions of the Site for which the permittee is responsible; another Operator/permittee has assumed control over all areas of the Site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or, for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner;
3. You, the Operator's name, address, telephone number and your organization's Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
4. The name of the Project and address (or a description of location if no street address is available) of the construction Site for which the notification is submitted; and
5. A certification statement, signed and dated by an authorized representative as defined in §122.22 of SC Regulation 61-9 (see Appendix C of this permit) and the name and title of that authorized representative.
6. For Projects disturbing more than 2 acres, a certification statement, signed and dated by the preparer of the SWPPP or other person with a registration equivalent to that of the preparer of the SWPPP, that to the best of his or her knowledge and belief all work was conducted and completed in accordance with the approved SWPPP and this CGP. This certification must be based on the inspections performed in accordance with this Subpart 3.10 of this CGP and must state that any deficiencies that were noted have been corrected.

### **5.3 Where to Submit**

A. All original NOTs must be submitted to DHEC at the following address:

Storm Water and Agricultural Section  
Bureau of Water  
SC DHEC  
2600 Bull Street  
Columbia, SC 29201

And a copy of the NOT to the MS4 that received your stormwater discharges when requested in writing by the MS4.

### **PART 6: RETENTION OF RECORDS**

Copies of the SWPPP and all documentation required by this permit, including records of all data used

to complete the NOI to be covered by this permit, must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request of DHEC at any time.

## **PART 7: REOPENER CLAUSE**

### **7.1 Procedures for Modification or Revocation**

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

### **7.2 Water Quality Protection**

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

### **7.3 Timing of Permit Modification**

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

## **PART 8: STANDARD PERMIT CONDITIONS**

South Carolina regulations require that the Standard Conditions provisioned at §122.41 of SC Regulation 61-9 be applied to all NPDES permits. You are required to comply with those Standard Conditions, details of which are provided in Appendix C of this permit, that are applicable to storm water discharges.



## APPENDIX A - DEFINITIONS AND ACRONYMS DEFINITIONS

“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 to Surface Waters of the State. BMPs also include treatment requirements, operating procedures, and practice to control plant Site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

“Co-Permittee” means a permittee to an NPDES permit that is only responsible for permit conditions relating to the discharge for which it is Operator.

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

“Control Measure” as used in this permit, refers to any BMP or other method used to prevent or reduce the discharge of pollutants to “Waters of the State”.

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

“DHEC” means the South Carolina Department of Health and Environmental Control’s Office of Environmental Quality Control.

“Discharge” when used without qualification means the “discharge of a pollutant.”

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

“Eligible” means qualified for authorization to discharge storm water under this general permit.

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

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

“Final Stabilization” means that:

1. All soil disturbing activities at the Site have been completed and either of the two following criteria are met:

- a. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures; or
  - b. Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
2. When background native vegetation or other appropriate vegetation will cover less than 100 percent of the ground (e.g., arid areas, beaches), the 70 percent coverage criteria is adjusted as follows: if the native vegetation or other appropriate vegetation covers 50 percent of the ground, 70 percent of 50 percent ( $0.70 \times 0.50 = 0.35$ ) would require 35 percent total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.
  3. For individual lots in residential construction, final stabilization means that either:
    - a. The homebuilder has completed final stabilization as specified above; or
    - b. The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.
  4. For construction Projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to “Surface Waters of the State,” and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (1) or (2) or (3) above.

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

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

“Large Construction Activity” is the construction industrial activity as defined at §122.26(b)(14)(x) of SC Regulation 61-9 and incorporated here by reference. A large construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land or will disturb less than five acres of total land area but is part of a larger common plan of

development or sale that will ultimately disturb equal to or greater than five acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the Site.

