

Chapter 9.5 - STORMWATER MANAGEMENT AND SEDIMENTATION CONTROL

ARTICLE I. – GENERALLY

DIVISION 1. - GENERAL

Sec. 9.5-1. - Purpose, authority and jurisdiction.

- (a) Purpose. In order to protect the general health, safety and welfare of the people of the County, to enhance the water quality of the County and to protect the natural assets and resources of the County for posterity, this Stormwater Management and Sediment control article is enacted to protect the lands and waters from the effects of excessive soil erosion and sedimentation, to prevent siltation of streams and lakes, to prevent clogging of draining channels, to prevent excessive flood damage and to prevent damage to the property of adjacent landowners.
- (b) Permit Compliance. It is further the purpose of this article to comply with the federal and corresponding state Stormwater discharge regulations (40 CFR 122.26 and SC Regulation 61-9.122.26) developed pursuant to the Clean Water Act (CWA) and to grant the County the authority to take any action required by it to obtain and comply with its National Pollutant Discharge Elimination System (NPDES) permit for Stormwater discharges. Among other things, these regulations require the County to establish legal authority which authorizes or enables the county at a minimum to attempt to:
 - (1) Control the contribution of Pollutants to the county's Small Municipal Separate Storm Sewer System (SMS4) and receiving waters by Stormwater discharges associated with residential, commercial, industrial and related facilities activity and the quality of Stormwater discharged from sites of residential, commercial, industrial and related facility activity; and
 - (2) Prohibit illicit discharges to the SMS4 and receiving waters; and
 - (3) Control the discharge to the SMS4 and receiving waters of spills, dumping, or disposal of materials other than Stormwater; and
 - (4) Control, through intergovernmental agreements, contribution of Pollutants from one municipal Stormwater system to another; and
 - (5) Require compliance with conditions in ordinances, permits, contracts or orders; and
 - (6) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the SMS4 and receiving waters.

- (c) Minimum Requirements. The application of this article and the provisions expressed herein shall be the minimum Stormwater Management requirements and shall not be deemed a limitation or repeal of any other powers granted by statute. In addition, if site characteristics indicate that complying with these minimum requirements will not provide adequate designs or protection for local property or residents, it is the owner and operator's responsibility to exceed management practices control techniques and system, design and engineering methods and such other programs and controls as are required by the County's NPDES Permit as defined below.
- (d) Construction. This article is to be construed to further its purpose of controlling and reducing Pollutant discharges to the SMS4 and to the waters of the State and to meet the County's obligations under its NPDES permit issued by the South Carolina Department of Health and Environmental Control (DHEC) as required by 33 USC 1342 and 40 CFR 122.26 (the "NPDES Permit").
- (e) Authority. This article is adopted pursuant to the authority conferred upon the County by the South Carolina Constitution, the South Carolina General Assembly and in compliance with the requirements imposed upon the County by the NPDES Permit issued in accordance with the Federal Clean Water Act, the South Carolina Pollution Control Act and regulations promulgated thereunder.
- (f) Jurisdiction. The provisions of this article shall apply to all lands within the jurisdiction of the County, including incorporated areas of the County where the municipality has entered into an intergovernmental agreement with the County to perform Stormwater Management services on behalf of the municipality.
- (g) Relationship with other laws, regulations and ordinances. Whenever the provisions of this article impose more restrictive standards than are required in or under any other law, regulation or ordinance, the requirements contained in this article shall prevail. Whenever the provisions of any other law, regulation or ordinance require more restrictive standards than are required in this article, the requirements of such law, regulation or ordinance shall prevail. Approvals of Stormwater Management and Sediment Control Plans which were obtained by the County Engineering Division prior to September 18, 2007 shall remain in effect for the original term of the approval.
- (h) Amendments. This article may be amended in the same manner as prescribed by law for its original adoption.
- (i) Notification forms. The Florence County Engineering Department, shall attempt to provide proper notification of the requirements of this article to those persons desiring to conduct a Land Disturbing Activity and shall provide the necessary forms required for application for securing approval of the Stormwater Management and Sediment Control Plan as defined below. A copy of this article shall be made available upon reasonable request.

Sec. 9.5-2. to 9.5-15 Reserved

DIVISION 2. - DEFINITIONS

Sec. 9.5-16. - Definitions.

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

Adverse impact: significant negative impact to land, water and associated resources resulting from a land disturbing activity. The negative impact includes increased risk of flooding; degradation of water quality; increased sedimentation; reduced groundwater recharge; negative impacts on aquatic organisms; negative impacts on wildlife and other resources; and threatened public health.

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and waterfalls.

Allowable Discharges: means Stormwater and non-Stormwater discharges allowed to discharge to WoS as authorized by the Construction General Permit. See Sections 1.3.1.A and 1.3.1.B of the CGP.

Alternative General Permit: means Stormwater and non-Stormwater discharges allowed to discharge to WoS as authorized by an alternative general permit. See Sections 1.3.1.A and 1.3.1.B of the CGP.

Antidegradation Policy: means the water quality standards regulation that requires States and Tribes to establish a three-tiered antidegradation program:

- (1) Tier 1 maintains and protects existing uses and water quality conditions necessary to support such uses. An existing use can be established by demonstrating that fishing, swimming, or other uses have actually occurred since November 28, 1975, or that the water quality is suitable to allow such uses to occur. Where an existing use is established, it must be protected even if it is not listed in the water quality standards as a designated use. Tier 1 requirements are applicable to all surface waters.
- (2) Tier 2 maintains and protects "high quality" water bodies where existing conditions are better than necessary to support CWA § 101(a)(2) "fishable/swimmable" uses. Water quality can be lowered in such waters. However, State and Tribal Tier 2 programs identify procedures that must be followed and questions that must be answered before a reduction in water quality can be allowed. In no case may water quality be lowered to a level which would interfere with existing or designated uses.

- (3) Tier 3 maintains and protects water quality in outstanding national resource waters (ONRWs). Except for certain temporary changes, water quality cannot be lowered in such waters. ONRWs generally include the highest quality waters of the United States. However, the ONRW classification also offers special protection for waters of exceptional ecological significance, i.e., those which are important, unique, or sensitive ecologically. Decisions regarding which water bodies qualify to be ONRWs are made by States and authorized Indian Tribes.

Applicant: means a person, firm, or governmental agency applying to the Division for a State or NPDES permit to obtain approval or a permit for a land disturbing activity.

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

Approved: accepted by the Division director or the staff reviewer as meeting an applicable specification stated or cited in this regulation, or as suitable for the proposed use.

As-built plans: set of engineering or site drawings that delineate the specific permitted Stormwater management facility as actually constructed

Bank: (e.g., stream bank or river bank) - the rising ground bordering the channel of a water of the U.S.

Berm: means a mound of soil, either natural or man-made, intended to buffer land uses or limited access.

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. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities.

Best Management Practices (BMP) Handbook: is a tool designed by the Department (SCDHEC) to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect Waters of the State. It also aids in the development other reports, plans, or specifications required by water quality regulations.

Borrow and Fill Areas: are areas where erodible material (typically soil) is dug for use as fill and the areas where the fill is used, either onsite or off-site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, borrow and fill areas are considered construction activity for the purpose of the Construction General Permit.

Buffer Zone: an area, strip, or plot of dense undisturbed perennial native vegetation, either original or reestablished, surrounding streams and rivers, ponds and lakes, wetlands, seeps, or other surface waters within which construction activities are restricted, and which are established for the primary purpose of protecting water quality and maintaining a healthy aquatic ecosystem in the receiving surface waters.

Building: any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. The term "building" shall be construed as if followed by the words "or parts thereof."

CFR: means the Code of Federal Regulations, as amended.

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

Clearing: means the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction and/or non-construction activities. (For instance, clearing forested land in order to convert forestland to pasture for wildlife management purposes would be considered clearing in anticipation of non-construction activities.) In reference to the Construction General Permit, clearing does not refer to the removal of vegetation and disturbance of soil along existing or new roadways, highways, dams, power lines for sight distance, other maintenance and/or safety concerns, and cold milling of roadway pavement surfaces.

Combined sewer: a sewer receiving both surface runoff and sewage.

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

Commercial Development: any intended use of a building, structure or property for any retail trade, service, professional, office, amusement, entertainment, multi-family developments or similar purpose as defined by the county zoning ordinance or county code of laws and as specifically permitted within any business or commercial district under the zoning ordinance.

Comprehensive Stormwater Pollution Prevention Plan (C-SWPPP): as used in the Construction General Permit means the Stormwater Pollution Prevention Plan (SWPPP) prepared according to requirements outlined in Section 3 of the Construction General Permit. The comprehensive SWPPP must be submitted with the Notice of Intent (NOI) and must include the Engineering Report (project design calculations). This document must be submitted and approved by the Florence County Engineering Division prior to obtaining coverage under the Construction General Permit.

Construction Activities: means earth-disturbing activities, such as the clearing, grading, and excavation of land.

Construction General Permit (CGP) or General Permit: means an NPDES permit issued under 40 CFR section 122.28 authorizing a category of discharges or activities under the PCA and CWA within a geographical area.

Construction Site: means the land or water area where any construction “facility or activity” is physically located or conducted and where Stormwater controls will be installed and maintained. The construction site also includes adjacent land used in connection with the facility or activity and support activities, which may be located at a different part of the property where the primary construction activity will take place, or on a different piece of property altogether. The construction site is often a smaller subset of the lot or parcel within which the project is taking place.

Construction Waste: means discarded material (such as packaging materials, scrap construction materials, masonry products, timber, steel, pipe, and electrical cuttings, plastics, and styrofoam) and contaminated soil generated by construction activities.

Contaminant: a substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

Contractor: means a person, group, company, etc. hired by the Developer to commence and complete construction activities covered by these regulations. See Section 2.2.3 of the Construction General Permit for additional information.

