State Permit Number: WPCC 3213/13
NPDES Permit Number: DE 0051209
Effective Date: TBD
Expiration Date: TBD

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

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

The Town of Middletown
19 West Green Street
Middletown, Delaware 19709

is authorized to discharge storm water from/through all portions of the municipal separate storm sewer system that are located in the Town of Middletown, New Castle County, Delaware, within the area designated by the United States Census Bureau as the "Philadelphia, PA - NJ - DE - MD Urbanized Area", and that are owned or operated and maintained by the Town of Middletown, to waters of the State in New Castle County, within and adjacent to the Town of Middletown, in accordance with the comprehensive storm water management program, the discharge limitations, monitoring requirements and other provisions set forth in Parts I, II, III, IV and V hereof.

This permit and the authorization to discharge under the National Pollutant Discharge Elimination System shall become effective on XXXX, 2013 and shall expire at midnight, on XXXX, 2014 or when the new State of Delaware Phase II MS4 General Permit becomes effective and is issued to the Town of Middletown, whichever is sooner.

Bryan Ashby
Manager, Surface Water Discharges Section
Division of Water Resources
Delaware Department of Natural Resources
and Environmental Control

Date Signed

Part I Discharges Authorized By This Permit

A. Area Covered

This permit covers all areas located within the corporate boundary of the Town of Middletown, New Castle County, Delaware, that have been designated by the United States Census Bureau as the "Philadelphia, PA – NJ – DE - MD Urbanized Area", served by or otherwise contributing to discharges from, the municipal separate storm sewers owned or operated and maintained by the Town of Middletown.

B. Authorized Discharges

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

2. Limitations on Coverage
   The following discharges, whether discharged separately or commingled with municipal storm water, are not authorized by this permit:

   a. Non-storm water and Industrial Storm Water:
      Discharges of materials other than storm water, discharges of storm water associated with industrial activity or other storm water discharges required to obtain an NPDES permit, except where such discharges are:
      (1) regulated by a separate NPDES permit or the discharger has applied for such permit;
      (2) covered under the Department's NPDES General Permit Program regulations; or
      (3) identified by and in compliance with Part II.A.3.g.

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

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

d. Discharges of storm water from any entity or from any municipal storm sewer system within the Town of Middletown other than that which is owned by or under the direct operational control of the Town of Middletown.

C. Discharge Limitations

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

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

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

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

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

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

2. If it is determined that any of the preceding discharges persist, notwithstanding implementation of the SWMP and other requirements of this permit, the permittee shall notify the Department and thereafter, shall prepare and submit a report that:

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

b. Assesses the effectiveness of those existing BMPs; and

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

3. The assessment report specified herein may be incorporated into the annual SWMP evaluation that is prescribed in Part IV.A., unless the Department directs an earlier submission. In addition, a copy of the assessment report shall be included with the annual report to be prepared and submitted to the Department in accordance with Part IV.B.

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Part II Storm Water Management Program ("SWMP")

The permittee shall develop and implement a comprehensive storm water management program ("SWMP") that will accomplish the following: effectively prohibit the discharge into the municipal separate storm sewer system of any materials other than storm water; reduce the discharge of pollutants from/through the municipal separate storm sewer system to the maximum extent practicable ("MEP"); protect water quality; and satisfy the water quality requirements of the Act and the State of Delaware Surface Water Quality Standards. The permittee shall employ a variety of techniques, including the employment of pollution prevention measures, best management practices, treatment technologies or pollutant removal techniques, among others, to meet the objectives herein and to control the quality of the storm water discharged from/through the municipal separate storm sewer system referenced herein. The SWMP shall be implemented in accordance with Section 402(p)(3)(B) of the Act and the applicable federal NPDES storm water regulations in 40 CFR Parts 122.26 and 122.33 through 122.35.

The SWMP shall be fully developed and implemented five years after initial issuance of this permit and shall be updated as necessary, or as required by the Department, to ensure compliance with the statutory requirements of Section 402(p)(3)(B) of the Act. Modifications to the SWMP shall be made in accordance with Parts IV.A.2. and IV.A.3.