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

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

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

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

“Operator” for the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction Project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications. Note: A party has “operational control over construction plans and specifications” if they have the authority to prepare or modify such plans and specifications under Subpart 3.1.A; or
2. The party has “operational control over day-to-day activities” at a Project that are necessary to ensure compliance with a SWPPP for the Site or other permit conditions (e.g., they are authorized to direct workers at a Site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform permittees of EPA’s interpretation of how the regulatory definitions of “Owner or Operator” and “facility or activity” are applied to discharges of storm water associated with construction activity.

“Owner or Operator” means the owner or Operator of any “facility or activity” subject to regulation under the NPDES program. For purposes of this permit, when local governments (counties, cities,

etc.) construct or improve state roads, the owner of these road construction projects during the construction is the local government.

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

“Person” means any individual, public or private corporation, political subdivision, association, partnership, corporation, municipality, State or Federal agency, industry, copartnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

“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” is defined at §122.2 of SC Regulation 61-9. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

“Project” means an undertaking such as, but not limited to, construction of commercial development, residential development, industrial development, roadways, railways, and utility lines.

“Project Area” means:

1. The areas on the construction Site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, Site development, or other ground disturbance activities occur) and the immediate vicinity. (Example: 1. Where bald eagles nest in a tree that is on or bordering a construction Site and could be disturbed by the construction activity or where grading causes storm water to flow into a small wetland or other habitat that is on the Site that contains listed species.)
2. The areas where storm water discharges flow from the construction Site to the point of discharge into receiving waters. (Example: Where storm water flows into a ditch, swale, or gully that leads to receiving waters and where listed species (such as amphibians) are found in the ditch, swale, or gully.)
3. The areas where storm water from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge. (Example: Where storm water from construction activities discharges into a stream segment that is known to harbor listed aquatic species.)
4. The areas where storm water BMPs will be constructed and operated, including any areas where storm water flows to and from BMPs. (Example: Where a storm water retention pond would be built.)

5. The areas upstream and /or downstream from construction activities discharges into a stream segment that may be affected by the said discharges. (Example: Where sediment discharged to a receiving stream settles downstream and impacts a breeding area of a listed aquatic species.)

“Receiving water” means the “Waters of the State” as defined in §122.2 of SC Regulation 61-9 into which the regulated storm water discharges.

“Runoff coefficient” means the fraction of total rainfall that will appear at the conveyance as runoff.

“Site” means the land or water area where any “facility or activity” is physically located or conducted, including adjacent land used in connection with the facility or activity.

“Small Construction Activity” is defined under the definition of “Stormwater discharge associated with small construction activity” at §122.26(b)(15) of SC Regulation 61-9 as follows: “Storm water discharge associated with small construction activity means the discharge of storm water from:

- (i) Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres and, in coastal counties within one-half (1/2) mile of a receiving water body (but not for single-family homes which are not part of a subdivision development), that result in any land disturbance less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The Department may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:
  - (A) The value of the rainfall erosivity factor (“R” in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C 552(a) and 1 CFR part 51. Copies may be obtained from EPA’s Water Resource Center, Mail Code RC4100, 401 M St. S.W., Washington, DC 20460. A copy is also available for inspection at the U.S. EPA Water Docket, 401 M Street S.W., Washington, DC. 20460, or the Office of the Federal Register, 800 N. Capitol Street N.W. Suite 700, Washington, DC. An Operator must certify to the Department that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or
  - (B) Storm water controls are not needed based on a “total maximum daily load” (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for non-impaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction Sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream

concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this paragraph, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The Operator must certify to the Department that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

- (ii) Any other construction activity designated by the Department, or in States with approved NPDES programs either the Department or the EPA Regional Administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.”

“Storm Water” means storm water runoff, snowmelt runoff, and surface runoff and drainage.

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

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

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

“Waters of the State” is defined in §122.2 of SC Regulation 61-9.