Control Measure: refers to any Stormwater control, Best Management Practice (BMP), or other method used to prevent or reduce the discharge of pollutants to “Waters of the United States.”

Conveyance Channel: means a temporary or permanent feature designed for the movement of Stormwater through the drainage system, such as concrete pipes, ditches, depressions, swales, channels etc.

Corrective Action: for the purposes of the Construction General Permit, means any action taken to (1) repair, modify, or replace any Stormwater control used at the site; (2) clean up and dispose of spills, releases, or other deposits found on the site; and (3) remedy a permit violation.

County: Florence County or any duly authorized official acting on its behalf.

Culvert: shall mean a structure designed to convey a watercourse under a roadway, railway, pedestrian walk, or through an embankment.

Curve Number (CN): means the runoff curve number. The curve number is an empirical parameter used in hydrology for predicting direct runoff or infiltration from rainfall excess. The curve number method was developed by the USDA Natural Resources Conservation Service, which was formerly called the *Soil Conservation Service* or *SCS*. The number is still popularly

known as a "SCS runoff curve number". The runoff curve number was developed from an empirical analysis of runoff from small catchments and hill slope plots monitored by the USDA. It is widely used and is an efficient method for determining the approximate amount of direct runoff from a rainfall event in a particular area.

The runoff curve number is based on the area's hydrologic soil group, land use, treatment and hydrologic condition. References, such as from USDA indicate the runoff curve numbers for characteristic land cover descriptions and a hydrologic soil group. *CN* has a range from 30 to 100; lower numbers indicate low runoff potential while larger numbers are for increasing runoff potential.

Delegated Entity: means a local government (or other governmental entity such as a tribal government or Conservation District) that has received authority to administer an environmental regulatory program in lieu of the State Agency counterpart.

Delegation: means the acceptance of responsibility by a Local Government or Conservation District for the implementation of one or more elements of the statewide Stormwater management and sediment control program.

Department means the South Carolina Department of Health and Environmental Control (SCDHEC or DHEC). This includes staff from the Bureau of Water, Office of Ocean and Coastal Resource Management (OCRM), and Regional Offices.

Design storm events: shall mean the frequency storm used for the design of Stormwater management facilities (two-year, ten-year, twenty five-year and one hundred-year frequency storms). See Storm Events.

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

Developed land use conditions: shall mean the land use conditions according to the current county land use map or proposed site plan. Also the conditions which exist following the completion of the land disturbing activity in terms of topography, vegetation, land use and rate, quality, volume or direction of Stormwater runoff.

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

Development activity: should generally mean any of the following actions undertaken by a public or private individual or entity:

- (1) The division of a lot, tract or parcel of land into two (2) or more lots, plots, sites, tracts, parcels or other divisions by plat or deed;
- (2) The construction, installation or alteration of a structure, impervious surface, or drainage facility;

- (3) Any land change, including, without limitation, clearing, tree removal, grubbing, stripping, dredging, grading, excavating, transporting and filling of land; and,
- (4) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise disturbing the soil, vegetation, and mud, sand or rock of a site.

Dewatering: means the act of draining rainwater and/or groundwater from building foundations, vaults, and trenches.

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

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

Discharge of Stormwater Associated with Construction Activity: as used in the Construction General Permit, refers to a discharge of pollutants in Stormwater from areas where land 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 Stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

Discharge Point: for the purposes of the Construction General Permit, means the location where collected and concentrated Stormwater flows are discharged from the construction site.

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

Division: means the Florence County Engineering Division.

Drainage: surface water runoff; the removal of surface water or groundwater from lands by drains, grading, or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving water supply and the prevention or alleviation of flooding.

Drainage Area: means that area contributing runoff to a single point.

Drainage system: any previously existing or newly constructed drainage facility that conveys Stormwater or surface runoff such as drainage ways, watercourses, storm drainage pipe, culverts, catch basins, sewers, specifically designed for Stormwater, open ditches, swales with or without inverts, and all appurtenances thereto.

Drainage Area Map: means a map showing areas of a construction site contributing runoff to a single point.

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

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

Effluent Limitations Guidelines: means a regulation published by the Administrator under section 304(b) of CWA to adopt or revise effluent limitations.

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

Eligible: means qualified for authorization to discharge Stormwater and allowable non-Stormwater discharges under the Construction General Permit.

Endangered Species: is defined in the Endangered Species Act at 16 U.S.C. 1531 as any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insects determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

Engineering Report: as applied to the Construction General Permit refers to the report or document submitted to the Department containing the specific Project or Site design calculations and supporting documents. This report includes as a minimum, calculation of parameters and design criteria specified in SC Regulation 72-300 and identified in Section 3.2.8 of the Construction General Permit. The Engineering Report must be included in the Comprehensive SWPPP.

Environmental Protection Agency (EPA): means the United States Environmental Protection Agency.

Ephemeral Streams: mean streams that generally have defined natural watercourses that flow only in direct response to precipitation (rainfall or snowmelt) in which discrete periods of flow persist no more than 29 consecutive days per event and whose channel is at all times above the water table.

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

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

Exemption: means those land-disturbing activities that are not subject to the sediment and Stormwater requirements contained in these regulations. See Appendix D of the Construction General Permit for additional information.

Extended Natural Buffer: in reference to the Construction General Permit, means an area, strip, or plot of undisturbed, natural cover adjacent to surface waters, classified as Sensitive Waters, that may be utilized to provide water quality control of Stormwater discharges from adjacent land-disturbing activities. Natural cover includes the vegetation, exposed rock, or barren ground that existed prior to commencement of land-disturbing activities. The minimum width of an Extended Natural Buffer is typically greater than the width required for Natural Buffers.

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.

Farm: a tract of land cultivated for the purpose of agricultural production.

Filter strips: shall mean vegetated sections of land designated to accept runoff as overland sheet flow from upstream developments.

Final Stabilization: means that all land-disturbing activities at the construction site have been completed and that on all areas not covered by permanent structures, either (1) a uniform (e.g., evenly distributed, without large bare areas) vegetative cover with a density of 70 percent of the natural background vegetative cover has been established excluding areas where no natural background vegetative cover is possible (e.g., on a beach), or (2) equivalent permanent stabilization measures (such as the use of landscaping mulch, riprap, pavement, and gravel) have been implemented to provide effective cover for exposed portions of the construction site not stabilized with vegetation.

Flood: shall mean a general and temporary condition of partial or complete inundation of land areas from the overflow of inland waters, tidal conditions, or the unusual and rapid accumulation of runoff of surface waters from any source.

General Permit or Construction General Permit (CGP): means an NPDES permit issued under section 40 CFR 122.28 authorizing a category of discharges or activities under the PCA and CWA within a geographical area.

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

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

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

Hazardous materials: any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hydrologic response: the hydrologic response of a property is the manner and means whereby Stormwater collects, remains, infiltrates, and is conveyed from a property. It is dependent on several factors including, but not limited to, the presence of impervious area, the size, shape, topographic, vegetative, and geologic conditions of a property, antecedent moisture conditions, and groundwater conditions on a property.

Illegal or illicit discharge: an illicit discharge is defined as any discharge to a municipal/public separate storm sewer system (Stormwater drainage system) that is not composed entirely of Stormwater runoff (except for non-polluting discharges that may be allowed under a permit or by exemption).

Illicit connections: An illicit connection is defined as either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to, any conveyances which allow any non-Stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system. This also includes any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Impaired Waters: means waters identified by a State, Tribe, or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State water quality standards to support classified uses as promulgated in S.C. Regulation 61-68, Water Classifications and Standards and S.C. Regulation 61-69, Classified Waters. Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established. A list of the streams and lakes not meeting water quality standards can be found at <http://www.scdhec.gov/environment/water/tmdl> under 303(d) & TMDLs.

Impervious Surface: for the purpose of the Construction General Permit, means any land surface with a low or no capacity for soil infiltration including, but not limited to, pavement, sidewalks, parking areas and driveways, packed gravel or soil, or rooftops.

Inactive Sites: means sites or projects in which construction activities have been abandoned or ceased for long periods of time.

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

Individual Permit: is a permit specifically tailored to an individual facility.

Industrial Development: organized activity concerned with the manufacturing, extracting and processing of raw materials.

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

Inspector: for the purposes of the Construction General Permit, means a person certified by the State or Department through a Construction Site Inspector Certification Course approved by DHEC. An inspector performs and documents required inspections of Stormwater construction activities, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector typically has the following responsibilities:

- (1) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit or Corps of Engineers permit for construction activities in or around Waters of the State;
- (2) Update the records, logs, and inspection reports within the OS-SWPPP as necessary due to an on- site inspection;
- (3) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
- (4) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the CGP and other environmental permits.

Intermittent or Seasonal Streams: means streams that generally have defined natural watercourse which do not flow year round, but flow at certain times of the year when groundwater provides water for stream flow, as well as during and immediately after some precipitation events or snowmelt.

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

Jurisdictional Waters of the United States or Waters of the U.S.: are defined as water bodies, including wetlands, under the jurisdiction or control of the United States federal government. Federal jurisdiction may overlap and be concurrent with a state. Section 404 of the Clean Water Act regulates the placement of dredged or fill material into waters of the United States, including wetlands. The Army Corps of Engineers (Corps) is the agency responsible for the processing and issuing of permits for proposed projects that will impact Waters of the United States, including wetlands.

Land Disturbance or Land Disturbing Activity: by definition means any use of the land by any person that results in a change in the natural cover or topography that may cause erosion and contribute to sediment and alter the quality and quantity of Stormwater runoff. Such activities include, but are not limited to: clearing, removal of vegetation that disturbs the soil, stripping, grading, grubbing, excavating, filling, logging and storing of materials. Clearing of areas where soils are not exposed and an adequate vegetative structure is left in place is not considered land disturbance, provided that the clearing is not in anticipation of other construction activities such as grubbing and grading.

Land subdivision regulations: the land subdivision regulations of the County, however adopted/enacted.