Implementation of the SWMP may be achieved through participation with other public or private entities. The permittee may rely upon such other entities to satisfy the requirements herein in lieu of creating duplicate program elements. The permittee remains responsible for compliance with this permit and implementation of the SWMP, however, in the event the other public or private entity fails to do so. For this reason, a legally binding contract, MOU, or other similar means should be executed between the permittee and the other party to avoid conflicts resulting from noncompliance with this permit.

The SWMP shall include the six minimum control measures described in Part II.A. For each minimum measure, the permittee shall identify the measures, controls or best management practices (BMPs) to be employed, measureable goals (narrative or numeric standards to be used to assess and gauge the effectiveness of each measure), including time lines and milestones, and the person or entity responsible for implementation.

The SWMP, taken as a whole, shall achieve the "effective prohibition of non-storm water discharges" and "MEP" standards from Section 402 (p)(3)(B) of the Act.

A. Storm Water Management Program Elements

The SWMP shall include the following minimum control measures:

1. *Public Education and Outreach*
   The permittee shall continue to develop and implement a public education program to distribute educational materials to its employees, its contractors, individuals using its facilities and the general public. The public education program shall provide information concerning the impact of storm water discharges on water quality. It must address steps and/or activities that can be taken to reduce pollutants in storm water runoff.

   The permittee's education and outreach efforts shall address the following:

   a. Activities that occur at Town of Middletown facilities, any BMPs employed and any pollution prevention efforts at those facilities;

   b. Residential activities;

   c. Illegal dumping into storm drains; and

   d. The proper disposal of litter, pet waste, used oil and household hazardous wastes; the proper use and disposal of fertilizer and pesticides and the impact of impervious areas on neighboring water bodies.

   The public education program must include coordination with local groups (i.e., watershed associations, schools, civic groups, etc.) and other State and local government officials. Materials for outreach and education may be in any form that is appropriate for the target audience and may include pamphlets, fact sheets, brochures, the permittee's website, public service announcements, educational displays, informational meetings, storm drain markers, newsletters and newspaper advertisements.

2. *Public Involvement and Participation*
   The permittee shall provide opportunities for the public to participate in the development, implementation and review of its SWMP.

   a. Activities may include recruiting volunteers for stream monitoring, formation of a storm water management committee, workshops, participation in the development of pollution control strategies for watersheds impacted by any discharges from the permittee's MS4.

3. *Illicit Discharge Detection and Elimination*
The permittee shall develop and implement a program to detect and eliminate illicit discharges. An illicit discharge is any discharge to the municipal separate storm sewer system that is not composed entirely of storm water. Exceptions are discharges that are covered by an individual NPDES permit or under the Department's NPDES General Permit Program regulations, allowable non-storm water discharges described in Part II.A.3.g. and discharges resulting from emergency fire fighting activities.

   a. The permittee shall continue to review all existing and readily available information, including project plans, records, drainage maps and field surveys to verify that which is shown on the storm sewer system map submitted with its application. The permittee shall update its storm sewer system map periodically. At a minimum, the map shall show the location of all outfalls and drainage outlets and the names and location of all waters that receive discharges from those outfalls.

   b. The permittee shall effectively prohibit, through an ordinance or other appropriate regulatory mechanism, non-storm water discharges into the permittee's storm sewer system. The permittee shall evaluate existing procedures, policies, ordinances and authorities pertaining to connections to its storm sewer system. If a regulatory mechanism does not currently exist, development and adoption of such mechanism must be included as part of the SWMP.

   c. The permittee shall develop, implement and adequately fund a program to detect and address non-storm water discharges, including illegal dumping, to its separate storm sewer system.
      1. This program shall include both proactive and reactive measures to detect illicit discharges and improper disposal into the storm sewer system, e.g. visual screening of outfalls for dry weather discharges, promoting public reporting of suspicious discharges and investigating reports of such discharges, conducting smoke tests or dye tests to locate illicit connections to the storm sewer system, etc. This program shall establish priorities and schedules for screening the entire municipal separate storm sewer system at least once during the initial five-year period after the issuance of this permit.
      2. This program shall outline the investigative procedures to be followed or actions to be taken to locate and identify suspect discharges, determine whether or not a discharge is illicit, track down its source and effect its elimination in a timely manner.
      3. The permittee may solicit the Department's assistance in pursuing any

of the enforcement remedies available under State law for illicit discharges to the permittee's separate storm sewer system.