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

## **ACRONYMS**

BMP - Best Management Practices

CGP - Construction General Permit

CFR - Code of Federal Regulations

CWA - Clean Water Act

EPA - United States Environmental Protection Agency

MS4 - Municipal Separate Storm Sewer System

NOI - Notice of Intent

NOT - Notice of Termination

NPDES - National Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works

SWPPP - Storm Water Pollution Prevention Plan

TMDL - Total Maximum Daily Load



## APPENDIX B - SMALL CONSTRUCTION WAIVERS AND INSTRUCTIONS

These waivers are only available to storm water discharges associated with small construction activities (i.e., 1-5 acres). As the Operator of a small construction activity, you may be able to qualify for a waiver in lieu of needing to obtain coverage under this general permit based on: (A) a low rainfall erosivity factor, (B) a TMDL analysis, or (C) an equivalent analysis that determines allocations for small construction Sites are not needed. Each Operator, otherwise needing permit coverage, must notify DHEC of its intention for a waiver. It is the responsibility of those individuals wishing to obtain a waiver from coverage under this general permit to submit a complete and accurate waiver certification as described below. Where the Operator changes or another is added during the construction Project, the new Operator must also submit a waiver certification to be waived.

### A. Rainfall Erosivity Waiver

Under this scenario the small construction Project's rainfall erosivity factor calculation ("R" in the Revised Universal Soil Loss Equation) is less than 5 during the period of construction activity. The Operator must certify to the Permitting Authority that construction activity will occur only when the rainfall erosivity factor is less than 5. The period of construction activity begins at initial earth disturbance and ends with final stabilization. Where vegetation will be used for final stabilization, the date of installation of a stabilization practice that will provide interim non-vegetative stabilization can be used for the end of the construction period, provided the Operator commits (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization as defined in the construction general permit have been met. If use of this interim stabilization eligibility condition was relied on to qualify for the waiver, signature on the waiver with its certification statement constitutes acceptance of and commitment to complete the final stabilization process. The Operator must submit a waiver certification to DHEC prior to commencing construction activities.

*Note: The rainfall erosivity factor "R" is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21–64, dated January 1997; United States Department of Agriculture (USDA), Agricultural Research Service.*

EPA funded a cooperative agreement with Texas A&M University to develop an online rainfall erosivity calculator. You can access the calculator from EPA's website at:

[www.epa.gov/npdes/stormwater/cgp](http://www.epa.gov/npdes/stormwater/cgp)

Use of the calculator allows you to determine potential eligibility for the rainfall erosivity waiver. It may also be useful in determining the time periods during which construction activity could be waived from permit coverage. You may find that moving your construction activity by a few weeks or expediting Site stabilization will allow you to qualify for the waiver.

If you are the Operator of the construction activity and eligible for a waiver based on low erosivity potential, you must provide the following information on the waiver certification in order to be waived



from permitting requirements:

1. Name, address and telephone number of the construction Site Operators;
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction Project or Site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The rainfall erosivity factor calculation that applies to the active construction phase at your Project Site; and
5. A statement, signed and dated by an authorized representative, as provided in §122.22 of SC Regulation 61-9 (see Appendix C of this permit), that certifies that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five.

At the time of publication, a Low Erosivity Waiver Form is not available. If EPA or DHEC does create a form, it will be noticed (either directly, by public notice, or by making information available on the Internet at:

[www.epa.gov/npdes/stormwater/cgp](http://www.epa.gov/npdes/stormwater/cgp) or <http://www.scdhec.gov/stormwater>

*Note: If the R factor is 5 or greater, you cannot apply for the rainfall erosivity waiver, and must apply for permit coverage as per Subpart 2.1 of the construction general permit, unless you qualify for the Water Quality Waiver as described below.*

If your small construction Project continues beyond the projected completion date given on the waiver certification, you must recalculate the rainfall erosivity factor for the new Project duration. If the R factor is below five (5), you must update all applicable information on the waiver certification and retain a copy of the revised waiver as part of the Site SWPPP. The new waiver certification must be submitted prior to the projected completion date listed on the original waiver form to assure your exemption from permitting requirements is uninterrupted. If the new R factor is five (5) or above, you must submit an NOI as per Part 2.