Lot: a piece, parcel, tract, or plot of land intended as a unit for transfer of ownership or for development, the size of which shall be regulated by the county zoning ordinance and county code of laws, as amended.

Large Construction Activity: is defined in section 122.26(b) 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.

Larger Common Plan for Development or Sale (LCP): is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating

construction activities may occur on a specific plot. [63 Federal Register No. 128, July 6, 1998, p. 36491].

A common plan for development or sale identifies a site where multiple separate and distinct construction activities (areas of disturbance) are occurring on contiguous areas. Such sites may have one operator or owner or several operators and owners. Construction activities may take place at different times on different schedules, in separate stages, and/or in separate phases, and/or in combination with other construction activities. Each Developer, Operator or Owner for each Site or Project determined to be a part of a LCP are subject to permitting requirements as defined by the CGP.

Projects and sites identified as part of a larger common plan for development or sale are linked thru permitting by the Division as part of one plan, referred to as the larger common plan. LCP projects must ensure that adequate Stormwater management facilities are designed into the Project(s) or Site(s) to control pollution and protect water quality during all stages or phases of development.

Projects or Sites added as part of a LCP may be required to expand existing or provide additional Stormwater management facilities to control pollution from land disturbance activities from other contiguous areas or proposed additional phases as required by the CGP.

LCP projects are typically identified by the documentation that identifies the scope of the project including such things as plats, blueprints, marketing plans, contracts, building permits, public notice or hearing, and zoning requests. If master calculations have been prepared and/or submitted for an entire site, then all phases and parcels at that site would be considered part of a LCP.

Late Notifications: means NOIs submitted after initiating clearing, grading, filling and excavation activities (including borrow pits and stockpile material storage areas), or other similar construction activities for projects or sites required to obtain authorization under the Construction General Permit are considered late.

Level Spreader: a temporary Stormwater control used to spread Stormwater flow uniformly over the ground surface as sheet flow to prevent concentrated, erosive flows from occurring.

Limits of Disturbance (LOD): means specific areas of a site or individual lot in which construction and other land disturbing activities must be contained.

Linear Project or Linear Construction: is a land disturbing activity that includes the construction of roads, bridges, conduits, substructures, pipelines, sewer lines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities in a long, narrow area as conducted by an underground/overhead utility or highway department, including but not limited to any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for communications; or any other energy resource

transmission ROW or utility infrastructure, e.g., roads and highways. Linear project activities also include the construction of access roads, staging areas, and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of a residential and/or commercial subdivision is not considered a linear project.

Load Allocation (LA): means the portions of a receiving water's TMDL that is allocated to its non- point sources of pollution. See definition of TMDL.

Local Government: means any county, municipality, or any combination of counties or municipalities, acting through a joint program pursuant to the provisions of the Construction General Permit.

Low Impact Development (LID): means an approach to land development (or re-development) that works with nature to manage Stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat Stormwater as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements. By implementing LID principles and practices, water can be managed in a way that reduces the impact of built areas and promotes the natural movement of water within an ecosystem or watershed. Applied on a broad scale, LID can maintain or restore a watershed's hydrologic and ecological functions.

Maintenance: shall mean any action necessary to preserve Stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this article and to prevent structural failure of such facilities. Maintenance shall not include actions taken solely for the purpose of enhancing the aesthetics aspects associated with Stormwater management facilities and BMPs.

Major drainage channels: all channels which drain an accumulation of primary and/or secondary drainage channels. These channels shall be the natural drainage channels of the watershed or man-made channels draining an area of one square mile or more.

Minimize: means to reduce and/or eliminate to the extent achievable using Stormwater controls (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practices.

Minor drainage channels: are convenience systems that quickly remove Stormwater runoff from areas such as streets and sidewalks for public safety purposes. The minor drainage system consists of inlets, street and roadway gutters, roadside ditches, small channels and swales, and underground pipe systems which collect Stormwater runoff and transport it to structural control facilities, pervious areas and/or the major drainage system.

Modification: refers to the requirements defined in Section 3.1.7 of the Construction General Permit for making and documenting major and minor revisions to an approved

Stormwater Pollution Prevention Plan (SWPPP). Revisions to an approved SWPPP that present minor changes to design, construction, operation, or maintenance, thus minor changes in potential impacts to WoS are termed “**Minor Modifications**.” Minor modifications require only on-site documentation of the modified construction activity or facility on the On-Site SWPPP. Revisions to an approved SWPPP that present major changes to design, construction, operation, or maintenance, thus major changes in potential impacts to WoS are termed “**Major Modifications**”. Major modifications must be reviewed and approved by the Division as outlined in the CGP for inclusion in the Comprehensive SWPPP previously approved by the Division.

Modified SWPPP: means a Stormwater pollution prevention plan submitted to the Division to incorporate revisions or modifications to the construction Project or Site in accordance with Section 3.1 of the Construction General Permit or as required to meet submission deadlines for ongoing projects as defined in Section 2.4 the Construction General Permit.

Multi-family: shall mean developed land whereon more than one (1) residential dwelling unit is located, and shall include, but not be limited to duplexes, triplexes, apartment houses, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which more than one (1) family group commonly and normally reside or could reside.

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

Municipal Separate Storm Sewer System (MS4): means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

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

National Pollutant Discharge Elimination System (NPDES): means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an “approved program.”

Natural Buffer: in reference to the Construction General Permit, means an area, strip, or plot of undisturbed, natural cover adjacent to surface waters that may be utilized to provide water quality control of Stormwater discharges from adjacent land-disturbing activities. Natural cover includes the vegetation, exposed rock, or barren ground that existed prior to commencement of land-disturbing activities.

Natural outlet: Any outlet in a water course, pond, ditch, lake or other body of surface water or groundwater.

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

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

New Owner or New Operator: means an operator or owner that replaces an existing operator or owner on a construction project through transfer of ownership and/or operation.

New Project: means a construction project that commenced construction activities after the effective date of the Construction General Permit.

New Source: for the purpose of the Construction General Permit, a construction project that commenced construction activities after February 1, 2010, and that requires NPDES permit coverage for its construction discharges under Section 1.2 of the CGP.

Non-erodible: a material, e.g., natural rock, riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces of wind, water, ice, gravity or a combination of those forces.

Non-Numeric Effluent limitations: for purposes of the Construction General Permit means design of site-specific non-numeric erosion and sediment control methods and practices (i.e., minimizing amount of exposed soil during construction activity, maximizing infiltration, structural Best Management Practices, etc.) and other practices and procedures as defined in Section 3.2.12 of the CGP to meet effluent limitations imposed by the Department. Non-numeric effluent limitations will apply to all permitted construction sites, regardless of disturbed area.

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

Non-Stormwater Discharges: means discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, vehicle wash water, sanitary wastes, concrete washout water, paint wash water, irrigation water, or pipe testing water.

Notice of Intent (NOI): means the NPDES application form developed by the Division and Department to request coverage under the Construction General Permit. Required information and contents are as defined in Section 2.3 of the CGP.

Notice of Termination (NOT): means the NPDES application form developed by the Department to terminate land disturbance activities and coverage under the Construction General Permit. Required information and contents are as defined in Section 5.2 the CGP.

NPDES Form or Application: means any uniform permit application or any uniform form used by the Division and Department or developed for use in the NPDES program, including a NPDES application, a Refuse Act permit application and a reporting form.

NPDES Permit: means a permit issued by the Department to a discharger pursuant to NPDES regulations for all point source discharges into surface waters, and shall constitute a final determination of the Department.

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

On-Site Stormwater Pollution Prevention Plan (OS-SWPPP): as used in the Construction General Permit means as the Stormwater Pollution Prevention Plan prepared according to requirements outlined in Section 3 of the CGP. The On-Site SWPPP is a condensed version of the Comprehensive SWPPP and is stored on site. This SWPPP does not include the Engineering Report (project design calculations). This document does not require submission or approval by the Division prior to obtaining coverage under this permit.

Operator: for the purpose of the Construction General Permit and in the context of Stormwater associated with construction activity, means any party associated with a construction Project

that meets one of the following two criteria:

- (1) The person has operational control over construction plans, SWPPPs, and specifications, including the ability to request modifications to those plans, SWPPPs, and specifications by a qualified individual identified in Section 3.1.2.B of the Construction General Permit. This person is typically the owner or developer of the project or a portion of the project (subsequent builders), and is considered the Primary Permittee; or
- (2) The person has day-to-day operational control of those activities at a construction site which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is often referred to as the Operator of Day-to-Day Site Activities (ODSA) and is typically a contractor or a commercial builder who is hired by the Primary Permittee. This person is considered a Secondary Permittee.

See Section 2.0 of the Construction General Permit for additional information.

Outfall: means a point source at the discharge point of a waste stream, sewer, or drain into a receiving body of water. See discharge point.

Outstanding National Resource Waters (ONRW): means a classification of waters that is pursuant to South Carolina's Classification & Standards (R.61-68) and Classified Waters (R.61-69) regulations and that is intended to protect unique and special waters having excellent water quality and of exceptional state or national ecological or recreational significance.

Owner or Operator: means the owner or operator of any “facility or activity” subject to regulation under the NPDES program. For purposes of the Construction General 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. See definition of Operator and details in Section 2.0 of the CGP for additional information.

Perennial Stream or Perennial River: is a stream or river (channel) that has continuous flow in parts of its bed all year round during years of normal rainfall. Base flow is maintained by groundwater discharge, as the stream channel is usually below the water table.

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

Permitted Ongoing Project: means a construction project that commenced prior to the effective date of the Construction General Permit, which has been covered by a prior NPDES permit for Stormwater discharges associated with construction activities.

Permitting Authority: means the United States Environmental Protection Agency, EPA, a

Regional Administrator of the Environmental Protection Agency, or an authorized representative.