d. The permittee shall inform its employees, contractors and the general public of the hazards associated with illegal discharges and improper disposal of wastes.

e. The permittee shall promote - through education, public information and other appropriate measures - the proper management and disposal of used motor vehicle fluids (at a minimum, oil and antifreeze) and household hazardous waste materials (including paint, solvents, pesticides, herbicides, and other hazardous materials). The permittee shall coordinate such efforts with the Delaware Solid Waste Authority, the Department's Division of Air and Waste Management and the Recycling Public Advisory Council. The permittee shall explore opportunities to facilitate existing recycling and household hazardous waste collection programs and identify ways to encourage more participation.

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

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

(18) street wash waters; and
(19) discharges or flows from emergency fire fighting activities.

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

i. The permittee shall maintain, and update as necessary, a list of dischargers to the municipal separate storm sewer system that have sought coverage under the Department's NPDES General Permit Program regulations.

4. *Construction Site Storm Water Runoff Control*
The permittee shall continue to implement and enforce a program to reduce, to the maximum extent practicable, the discharge of pollutants from construction sites, including:
   a. Requirements for the use and maintenance of appropriate structural and nonstructural sediment and erosion controls and other best management practices to reduce pollutant discharges to the municipal separate storm sewer system during the time when construction is underway;
   b. Requirements for construction site operators to control wastes such as discarded construction or building materials, concrete truck washout, chemicals, litter and sanitary waste;
   c. Sanctions to ensure compliance;
   d. Procedures for site planning which incorporate considerations for potential short term and long term water quality impacts and which minimize those impacts, to the maximum extent practicable;
   e. Procedures for receipt and consideration of information submitted by the public;
   f. Procedures for inspection of construction sites and enforcement of control measures; and
   g. Appropriate education and training measures for construction site operators.

Title 7, Delaware Code, Chapter 40 and the Department's Sediment and Stormwater Regulations establish a statewide sediment and stormwater program designed to control the quantity and quality of storm water runoff during construction or any land disturbing activities and post-construction. These authorities encourage and make provision for delegating the sediment and stormwater program to either the Conservation Districts, local governments or other state agencies. The Department has delegated the authority to administer a sediment and stormwater program to the permittee. Satisfactory performance of the permittee's delegated responsibilities will be considered compliance with this component of the SWMP.

5. *Post-Construction Storm Water Management in Newly Developed Areas and in Redeveloped Areas*
   The permittee shall continue to implement and enforce a program to address storm water runoff from new development and redevelopment projects that disturb areas greater than or equal to one acre, including projects that disturb less than one acre that are part of a larger common plan of development, and that discharge to the storm sewer system. The post construction program must include:
   a. An ordinance or other regulatory mechanism to address post construction runoff from new development or redevelopment;
   b. Strategies for addressing post-construction storm water quality and limiting the discharge of pollutants via storm runoff; and
   c. Procedures to ensure adequate long term operation and maintenance of any best management practices employed.

   Title 7, Delaware Code, Chapter 40 and the Department's Sediment and Stormwater Regulations establish a statewide sediment and stormwater program designed to control the quantity and quality of storm water runoff during construction or any land disturbing activities and post-construction. These authorities encourage and make provision for delegating the sediment and stormwater program to either the Conservation Districts, local governments or other state agencies. The Department has delegated the authority to administer a sediment and stormwater program to the permittee. Satisfactory performance of the permittee's delegated responsibilities will be considered compliance with this component of the SWMP.

6. *Pollution Prevention and Good Housekeeping*
   The permittee shall continue to develop and implement an operation and maintenance program with a goal of preventing and/or reducing discharges of pollutants associated with the permittee's operations (in addition to those that constitute storm water discharges associated with industrial activity). The program must at a minimum, include the following:
   a. An employee training program;
   b. Maintenance activities and procedures or pollution prevention measures to prevent or limit discharges of pollutants associated with the following: open space, park and recreational area maintenance, roadside vegetation management, fleet and building maintenance, equipment and vehicle washing, de-icing material storage, new construction and land disturbance, storm drain system maintenance;
   c. Schedules for performing the maintenance activities and pollution prevention measures listed in paragraph b above; and
   d. Inspection procedures and schedules for any stormwater management facilities, structural controls or best management practices employed.