## **B. TMDL Waiver**

This waiver is available if a TMDL that addresses the pollutant(s) of concern and has determined that controls on storm water discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. Information on TMDLs that have been established is available from EPA online at [www.epa.gov/owow/tmdl/](http://www.epa.gov/owow/tmdl/) and from DHEC at: [www.scdhec.gov/water/tmdl/](http://www.scdhec.gov/water/tmdl/).

If you are the Operator of the construction activity and eligible for a waiver based on compliance with

a TMDL, you must provide the following information on the Waiver Certification form in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction Site Operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction Project or Site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the water body(s) that would be receiving storm water discharges from your construction Project;
5. The name and approval date of the TMDL; and
6. A statement, signed and dated by an authorized representative, as provided in §122.22 of SC Regulation 61-9 (see Appendix C of this permit), that certifies that the construction activity will take place and that the storm water discharges will occur, within the drainage area addressed by the TMDL.

### **C. Equivalent Analysis Waiver**

This waiver is available for non-impaired waters only. The Operator can develop an equivalent analysis that determines allocations for his small construction Site for the pollutant(s) of concern or determines that such allocations are not needed to protect water quality. This waiver requires a small construction Operator to develop an equivalent analysis based on existing in-stream concentrations, expected growth in pollutant concentrations from all sources, and a margin of safety.

If you are a construction Operator who wants to use this waiver, you must develop your equivalent analysis and provide the following information to be waived from permitting requirements:

1. Name, address and telephone number of the construction Site Operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction Project or Site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the water bodies that would be receiving storm water discharges from your construction Project;
5. Your equivalent analysis; and
6. A statement, signed and dated by an authorized representative, as provided in §122.22 of SC

Regulation 61-9 (see Appendix C of this permit), that certifies that the construction activity will take place and that the storm water discharges will occur, within the drainage area addressed by the equivalent analysis.

#### **D. Waiver Deadlines and Submissions**

1. Waiver certifications must be submitted prior to commencement of construction activities.
2. If you submit a TMDL or equivalent analysis waiver request, you are not waived until DHEC approves your request. As such, you may not commence construction activities until receipt of approval from DHEC.
3. Late Notifications: Operators are not prohibited from submitting waiver certifications after initiating clearing, grading, excavation activities, or other construction activities. DHEC may take enforcement for any unpermitted discharge or violations of laws or regulations that occur between the time construction commenced and waiver authorization is granted.

Submittal of a waiver certification is an optional alternative to obtaining permit coverage for discharges of storm water associated with small construction activity, provided you qualify for the waiver. Any discharge of storm water associated with small construction activity not covered by either a permit or a waiver may be considered an unpermitted discharge under the Clean Water Act and the SC Pollution Control Act. As mentioned above, DHEC may take enforcement for any unpermitted discharge or violations of laws or regulations that occur between the time construction commenced and either discharge authorization is granted or a complete and accurate waiver certification is submitted. DHEC may notify any Operator covered by a waiver that they must apply for a permit. DHEC may notify any Operator who has been in non-compliance with a waiver that they may no longer use the waiver for future Projects. Any member of the public may petition DHEC to take action under this provision by submitting written notice along with supporting justification.

Complete and accurate Rainfall Erosivity waiver certifications must be sent to the following address:

Storm Water and Agricultural Permitting Section  
Bureau of Water  
SC DHEC  
2600 Bull Street  
Columbia, SC 29201

Complete and accurate TMDL or equivalent analysis waiver requests must be sent to the following address:

Storm Water and Agricultural Permitting Section  
Bureau of Water  
SC DHEC  
2600 Bull Street  
Columbia, SC 29201

## APPENDIX C – SECTIONS 122.41 AND 122.22 OF SC REGULATION 61-9

### Section 122.41 of SC Regulation 61-9.

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

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

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

(2) Failure to comply with permit conditions or the provisions of this regulation may subject the permittee to civil penalties under S.C. Code Section 48-1-330 or criminal sanctions under S.C. Code Section 48-1-320. Sanctions for violations of the Federal Clean Water Act may be imposed in accordance with the provisions of 40 CFR Part 122.41(a)(2) and (3).