Person Responsible: 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 introduction of pollutants from non point-source agricultural and silvicultural activities, including Stormwater runoff from orchards, cultivated crops, pastures, range lands, and forest lands or return flows from irrigated agriculture or agricultural Stormwater runoff.

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

Pollutant: is defined in 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. Typical construction site pollutants include sediment, oil and grease, pesticides and fertilizers, pollutants from construction wastes, and pollutants from construction materials. Pollutant does not mean sewage from vessels or water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

Pollution Control Act (PCA): means the South Carolina Pollution Control Act (PCA), S.C. Code Ann. section 48-1-10 et seq. (1976).

Pollution Prevention Measures: means Stormwater controls designed to reduce or eliminate the addition of pollutants to construction site discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

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

Pre-Development or Pre-Construction: means the conditions which existed prior to the initiation of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of Stormwater runoff. These conditions shall mean the land use conditions shown on the March 2008 aerial photographs available from the county

Primary Permittee: means the person that has operational control over construction plans, SWPPPs, and specifications, including the ability to request modifications to those plans, SWPPPs, and specifications by a qualified individual identified in Section 3.1.2.B of the Construction General Permit. This person is typically the owner or developer of the project or a portion of the project (subsequent builders). See Section 2.2.1 of the CGP for additional information.

Private: shall mean property or facilities owned and maintained by individuals, corporations, and other organizations and not by the county.

Prohibited Discharges: means discharges that are not allowed under this permit, including:

- (1) Wastewater from washout of concrete;
- (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- (4) Soaps or solvents used in vehicle and equipment washing;
- (5) Toxic or hazardous substances from a spill or other release; and
- (6) Waste, garbage, floatable debris, construction debris, and sanitary waste from pollutant-generating activities.

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 Stormwater discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, Site development, or other ground disturbance activities occur) and the immediate vicinity. (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 Stormwater to flow into a small wetland or other habitat that is on the Site that contains listed species.)

- (2) The areas where Stormwater discharges flow from the construction Site to the point of discharge into receiving waters. (Example: Where Stormwater 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 Stormwater from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge. (Example: Where Stormwater from construction activities discharges into a stream segment that is known to harbor listed aquatic species.)
- (4) The areas where Stormwater BMPs will be constructed and operated, including any areas where Stormwater flows to and from BMPs. (Example: Where a Stormwater retention pond would be built.)
- (5) The areas upstream and /or downstream from construction activities discharge 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.)

Provisionally Covered Under this Permit: for the purposes of the Construction General Permit, means the Department provides temporary coverage under the CGP for emergency-related projects prior to receipt of a complete and accurate NOI. Discharges from earth-disturbing activities associated with the emergency-related projects are subject to the terms and conditions of the CGP during the period of temporary coverage.

Qualified Personnel or Qualified Individual: 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 Stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of Stormwater discharges from the construction activity.

Receiving Waters or Receiving Water Bodies (RWB): means the “Waters of the United States” as defined in 122.2 of SC Regulation 61-9 into which the regulated Stormwater discharges.

Redevelopment: A land disturbance activity that alters the current use of the land but does not necessarily alter the pre-development runoff characteristics.

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

Regional Administrator: means the Regional Administrator of Region IV of the

Environmental Protection Agency or the authorized representative of the Regional Administrator.

Registered landscape architect: A landscape architect properly registered and licensed in South Carolina or permitted by the licensing board.

Registered professional engineer (engineer): A person who is registered by the State of South Carolina pursuant to S.C. Code 1976, Tit. 40, Ch. 22, as amended.

Registered tier B land surveyor: A person who is registered by the State of South Carolina pursuant to S.C. Code 1976, Tit. 40, Ch. 22, as amended.

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

Residential Development: means developed land containing one (1) structure which is not attached to another dwelling and which contains one (1) or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one (1) family. Detached dwelling units may include single-family houses, single duplex units under common ownership, patio homes, manufactured homes, and mobile homes located on one (1) or more individual lots or parcels of land and residential condominium and townhouse units. Developed land may be classified as a detached single-family dwelling unit despite the presence of incidental structures associated with residential uses such as barns, garages, carports, or small storage buildings. Detached single-family dwelling units shall not include developed land containing: structures used primarily for nonresidential purposes, manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes, or multiple residential properties.

Riparian Buffer: means a permanent area, strip, or plot of undisturbed, naturally vegetated and/or engineered land cover consisting of vegetation (e.g., grass, brush, trees, foliage) adjacent to surface waters that is utilized to provide water quality control for post-construction Stormwater discharges. These buffers may be designed to provide many types of water quality benefits including, but not limited to, water quality protection, wildlife habitat preservation and flood mitigation.

Runoff Coefficient: means the fraction of total rainfall that will appear at the conveyance as runoff. Runoff coefficient is also defined as the ratio of the amount of water that is NOT absorbed by the surface to the total amount of water that falls during a rainstorm. The value of the coefficient is determined on the basis of climatic conditions and physiographic characteristics of the drainage area and is expressed as a constant between zero and one and symbol C.

SCDHEC or DHEC: means Department or the South Carolina Department of Health and Environmental Control's Office of Environmental Quality Control (EQC).

Secondary Permittee: means the person who has day-to-day operational control of those

activities at a residential development that are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically an individual lot owner or residential builder.

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

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

Sediment Basin: means a temporary basin consisting of an embankment constructed across a wet weather conveyance, or an excavation that creates a basin or by a combination of both. A sediment basin typically consists of a forebay cell, dam, impoundment, permanent pool, primary spillway, secondary or emergency spillway, and surface dewatering device. The size and shape of the basin depends on the location, size of drainage area, incoming runoff volume and peak flow, soil type and particle size, land cover, and receiving stream classification (i.e., impaired, HQ, or unimpaired).

Sensitive Waters: means any waters with approved or established TMDLs, any waters included in the most recent SC DHEC Bureau of Water Clean Water Act (CWA) Section 303(d) list, and/or any waters pursuant to South Carolina's Classification & Standards (R.61-68) and Classified Waters (R.61-69) regulations that are classified as either Outstanding National Resource Waters, Outstanding Resource Waters, Trout Waters, or Shellfish Harvesting Waters.

Silvicultural Point Source: means any discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the State. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a CWA section 404 permit (See 33 CFR 209.120 and Part 233).

Site Plan: The development plan for one or more lots which shows the existing and proposed conditions of the lot including: topography, vegetation, drainage, flood-plains, waterways, easements, streets and any other information pertaining to the proposed development of the storm drainage system.

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

- (1) 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 Division may waive the otherwise applicable requirements in a general permit for a Stormwater 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. An Operator must certify to the Division that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or
 - (b) Stormwater 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 Division that the construction activity will take place, and Stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.
- (2) 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.

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

South Carolina Navigable Waters (SCNW): means those waters which are now navigable, or have been navigable at any time, or are capable of being rendered navigable by the removal of accidental obstructions, by rafts of lumber or timber or by small pleasure or sport fishing boats. Navigability shall be determined by the Division.

Stabilization: means the installation of vegetative and/or non-vegetative (structural measures)

to establish a soil cover to prevent and/or reduce soil erosion and sediment loss in areas exposed during the construction process.

State: means the State of South Carolina.

Steep Slope: means slopes of 30% (~3H:1V) or greater in grade.

Stop Work Order (SWO): an order directing the Person Responsible for the land disturbing activity to cease and desist all or any portion of the work that violates the provisions of this chapter.

Storm drain: a conveyance which carries storm and surface waters and drainage, but excludes sewage and polluted wastes.

Storm Event: means a precipitation event that result in a discharge.

One Hundred-Year Storm or One Hundred-Year Storm Event: means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 100 years. It may also be expressed as an exceedence probability with a 1 percent chance of being equaled or exceeded in any given year. Likewise, a one hundred-year 24-hour storm event means the maximum 24-hour precipitation event with a probable recurrence interval of once in one hundred years.

Ten-Year Storm or Ten-Year Storm Event: means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedence probability with a 10 percent chance of being equaled or exceeded in any given year. Likewise, a ten-year 24-hour storm event means the maximum 24-hour precipitation event with a probable recurrence interval of once in ten years.

Twenty Five-Year Storm or Twenty Five-Year Storm Event: means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It may also be expressed as an exceedence probability with a 4 percent chance of being equaled or exceeded in any given year. Likewise, a twenty five-year 24-hour storm event means the maximum 24-hour precipitation event with a probable recurrence interval of once in twenty five years.

Two-Year Storm or Two-Year Storm Event: means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 2 years. It may also be expressed as an exceedence probability with a 50 percent chance of being equaled or exceeded in any given year. Likewise, a two-year 24-hour storm event means the maximum 24-hour precipitation event with a probable recurrence interval of once in two years.

Stormwater: means rainfall Stormwater runoff, snowmelt runoff, and surface runoff and drainage.

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

Stormwater Management: means, for:

- (1) quantitative control, a system of vegetative or structural measures, or both, that control the increased volume and rate of Stormwater runoff caused by manmade changes to the land;
- (2) qualitative control, a system of vegetative, structural, or other measures that reduce or eliminate pollutants that might otherwise be carried by Stormwater runoff.

Stormwater Management and Sediment Control Plan: means a set of drawings, other documents, and supporting calculations submitted as a prerequisite to obtaining a permit to undertake a land disturbing activity. This plan must contain all required information and specifications identified in Section 3.2.2 of the Construction General Permit. In general, this plan is considered to be a part of the Stormwater Pollution Prevention Plan (SWPPP).

Stormwater management services: activities and functions conducted by the county that together result in the collection, conveyance, and disposal of Stormwater runoff, including support activities and functions necessary to accomplish the mission of the Stormwater management program, and shall include but not be limited to the administration, engineering, operation and maintenance, regulation and enforcement, and improvement of systems and facilities, review of development proposals and of the installation and maintenance of Stormwater systems on private properties, provision of Stormwater quality management programs to eliminate or mitigate the impact of pollutants contained in Stormwater runoff, and flood emergency response and recovery measures.