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Part III Schedules of Compliance

This permit is intended as an interim permit specifically adapted for the Town of Middletown to have permit coverage on its MS4 until that time the Delaware Phase II MS4 General Permit is approved and issued. The permittee is expected to initiate all programs and proceed towards full implementation of the SWMP. The following actions will be required in the first eighteen (18) months of this permit, unless revised by a subsequent permit issuance:

Month 6:
Outline for SWMP due to the Department

Month 12:
Submit draft SWMP to the Department
Develop a process to include public participation on the SWMP

Month 15:
Final SWMP due to the Department

Month 18:
Begin SWMP Implementation Plan

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Part IV Program Evaluation, Recordkeeping and Reporting Requirements

A. Storm Water Management Program Evaluation

1. *Storm Water Management Program Evaluation*
   The permittee shall periodically review its current SWMP and assess its effectiveness in meeting the goals and requirements herein. This review shall be accomplished at least once each calendar year this permit is effective and shall involve:
   a. A review of the status of developing or implementing each of the SWMP's minimum control measures;
   b. An assessment of the appropriateness and effectiveness of the selected measures, controls and best management practices outlined in the SWMP;
   c. A review of any information collected, including any monitoring data;
   d. An assessment of the need to modify the SWMP to comply with the statutory requirement under Section 402 (p)(3)(B)(iii) of the Act to reduce the discharge of pollutants to the municipal separate storm sewer system to the maximum extent practicable; and
   e. An assessment of the need to modify the SWMP to meet any applicable surface water quality standards for the receiving waters and to protect the designated uses for those waters.

2. *Program Modification and Update*
   The SWMP incorporated herein shall not be modified without the prior approval of the Department, unless in accordance with items a. through c., below:

   a. Portions of the SWMP not specifically required by Part II.A. may be modified upon written notification to the Department.

   b. Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWMP may be made at any time upon written notification to the Department.

   c. Changes replacing an ineffective or infeasible best management practice or BMP specifically identified in the SWMP with an alternate may be requested at any time. Unless denied by the Department, changes proposed in accordance with the criteria specified below shall be deemed approved and may be implemented within 60 days from submittal of the request. Such requests shall include the following:
      (1) An analysis of why the BMP is ineffective or infeasible (cost may be a factor);
      (2) Expectations on the effectiveness of the replacement BMP; and
      (3) An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.

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

Any requests to modify the SWMP or any notification of changes made to the SWMP shall be signed in accordance with Part V.

3. *Changes or Updates Required by the Department*
   Upon notification from the Department that the SWMP does not adequately address the requirements herein, the permittee shall modify the plan and submit the changes to the Department within the timeframe specified in the notice.

B. Preparation and Submission of an Annual Report

The permittee shall annually prepare and submit to the Department a report summarizing the results of its evaluation of the SWMP (prescribed in Part IV.A.). Each annual report shall be submitted no later than June 30th of each year and shall cover all activities related to this permit during the preceding calendar year.

The annual report shall be submitted to the Department at the following address:

STATE OF DELAWARE DEPT. OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF WATER RESOURCES, SURFACE WATER DISCHARGES SECTION, R & R BUILDING, 89 KINGS HIGHWAY, DOVER, DELAWARE 19901
TELEPHONE: (302) 739-5731 FACSIMILE: (302) 739-8369

The annual report shall include the following information:

1. The status of developing and implementing each of the minimum measures outlined in Part II.A.; a summary of the progress towards achieving the measureable goals for each minimum measure and the objective of this permit (i.e., reducing the discharge of pollutants to the "maximum extent practicable");
2. An assessment of the appropriateness and effectiveness of the controls and best management practices identified in the SWMP;
3. Proposed changes to the SWMP, if any, including any changes to any measures, controls or BMPs or to any identified measureable goals;
4. A summary of any information collected and analyzed during the reporting year, including any monitoring data, used to assess the success of the SWMP in meeting its goals; and
5. A summary of the activities planned for the following year.