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

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

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

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

**(e) (1) Proper operation and maintenance.** The permittee shall at all times properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the

permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective performance based on design facility removals, adequate funding, adequate operator staffing and training and also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

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

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

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

(A) Attendance by the certified operator of the appropriate grade ("the operator") is normally required only on days when treatment or discharge occurs.

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

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

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

(E) Any exceptions allowed under (A), (B), (C), and (D) above may be subject to compliance with the permit conditions.

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

(ii) Authority and applicability. Under Section 48-1-30 of the Code of Laws of South Carolina (1976 as amended), the Department is authorized to adopt such rules and regulations as may be necessary to implement the Pollution Control Act. This regulation applies to all sewer systems that have been or would be subject to a DHEC construction permit under Regulation 61-67 and whose owner owns or operates the wastewater treatment system to which the sewer discharges and which discharges under NPDES. Nothing in this regulation supersedes a more stringent requirement that may be imposed by sewer system owners that manage wastewater from satellite systems. This regulation (122.41(e)(4)) is effective when published in the State Register.

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

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

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

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

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

(iv) [Reserved.]

**(f) Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

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

**(h) Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this



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

**(i) Inspection and entry.** The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the Department), upon presentation of credentials and other documents as may be required by law, to:

(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

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

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

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

**(j) Monitoring and records.**

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

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

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

(ii) Flow Measurements.

(A) Where primary flow meters are required, appropriate flow measurement devices and methods consistent with accepted scientific practices shall be present and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of not greater than 10 percent from the true discharge rates throughout the range of expected discharge volumes. The primary flow device, where required, must be accessible to the use of a continuous flow recorder.

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



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

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

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

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by R.61-9.503 or R.61-9.504); the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

(3) Records of monitoring information shall include:

- (i) The date, exact place, and time of sampling or measurements;
- (ii) The individual(s) who performed the sampling or measurements;
- (iii) The date(s) analyses were performed;
- (iv) The individual(s) who performed the analyses;
- (v) The analytical techniques or methods used; and
- (vi) The results of such analyses.

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

(5) The PCA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000 or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment provided by the Clean Water Act is also by imprisonment of not more than 4 years.

**(k) Signatory requirement.**

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

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

**(l) Reporting requirements.**

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

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

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

(iii) The alteration or addition results in a significant change in the permittee's sewage sludge or industrial sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan (included in the NPDES permit directly or by reference);

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

(3) Transfers. This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of permittee and incorporate such other requirements as may be necessary under the Pollution Control Act and the Clean Water Act. (See section 122.61; in some cases, modification or revocation and reissuance is mandatory.)

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

(i) Monitoring results must be reported on a Discharge Monitoring Report

(DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in R.61-9.503 or R.61-9.504, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting.

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

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

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

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

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

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (1)(6)(i) of this section if the oral report has been received within 24 hours.

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.

(8) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**(m) Bypass.**

(1) Definitions.

(i) “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraph (m)(3) and (m)(4) of this section.

(3) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (1)(6) of this section (24-hour notice).

(4) Prohibition of bypass

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (m)(3) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

**(n) Upset.**

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

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

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

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

(ii) The permitted facility was at the time being properly operated; and

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

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

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

**(o) Misrepresentation of Information.**

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

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the Department pursuant

to the State law, and the rules and regulations pursuant to that law, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to 48-1-320 or 48-1-330.

## **Section 122.22 of SC Regulation 61-9.**

### **122.22. Signatories to permit applications and reports.**

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

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

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

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

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

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

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

(b) All reports required by permits, and other information requested by the Department, shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a) of this section;

(2) The authorization specifies either an individual or a position having

responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

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

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

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