Stormwater management systems and facilities: include, but are not limited to, rivers, streams, creeks, lakes, ponds, channels, ditches, swales, other drainage ways, storm sewers, culverts, inlets, catch basins, headwalls, dams, reservoirs and other impoundments, flumes, Stormwater detention and retention storage areas, filters, riparian areas, plants, works, instrumentalities, properties, and other structural and nonstructural components that control, capture, collect, convey, route, restrict, store, detain, retain, infiltrate, cleanse, or otherwise affect or influence the flow of Stormwater within the county and the quality of Stormwater discharged from the county.

Stormwater Pollution Prevention Plan (SWPPP): generally means a site-specific written document that (1) identifies potential sources of Stormwater pollution at the construction site; (2) describes Stormwater control measures to reduce or eliminate pollutants in Stormwater discharges from the construction site; and (3) identifies procedures the operator will implement to comply with the terms and conditions of this general permit. The SWPPP includes site map(s), drawings and plans, other documents, and supporting calculations, and identification of construction/contractor activities that could cause pollutants in the Stormwater, and a

description of measures or practices to control these pollutants. “SWPPP” as used in the Construction General Permit, generally means Comprehensive Stormwater Pollution Prevention Plan (SWPPP), unless specific reference is given to the On-Site SWPPP.

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

Subdivision: means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale, legacy, or building development, or includes all division of land involving a new street or a change in existing streets (public or private), and includes resubdivision and, where appropriate, in the context, shall relate to the process of subdividing or to the land or area subdivided.

Support Activities: means various construction-related activities that occur or facilities provided at a construction site alongside the construction activity that are directly related to and implemented as support to the construction activity or facility. Typical support activities include concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow areas.

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

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

Swale: means a structural measure with a lining of grass, riprap or other materials, which can function as a detention structure and convey Stormwater runoff without causing erosion.

Temporary Stabilization: means a condition where exposed soils or disturbed areas are provided a temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb this area. Temporary controls must be installed, maintained, and removed according to specifications in the BMP Manual.

Ten-percent point: is the location in the drainage system downstream from the proposed development, where the proposed development represents less than ten (10) percent of the total watershed draining to this location.

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

sum of the allowable loads or allocations of a given pollutant from all contributing point (wasteload allocation (WLA)) and nonpoint (load allocation (LA)) sources. It also incorporates a margin of safety and consideration of seasonal variation. For an impaired waterbody, the TMDL document Specifies the level of pollutant reductions needed for waterbody use attainment. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

Tracking or Permit Number: refers to the permit numbering systems used by the Department to track each Notice of Intent (NOI) application. The permit number is generally formatted as SCR10XXXX.

Turbidity: is a condition of water quality characterized by cloudiness or haziness of a fluid caused by the presence of individual particles (suspended solids and/or organic material) that are generally invisible to the naked eye, similar to smoke in air.

Undeveloped land: Land in an unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of Stormwater or cause Stormwater to collect, concentrate, or flow in a manner materially different than that which would occur if the land was in an unaltered natural state.

Unpermitted Ongoing Project: a construction project that commenced prior to the effective date of this permit, but the discharges related to this project have not been authorized under an NPDES permit.

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. An 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.

Variance: means the modification of the minimum sediment and Stormwater management requirements for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of these regulations.

Waiver: means the relinquishment from sediment and Stormwater management requirements by the County Engineering Division for a specific land disturbing activity on a case-by-case review basis. Rainfall Erosivity Waiver, TMDL Waiver, and Equivalent Analysis Waiver are defined for small construction activities in Appendix B of the General Construction Permit.

Waste Load Allocation (WLA): is the portion of a receiving water's TMDL that is allocated to one of its existing or future point sources of pollution (EPA-823-B-94-005a). See definition of TMDL.

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

Water Quality Standards (WQS): are provisions of State or Federal law which consist of a designated (classified) use or uses for the Waters of the United States, water quality criteria, expressed in numeric or narrative form, for such waters based upon such uses, and an antidegradation policy that protects existing uses and provides a mechanism for maintaining high water quality. Water quality standards are measurable parameters of standards established as criteria to evaluate characteristics of Stormwater runoff from a land disturbing activity that relate to the physical, chemical, biological, or radiological integrity of water. Water quality standards are to protect public health or welfare, enhance the quality of water and serve the purposes of the Federal Clean Water Act and the S.C. Pollution Control Act.

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

Watershed: means the drainage area contributing Stormwater runoff to a single point.

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

Waters of the United States or Waters of the U.S.: means:

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

- (5) Tributaries of waters identified in paragraphs (1) through (4) of this definition;
- (6) The territorial sea; and
- (7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (1) through (6) of this definition.

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.

You and Your: as used in the Construction General Permit is intended to refer to the Applicant (Permittee), the Operator, or the discharger as the context indicates and that party's responsibilities (e.g., the city, the country, the flood control district, the U.S. Air Force, etc.).

Zoning ordinance: means the officially adopted zoning ordinance of the county or county code of laws, as amended.

Sec. 9.5-17. to 9.5-25. – Reserved.

ARTICLE II. - PROCEDURE

DIVISION 1. – PROCEDURE

Sec. 9.5-26. - Florence County Stormwater Management Plan (SWMP).

The SWMP developed by the County to comply with the NPDES Permit serves as the basis for the County's Stormwater program implementation and administration. The SWMP, as amended from time to time by the County, is hereby adopted for the life of the County's NPDES Permit as the official operational program. The mapping and geographical information system (GIS) developed as part of the SWMP shall serve as an information source for program administration purposes.

Sec. 9.5-27. - Stormwater management design manual.

- (a) The County shall develop and maintain a stormwater management design manual in accordance with the approved SWMP. The manual shall serve as minimum criteria for the design, construction, and maintenance of facilities which collect, control, treat (through pollutant removal), and convey stormwater. This manual will include, but not be limited to, the following information:

- (1) Details describing the policies, goals, and tasks of the stormwater management program.
 - (2) Design requirements and specifications for the preparation of stormwater management plans. Acceptable techniques for obtaining, calculating and presenting the information required in the plans shall be described, along with design conditions which must be accounted for.
 - (3) Minimum specifications for designing, constructing, and maintaining stormwater management facilities. These specifications shall be established in accordance with current good engineering practices.
 - (4) Minimum easement requirements for the inspection and maintenance of stormwater management facilities.
 - (5) Site design approaches that minimize the impact of development on runoff, and protect natural resources and sensitive areas.
- (b) The manual shall be reviewed and, if needed, updated periodically (at a minimum every three years) to reflect the most current and effective practices, regulations and most current water quality standards and shall be made available to the public. Although the intention of the manual is to establish minimum design practices for the protection of water quality and downstream impacts, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used to conduct stormwater studies as required or approved by the Engineering Department.

Sec. 9.5-28. - Permits and Stormwater Management and Sediment Control Plans.

Unless otherwise exempt under this article, all Land Disturbing Activities are required to obtain permit coverage for their Stormwater discharges by submitting a Stormwater Management and Sediment Control Plan. The plan shall be prepared in accordance with the requirements of section 9.5-51 of this Chapter and the Florence County Stormwater Design Manual.

Sec. 9.5-29. - Application for permit; Approval and Disapproval.

- (a) The Person Responsible for the Land Disturbing Activity shall apply in writing to the County Engineering Division for a permit for such activity. Such application shall be accompanied by One Copy of the Stormwater Management and Sediment Control Plan prepared in accordance with the provisions of this article.
- (b) Specific requirements of the permit application and approval process are based upon the

extent of the Land Disturbing Activity. The permit application and approval procedure is as follows:

- (1) For Land Disturbing Activities that will ultimately disturb more than one (1) acre, a Stormwater Management and Sediment Control Plan is required. The use of measures other than ponds to achieve Water Quality improvement, such as Low Impact Development (LID), are encouraged. Plans and specifications for these activities shall be prepared by the designers specified in subsections (i) and (j) of this section. Upon receipt of a completed Stormwater Management and Sediment Control Plan, the County Engineering Division shall accomplish its review and have either the approval or review comments transmitted to the Applicant within 20 working days. If notice is not given to the Applicant or if action is not taken by the end of the 20- working-day period, the Applicant's plan is considered approved.
- (2) For Land Disturbing Activities that will disturb less than one (1) acre and is not part of a greater common plan, a designer specified in subsections (i) and (j) of this section is not required. However, a completed Stormwater Management and Sediment Control Plan that meets the specifications of the Florence County Stormwater Design Manual must be submitted. Upon receipt of the prepared plan, the County Engineering Division shall accomplish its review and have either the approval or review comments transmitted to the Applicant within 20 working days. If notice is not given to the Applicant or if action is not taken by the end of the 20- working-day period, the Applicant's plan is considered approved.
- (3) These requirements may be modified by the County Engineering Division on a case-by-case basis to address specific Stormwater quantity or quality issues or to meet other regulatory requirements which are more stringent than the requirements of this article.
- (4) When the Land Disturbing Activity consists of the construction of a pond, lake or reservoir which is individually built and not part of a permitted Land Disturbing Activity, the following procedures apply:
 - a) A Stormwater Management and Sediment Control Plan will not be required if the pond, lake or reservoir is permitted under the state Dams and Reservoirs Safety Act (Regulation 72-1 thru 72-9) or has received a certificate of exemption under the state Dams and Reservoirs Safety Act. Best Management Practices (BMPs) must be used to minimize the impact of Erosion and Sediment.
- (5) If the application for a Stormwater Management and Sediment Control Plan is denied, written notification indicating the reason or reasons for denial shall be forwarded to the Applicant.