C. Certification and Signature of Reports

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

D. Representative Sampling

Any samples collected and any measurements taken to assess compliance with this permit or in conjunction with the permittee's SWMP shall be representative of the volume and nature of the monitored discharge.

E. Flow Measurement

In the event the permittee chooses to monitor flow or discharge volume, appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of any measurements. The devices shall be installed, calibrated and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device.

F. Test Procedures

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

G. Penalties for Tampering

State law, 7 Del. C. §6013, provides that any person who falsifies or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall upon conviction, be punished by a fine of not more than $5,000 or by imprisonment for not more than 6 months, or by both.

H. Record Contents

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

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

I. Retention of Records

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

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Part V Standard Permit Conditions

A. Duty to Comply

The permittee must comply with all the conditions of this permit. All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than, or at a level in excess of that identified and authorized herein shall constitute a violation of the terms and conditions of this permit.

The violation of any effluent limitation or of any other condition specified in this permit shall be grounds for enforcement as provided in 7 Del. C. §§6005, 6013 and 6018; for loss of authorization to discharge pursuant to this permit; for permit revocation and reissuance or modification pursuant to Part V.H.; or for denial of a permit renewal application. Pursuant to 7 Del.C. §6019, the Department may seek voluntary compliance by way of warning, notice or other educational means. However, the law does not require that such voluntary means be used before proceeding by way of compulsory enforcement.

B. Facilities Operation

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

C. Adverse Impact

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

D. Removed Substances

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

E. Right of Entry

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

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

F. Duty to Provide Information Requested by the Department

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit or to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit. The permittee shall also furnish, upon request, copies of records required to be kept by this permit.

G. Duty to Provide Information Found to be Missing or Inaccurate

When the permittee discovers that it failed to submit any relevant facts in a permit application or that it submitted any incorrect information in any permit application or in any report to the Department, it shall promptly submit such facts or information.

H. Availability of Reports

Except for any data and information that is deemed to be confidential and claimed as such when submitted, and that is entitled to protection as trade secrets under State law, all reports prepared in accordance with the terms and conditions of this permit shall be available for public inspection at the Department's offices. This permit, the permit application and any information submitted to support the application (other than information that is entitled to protection as trade secrets under State law) and any effluent or discharge monitoring data shall not be considered confidential and any claims of confidentiality shall be denied. Knowingly making any false statement in any such report may result in the imposition of criminal penalties as provided for under 7 Del.C. §6013.

I. Signatory Requirements

All applications, monitoring reports, storm water management program reports, certifications or other information required by this permit, whether submitted to the Department or maintained by the permittee, shall be signed as follows:

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

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

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

J. Permit Modification, Revocation and Reissuance, and Termination

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

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

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

3. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition. When a permit is modified, only conditions subject to modification are

reopened.

K. Transfer of Permit

This permit is not transferable, except after notice to and with the concurrence of the Department.

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

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

The permittee is encouraged to provide as much advance notice as possible of any proposed transfer, to allow sufficient time for the Department to modify this permit to identify the new permittee and to incorporate such other requirements as may be necessary under State law or the Act.

L. Reapplication for a Permit

The permittee must apply for and obtain a new permit if the permittee wishes to continue the activity regulated by this permit beyond its expiration date.

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

M. Civil and Criminal Liability

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

N. Discharge of Pollutants

Any person who causes or contributes to the discharge of a pollutant into waters of

the State or the United States either in excess of any condition specified in this permit or in the absence of a specific permit condition, shall report such an incident to the Department as required under 7 Del.C. §6028.

O. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under 7 Del. C. Chapter 60 or any other State law or regulation.

P. Property Rights

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

Q. Construction Authorization

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

R. Severability

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

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Part VI Definitions

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

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

"CFR" means the Code of Federal Regulations in effect on January 1, 2013.

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

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

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

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

"Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except those sanctioned by a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting and other activities referenced in Part II.A.3. of this permit.

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

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

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

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

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

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

"Permittee" refers to the entity listed on the title page of this permit (i.e., the City of Newark).

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

"Point Source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

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

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

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

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

"SWMP" is an acronym for Storm Water Management Program.

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

"Section 313 water priority chemical" means a chemical or chemical categories which:

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

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

"Significant redevelopment" means:

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

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

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

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

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

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

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