- (6) Any plan approval may be suspended, revoked or modified by the County Engineering Division upon finding that the holder is not in compliance with this article.
- (c) A Stormwater Management and Sediment Control Plan, or an application for a Waiver or Variance, shall be submitted to the County Engineering Division by the Person Responsible for the Land Disturbing Activity, unless otherwise exempted. The Stormwater Management and Sediment Control Plan shall contain supporting computations, drawings and information sufficient to describe the manner, location and type of measures in which Stormwater Runoff from the entire Land Disturbing Activity will be managed. The County Engineering Division shall review the plan to determine compliance with the requirements of these regulations prior to approval. The approved Stormwater Management and Sediment Control Plan shall serve as the basis for Water Quantity and Water Quality control on all subsequent Construction Activity specific to the site.
- (d) No permit shall be required under this article for Land Disturbing Activities that are conducted under a State or Federal environmental permitting, licensing, or certification program where the State or Federal environmental permit, license, or certification is conditioned upon compliance with the minimum standards and criteria developed under this article.
- (e) All Stormwater Management and Sediment Control Plans submitted for approval shall contain a certification by the Person Responsible for the Land Disturbing Activity that the Land Disturbing Activity will be accomplished pursuant to the approved plan and that responsible personnel will be assigned to the project.
- (f) All Stormwater Management and Sediment Control Plans shall contain a certification by the Person Responsible for the Land Disturbing Activity acknowledging the right of DHEC and the Florence County Engineering Division to conduct on-site inspections.
- (g) The Stormwater Management and Sediment Control Plan shall not be considered approved without an approval stamp signed and dated by an authorized person with the County Engineering Division. The stamp of approval on the plans is solely an acknowledgement of satisfactory design with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person concerning the safety, appropriateness or effectiveness of any provision of or omission from the Stormwater Management and Sediment Control Plan.
- (h) DHEC may request to review and comment on Stormwater Management and Sediment Control Plans. The County will not approve the Stormwater Management and Sediment Control Plan until all DHEC comments, if any are addressed and approved by DHEC.
- (i) All Stormwater Management and Sediment Control Plans submitted to the County

Engineering Division for approval shall be certified by a designer. The following disciplines may certify and stamp/seal plans as allowed by their respective licensing act and regulations:

- (1) Registered professional engineers as described in S.C. Code 1976, § 40-22- 10 et seq.
 - (2) Registered landscape architects as described in S.C. Code 1976, § 40-28- 10(b).
 - (3) Tier B land surveyor as described in S.C. Code 1976, § 40-22-10 et seq.
- (j) Pursuant to S.C. Code 1976, § 40-22-280, Stormwater Management and Sediment Control Plans may also be prepared by employees of the Federal Government and submitted by the Person Responsible for the Land Disturbing Activity to the County Engineering Division for approval.
- (k) This article does not prohibit other disciplines or certified professionals, including, but not limited to, certified professional Erosion and Sediment Control specialists, which have appropriate background and experience from taking active roles in the preparation of the plan and design process. All Stormwater plans and specifications submitted to the County Engineering Division for approval shall be stamped/sealed by those listed in subsection (i) of this section or prepared by employees of the Federal Government under subsection (j) of this section.
- (l) Approved plans remain valid for five (5) years from the date of an approval. Extensions or renewals of the plan approvals may be granted by the County Engineering Division upon approval of an updated application by the Person Responsible for the Land Disturbing Activity. If changes to the original SWPPP are not needed, only a completed application form and the appropriate application fee are required.
- (m) The Applicant must notify the County Engineering Division prior to commencement of any Land Disturbing Activity or construction under an approved plan.

Sec. 9.5-30. - Fee Schedule.

- (a) The application for a Stormwater Management and Sediment control permit to disturb land in the County shall be accompanied by nonrefundable fees. The County Engineering Division shall establish a fee schedule, located in the Appendix of the Florence County Stormwater Design Manual, subject to County Council approval according to the following criteria:
- (1) An application fee of a set dollar amount per disturbed acre up to a maximum application fee for any application submitted.

- (2) An application fee will be charged for land disturbing activities which disturb less than one (1) acre and are not part of LCP.
- (3) An additional fee for all applications requesting a Waiver or Variance from the requirements of this article will be assessed.
- (4) The fees above do not include any fee charged separately by DHEC to issue the NPDES permit for all construction activities one acre or larger.
- (5) An appropriate application fee will be charged for extensions or renewals of a Stormwater Management and Sediment control permit.
- (6) A fee for Major changes (as defined in the Florence County Stormwater Design Manual) to Stormwater Management and Sediment Control Plans will be established.

Sec. 9.5-31. - Waivers.

- (a) Waivers may be granted from the Stormwater Management requirements of this article for individual land disturbing activities provided that a written request is submitted by the applicant to the County Engineering Division containing descriptions, drawings and any other information that is necessary to evaluate the proposed Land Disturbing Activity. A separate written Waiver request shall be required if there are subsequent additions, extensions or modifications which would alter the approved Stormwater Runoff characteristics to a Disturbing Activity receiving a Waiver.
- (b) A project may be eligible for a Waiver of Stormwater Management for both quantitative and qualitative control if the applicant can demonstrate that the proposed project will return the disturbed area to a Pre- Development runoff condition and the Pre-Development land use is unchanged at the conclusion of the project.
- (c) A project may be eligible for a Waiver of Stormwater Management for Quality control if the applicant can demonstrate that:
 - (1) The proposed project will have no significant Adverse Impact on any receiving natural waterway or downstream properties: or
 - (2) The imposition of peak control requirements, for rates of Stormwater Runoff, would aggravate downstream flooding.
- (d) The County Engineering Division will conduct its review of the request for Waiver within 20 working days. Failure of the County Engineering Division to act by the end of the 20 working day period will result in the automatic approval of the Waiver.

Sec. 9.5-32. - Variances.

The County Engineering Division may grant a written Variance from any requirement of this article if there are exceptional circumstances applicable to the site such that strict adherence to the provisions of this article will not fulfill the intent of this article. A written request for a Variance shall be provided to the County Engineering Division and shall state the specific Variances sought and the reasons with supporting data for their granting. The County Engineering Division shall not grant a Variance unless and until sufficient specific reasons justifying the Variance are provided by the applicant. The County Engineering Division will conduct its review of the request for the Variance within 20 working days. Failure of the County Engineering Division to act by the end of the 20 working day period will result in the automatic approval of the Variance.

Sec. 9.5-33. - Appeals and administrative hearings.

Appeals from the decisions made by the County Engineering Division under this article shall be heard by the County Planning Commission and shall be subject to the procedures set forth in Section 30-297 of this Code.

Sec. 9.5-34. - Inspection and enforcement.

- (a) The Person Responsible for the Land Disturbing Activity shall notify the County Engineering Division before initiation of a Land Disturbing Activity and upon project completion related to that Land Disturbing Activity so a final inspection may be conducted to ensure compliance with the approved Stormwater Management and Sediment Control Plan.
- (b) Inspections shall be conducted by qualified personnel. For projects that disturb more than one (1) acre, "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 Stormwater Quality and to assess the effectiveness of any Sediment and Erosion control measures selected to control the quality of Stormwater discharges from the Construction Activity.

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.

Additional specific requirements for construction inspection are included in the Florence County Stormwater Design Manual. Copies of this document can be obtained from Florence County Planning Commission, County Engineering Division.

- (c) In order to implement its responsibilities as an SMS4 and to comply with the terms and conditions of the NPDES Permit, the County, through its duly designated employees and officials, may enter private property to perform the following:
 - (1) Inspection of the County's storm sewer system for purposes consistent with its obligations under the NPDES Permit including, but not limited to, outfall identification, mapping, and detection of illicit discharges.
 - (2) Installation of monitoring stations and collection of Water Quality data.
 - (3) Inspection of construction activities to ascertain compliance with approved Stormwater Management and Sediment Control Plans as described in this article.
- (d) The County Engineering Division shall, for inspection purposes, do all of the following:
 - (1) Diligently attempt to ensure that the approved Stormwater Management and Sediment Control Plan ("approved plan") is located on the project site and that the Person(s) Responsible for the Land Disturbing Activity are in compliance with the approved plan.
 - (2) Diligently attempt to ensure that every active site is inspected for compliance with the approved plan on a regular basis.
 - (3) Diligently attempt to provide the Person Responsible for the Land Disturbing Activity with a written report after every inspection that describes:
 - a) The date and location of the site inspection; and
 - b) Whether the approved plan has been properly implemented and maintained at the time of inspection; and
 - c) Any approved plan or practice deficiencies discovered; and
 - d) Any action taken.
 - (4) Diligently attempt to notify the Person Responsible for the Land Disturbing Activity in writing when violations are observed and describe the:
 - a) Nature of the violation; and
 - b) Required corrective action; and
 - c) Time period for violation correction.

- (e) The County Engineering Division may require a revision to the approved plan as necessary due to changes in or newly discovered site conditions. The County Engineering Division shall establish guidelines to facilitate the processing of revised plans where field conditions necessitate plan modification. Where changes to the approved plan are necessary, those changes shall be in accordance with the following:
 - (1) Major changes (as defined in the Florence County Stormwater Design Manual) to the approved Stormwater Management and Sediment Control Plans must be submitted to the County Engineering Division for review and receive approval prior to implementing any of the changes.
 - (2) Minor changes (as defined in the Florence County Stormwater Design Manual) to Stormwater Management and Sediment Control Plans may be made without the County Engineering Division's approval and documented on the field inspection report by the Person Responsible for the Land Disturbing Activity, their representative or the County Engineering Division.
- (f) Stormwater Management on construction sites may be inspected at any time without notice. The inspector shall present proper credentials upon reasonable request by the Person Responsible for the Land Disturbing Activity.
- (g) The County Engineering Division may, in addition to local enforcement options, refer a site to DHEC for review.
- (h) Referral of a site to DHEC may initiate a construction inspection of the site to verify site conditions. That construction inspection may result in the following actions by DHEC:
 - (1) Notification through appropriate means to the person engaged in a Land Disturbing Activity to comply with the approved plan within a specified time frame; and
 - (2) Notification of plan inadequacy, with a time frame for the person engaged in the Land Disturbing Activity to submit a revised plan to the County Engineering Division and to receive approval from the same.
- (i) Failure of the person engaged in the Land Disturbing Activity to comply with DHEC requirements may result in other penalties as provided in S.C. Code 1976, § 48-14-10 et seq., in addition to such penalties as may be imposed by the County under this article.
 - (1) The County Engineering Division shall have the power to request any person violating any provision of S.C. Code 1976, § 48-14-10 et seq., or this article to cease and desist from any site work activity other than those actions necessary to achieve compliance with any administrative order.
 - (2) The County Engineering Division may refrain from issuing any further land use or Stormwater Management permits to any person having outstanding violations until

those violations have been remedied and accepted by the County Engineering Division.

- (3) The County Engineering Division may levy fines and/or recommend that fines be levied by DHEC.
- (j) The County Engineering Division may utilize Stop Work Orders as a part of its inspection and enforcement program. When a Stop Work Order is issued, the following procedure shall be followed:
 - (1) The County Engineering Division may issue a Stop Work Order if it is found that a Land Disturbing Activity is being conducted in violation of this article or of any regulation adopted or order issued pursuant to this article, and that either:
 - a) Off-site Sedimentation, or the imminent threat thereof, resulting from noncompliance with the approved plan, has impacted or degraded use of a lake or natural waterway or that such degradation is imminent; or
 - b) Off-site Sedimentation, or the imminent threat thereof, resulting from noncompliance with an approved plan, has caused material damage to adjacent land or that there is an imminent threat of such damage; or
 - c) The Land Disturbing Activity which requires an approved plan under this article is being conducted without the required approved plan.
 - (2) The Stop Work Order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made and shall list the conditions under which work may be resumed. The delivery of equipment and materials, which does not contribute to the violation, may continue while the Stop Work Order is in effect. A copy of this section may be attached to the Stop Work Order.
 - (3) The Stop Work Order shall be served by the County Engineering Division or by some other person duly authorized by law to serve process, and shall be served on a Person Responsible for the Land Disturbing Activity. The County Engineering Division or other person duly authorized by law to serve process shall post a copy of the Stop Work Order in a conspicuous place at the site of the Land Disturbing Activity. The County Engineering Division may also deliver a copy of the Stop Work Order to any person that the County Engineering Division has reason to believe may be responsible for the violation.
 - (4) The directives of a Stop Work Order become effective upon service of the order. Thereafter, any person notified of the Stop Work Order who violates any of the directives set out in the Stop Work Order may be assessed a civil and/or a criminal penalty as provided in section 9.5-35. A Stop Work Order issued pursuant to this section may remain in force until all non-compliant issues are rectified in the sole discretion of the County Engineering Division.

- (5) The County Engineering Division shall designate an employee to monitor compliance with the Stop Work Order. The name of the employee so designated shall be included in the Stop Work Order. The employee so designated shall rescind the Stop Work Order if all the violations, for which the Stop Work Order is issued, are corrected, no other violations have occurred and all measures necessary to abate the violations have been taken. The County Engineering Division, through its designated employee, shall rescind any Stop Work Order that is issued in error.

Sec. 9.5-35. - Penalties.

- (a) Any person who violates any provision of this article or who initiates or continues a Land Disturbing Activity, for which a Stormwater Management and Sediment Control Plan is required, except in accordance with the terms, conditions and provisions of an approved plan, is subject to a civil penalty of not more than \$1,000.00 for each violation. No civil penalty may be assessed and no prosecution for a misdemeanor may occur until the person alleged to be in violation has been notified of each violation. Each separate day of a continued violation constitutes a new violation for civil or criminal purposes, once said party has been given notification of each violation, as set forth above. In addition to any applicable civil penalties, any person who negligently, willfully, or intentionally violates any provision of this article shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of magistrate's court. Upon conviction, a person who violates this article may be fined not more than \$500.00 or confined for not more than 30 days for each violation.
- (b) The County Engineering Division shall determine the amount of the civil penalty to be assessed under this section for violations under its jurisdiction. It shall make written demand for payment upon the Person Responsible for the violation and set forth, in detail, the violation for which the penalty has been invoked. If payment is not received within 30 days after demand for payment is made, a civil action may be filed in the circuit court in the County to recover the amount of the penalty.
- (c) Where the County is fined and/or placed under a compliance schedule by the state or federal government for a violation(s) of its NPDES permit, and the County can identify the person(s) who caused such violation(s) to occur, the County may assess the penalty and cost of compliance against that Person(s) Responsible as a civil penalty.
- (d) The County may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this article or to correct violations of this article, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Secs. 9.5-36. to 9.5-50. – Reserved.

ARTICLE III. – PLAN AND APPLICATION

DIVISION 1. – PLAN AND APPLICATION

Sec. 9.5-51. - Standards and requirements for preparation of Stormwater Management and Sediment Control Plans.

- (a) Stormwater Management and Sediment Control Plan submittal requirements shall be included in the Florence County Stormwater Management Design Manual and/or the Sediment and Erosion Control Plan Review Checklist for Design Professionals.
- (b) The County Engineering Division shall require that plans and design reports be sealed by a qualified design professional and certified that the plans have been designed in accordance with this article and all other relevant and applicable Sediment and Stormwater laws and regulations.
- (c) The Person Responsible for the Land Disturbing Activity shall submit as-built or record document plans for all plans that include any structural BMPs. In addition, the Person Responsible for the Land Disturbing Activity is required to submit written certification from the professional engineer, landscape architect or tier B land surveyor responsible for the field supervision of the Land Disturbing Activity that the Land Disturbing Activity was accomplished in substantial accordance with the approved Stormwater Management and Sediment Control Plan.
- (d) Additional information necessary for a complete project review may be required by the County Engineering Division as deemed appropriate. This additional information may include items such as location of public sewers, water lines, septic fields, wells, etc.
- (e) The Florence County Stormwater Design Manual, DHEC Stormwater BMP Handbook, and BMP Field Manual includes a list of acceptable BMPs, including their specific design performance criteria and operation and maintenance requirements for each Stormwater practice. Copies of these documents may be obtained through the Florence County Engineering Division, local DHEC office or can be downloaded from the Stormwater section of the Florence County and DHEC website.
- (f) Specific Florence County requirements, Erosion and Sediment Control BMPs and Post-Construction Water Quality BMPs to be used in the Stormwater Management and Sediment Control Plan are included in the Florence County Stormwater Design Manual.

Secs. 9.5-52. to 9.5-60. – Reserved.

ARTICLE IV. – MAINTENANCE REQUIREMENTS

DIVISION 1. – MAINTENANCE REQUIREMENTS

Sec. 9.5-61. - Permanent Stormwater maintenance requirements.

- (a) The Person Responsible for permanent maintenance of all completed Stormwater Management practices shall perform, or cause to be performed, preventive maintenance to ensure proper functioning.
- (b) Where permanent Stormwater BMPs are employed, the Person(s) Responsible for maintenance shall execute a permanent Stormwater Management maintenance agreement to assure proper maintenance of BMPs in accordance with the approved plan. The maintenance agreement shall also specify responsibilities for financing permanent maintenance with options that may include (1) the property owner, (2) a homeowner's association, provided that provisions for financing necessary permanent maintenance are included in deed restrictions or other contractual agreements, or (3) other financing mechanisms acceptable to the County.
- (c) The County Engineering Division and any other permitting authority must be notified in writing of any changes in maintenance responsibility for the Stormwater BMPs at the site. This requirement shall be included in the maintenance agreement.
- (d) Periodic Post-Construction inspections may also be performed by the County Engineering Division. These inspection reports shall be maintained by the County Engineering Division on all Detention and Retention Structures and shall include the following items, as applicable:
 - (1) The date of inspection.
 - (2) The name of the inspector.
 - (3) The condition of, if applicable:
 - a) Vegetation;
 - b) Spillways;

- c) Embankments;
- d) Reservoir area;
- e) Outlet channels;
- f) Underground drainage;
- g) Sediment load; or
- h) Other items which could affect the proper function of the structure.

(4) Description of needed maintenance.

- (e) The County Engineering Division shall provide procedures to ensure that deficiencies identified by inspections are rectified. The procedures shall include the following:
- (1) Notification to the Person Responsible for maintenance of deficiencies including a time frame for repairs;
 - (2) Subsequent inspection to ensure completion of repairs; and
 - (3) If repairs are not undertaken or not performed properly, the Person Responsible may be assessed a civil and/or a criminal penalty as provided in section 9.5-35 and/or referred to SCDHEC.

Sec. 9.5-62. - Off-site damage correction.

- (a) The following criteria shall be used by the County Engineering Division in evaluating and remedying off-site damages resulting from the Land Disturbing Activity:
- (1) Determine the extent of damage by Sediment resulting from the Land Disturbing Activity;
 - (2) Determine the classification of the impaired waterbody, if any;
 - (3) Determine the impact and severity of the damage resulting from noncompliance with or lack of an approved Stormwater Management and Sediment Control Plan;
 - (4) Attempt to develop an agreement for cleanup and corrections, including a schedule

of implementation between the damaged landowner(s) and the owner/custodian of the property causing the damage;

- (5) Evaluate alternatives for correction of the damage and prevention of future damage.
- (b) The unreasonable failure of the owner/custodian of the property that is causing the damage to implement the agreement with the damaged landowner(s) will constitute a violation of this article.
- (c) In cases of flooding, where the County Engineering Division has determined the cause of flooding issues in an area are due to, but not limited to; BMPs such as silted detention or retention basins, clogged ditches, inlet basins, culverts, and the cause of impaired BMPs is due to; improper maintenance, neglect, or intentional compromising of affected BMPs, the County Engineering Division will send notice to the owner/custodian of property that is the cause of the flooding. The notice will state the problem and include potential solutions to correct the problem. The notice shall establish a deadline for remediation of the problem. The notice shall advise that, should the owner fail to remedy the situation within the allotted time frame, the County Engineering Division, at its discretion, may perform the work or contract the work to be performed, and that the expense of the remediation work shall be charged to the owner. In performing the work, the County Engineering Division does not assume any future responsibility to ensure proper maintenance and operation of said BMP.

Secs. 9.5-63. to 9.5-70. - Reserved

ARTICLE V. – ILLICT DISCHARGES

DIVISION 1. – ILLICT DISCHARGES

Sec. 9.5-71. - Applicability.

This division shall apply to all water entering the County Storm Drain System or County watercourses generated on any developed and undeveloped lands unless explicitly exempted by the NPDES permitting authority.

Sec. 9.5-72. - Administration.

The County Engineering Division shall administer and implement the provisions of this division of this article. Other duly authorized officers of the County may also enforce provisions of this article.

Sec. 9.5-73. - Discharge Prohibitions.

(a) Prohibition of Illegal Discharges

- (1) No person shall discharge or cause to be discharged into the Storm Drain System or watercourses any materials, including but not limited to Pollutants or waters containing any Pollutants, that cause or contribute to a violation of applicable Water Quality standards other than Stormwater.
- (2) This prohibition includes spillage or leakage of leachate during transport from all vehicles used to collect and/or transport municipal solid wastes into the storm drain system or County watercourses.
- (3) The commencement, conduct or continuance of any illegal discharge to the Storm Drain System is prohibited except as follows:
 - a) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated – typically less than one part per million chlorine), firefighting activities, and any other water source not containing Pollutants.
 - b) Discharges specified in writing by DHEC or the United States Environmental Protection Agency (EPA) as being necessary to protect public health and safety.
 - c) Dye testing is an allowable discharge, but requires a verbal notification to the County Engineering Division 10 days prior to the event.
 - d) The prohibition shall not apply to any non-Stormwater discharge permitted

under an NPDES Permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and all other applicable laws and regulations, provided that written approval has been granted for any discharge into the Storm Drain System.

(b) Prohibition of Illicit Connections

- (1) The construction, use, maintenance, or continued existence of Illicit Connections to the Storm Drain System is prohibited.
- (2) This prohibition expressly includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practices applicable at the time of connection.
- (3) A person is considered to be in violation of this article if the person connects to a line conveying Wastewater or any other non-Stormwater discharge to the SMS4, or allows such connection to continue.

Sec. 9.5-74. - Exemptions.

(a) The following discharges do not require NPDES permits:

- (1) Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage facility or a seafood processing facility, or when secured to a storage facility or a seafood processing facility, or when secured to the bed of the ocean, contiguous zone or waters of the State for the purpose of mineral or oil exploration or development.
- (2) Discharges of dredged or fill material into waters of the United States which are regulated under section 404 of the Clean Water Act (CWA).
- (3) The introduction of sewage, industrial wastes or other Pollutants into publicly owned treatment works by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of Pollutants to waters of the State are eliminated. This exclusion does not apply to the introduction of Pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other party not leading to treatment works.

- (4) Any discharge in compliance with the instructions of an On-Scene Coordinator pursuant to 40 CFR Part 1510 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances).
- (5) Any introduction of Pollutants from non-point-source agricultural and silvicultural activities, including Stormwater runoff from orchards, cultivated crops, pastures, range lands, and forest lands, but not discharges from concentrated animal feeding operations, discharges from concentrated aquatic animal production facilities, discharges to aquaculture projects, and discharges from silvicultural point sources.
- (6) Return flows from irrigated agriculture.
- (7) Discharges into a privately owned treatment works, except as DHEC may otherwise require in its regulations.

Sec. 9.5-75. - Suspension of SMS4 Access.

- (a) The County Engineering Division may, without prior notice, suspend SMS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health and welfare of persons, or to the SMS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the County Engineering Division may take such steps as deemed necessary to prevent or minimize damage to the SMS4 or waters of the United States, or to minimize danger to persons.
- (b) Any person discharging to the SMS4 in violation of this article may have their SMS4 access terminated if such termination would abate or reduce an illicit discharge.

Sec. 9.5-76. - Unauthorized Connection.

It shall be unlawful for any person to make any connection to the SMS4 without written permission, or to reconnect access when it has been suspended or terminated due to an illicit discharge without the prior approval of the County Engineering Division.

Sec. 9.5-77. - Litter and Refuse Control

- (a) It shall be unlawful for any person to throw litter, garbage, vegetative matter, bottles, cans, or containers upon public right-of-way or property or the premises of another without permission of the owner.

- (b) It shall be the duty of the property owner to keep piles of leaves out of any gutter, inlet, catch basin or ditch.
- (c) It shall be unlawful to place yard waste into any storm drain, stream, or conveyance where concentrated Stormwater flows will wash such wastes into the storm sewer system or County watercourse.

Sec. 9.5-78. - Monitoring of Discharges.

- (a) This section applies to all facilities that have Stormwater discharges associated with industrial activity, including Construction Activity, or in the investigation of an Illicit Connection to the storm drain system or County watercourses.
 - (1) The County Engineering Division shall be permitted to enter and inspect facilities subject to regulations under this article as often as may be necessary to determine compliance with this article. If a discharging facility has security measures in force that require proper identification and clearance before entry into its premises, the facility shall make the necessary arrangements to allow access to representatives of the County Engineering Division.
 - (2) Facility operators shall allow the County Engineering Division ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES Permit to discharge Stormwater, and the performance of any additional duties as defined by state and federal law.
 - (3) The County Engineering Division shall have the right to set upon any permitted facility such devices as are necessary in the opinion of the County Engineering Division to conduct monitoring and/or sampling of the facilities Stormwater discharge.
 - (4) The County Engineering Division has the right to require the discharging facility to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the facility at its own expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure its accuracy.
 - (5) If the County Engineering Division has been refused access to any part of the premises from which Stormwater is discharged, and it is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety and welfare of

the community, then the County may seek issuance of a search warrant from any court of competent jurisdiction or refer the case to DHEC.

Sec. 9.5-79. Notification of Spills

- (a) Notwithstanding other requirements of law, as soon as any Person Responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected releases of materials which are resulting or may result in illegal discharges or Pollutants discharging into Stormwater, the SMS4, or waters of the United States, that person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release, and in addition to other notification requirements, the person shall notify the County Engineering Division in person, by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County's Public Works Department, Stormwater Division within three business days of the original notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.
- (b) For facilities that operate under existing NPDES permits for Stormwater discharge, spill reporting shall be made to the permitting authority in accordance with the permit. The County Engineering Division shall be provided with copies of any written notification required by the NPDES permitting authority.

Sec. 9.5-80. Enforcement

- (a) Whenever the County Engineering Division finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the County Engineering Division may order compliance by written notice violation to the Person Responsible. Such notice may require without limitation:
 - (1) The elimination of Illicit Connections or discharges;
 - (2) That violating discharges, practices or operations shall cease and desist;
 - (3) The abatement or remediation of Stormwater pollution or contamination hazards and the restoration of any affected property; and
 - (4) The implementation of source control or treatment BMPs.
- (b) If abatement of a violation and/or restoration of the damaged property is required, the notice shall set forth a deadline for remediation or restoration to be completed. The notice shall advise that, should the violator fail to remediate or restore within the established deadline, the County Engineering Division or a contractor will do the work

and the expense thereof shall be charged to the violator.

Sec. 9.5-81. Penalties

Any person found to be in violation of the prohibition of illicit discharges that fails to comply with a compliance directive issued by the County Engineering Division referenced in the previous Section shall be subject to any and all applicable penalties as set forth in Section 9.5-35 of this ordinance. Each day in violation of the provisions shall constitute a separate and distinct offense. The penalties shall be in addition to the remedial process provided for in this Ordinance.

Sec. 9.5-82. Remedies Not Exclusive

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

Secs. 9.5-83. to 9.5-90. - Reserved

ARTICLE VI. – DRAINAGE

DIVISION 1. – DRAINAGE

Sec. 9.5-91. - Drainage.

- (a) Every proposed development must have a drainage system which shall be designed by a registered engineer and constructed by the developer to provide for the proper drainage of surface water of the development and the drainage area of which it is a part; to permit the unimpeded flow of natural watercourses; and to provide positive drainage away from on-site sewage disposal facilities. The subdivider/developer's responsibility shall include those drainage facilities to discharge such developer's storm runoff to an existing facility outside the secondary area capable of receiving the runoff with no adverse effects.
- (b) A drainage study and report shall be prepared by a registered engineer engaged by the developer. This report shall include both existing and proposed drainage conditions and shall include an evaluation of the ability of the proposed drainage facilities and other improvements pertaining to drainage or flood control within the development to handle any runoff generated by the development. The report will also contain a section devoted to the

analysis of the downstream drainage facilities and its ability to handle existing flow and any increased flow from the development. The report shall also contain the following items:

- (1) Calculated estimates of the quantity of Stormwater entering the development naturally; also, estimates of such water when the upper watershed area shall have been developed for the maximum land use permitted under the official land use plan.
 - (2) Existing conditions of the watershed that may affect the proposed development, such as subsoil type, positive drainage channels, obstructions and the like.
 - (3) Quantities of flow at each pickup point.
 - (4) Estimates of temporary erosion and pollution controls necessary while the development is under construction.
 - (5) Description of major, primary and secondary systems. The report shall include an evaluation of proposed facilities under both frequent and infrequent storms. (2-year, 10-year, 25-year, 50-year, 100-year).
 - (6) Drainage analysis for minor developments. Minor development projects as defined in Article I of this chapter shall also be studied in order to determine the adequacy of any existing storm drainage systems or the effect on proposed improvements. The County Engineer may require as much or as little of the above information as needed to conduct an appropriate drainage analysis of the site plan, grading plan, or storm drainage analysis of the site plan, grading plan, or storm drainage plans submitted to the County as part of the requirements of the site plan needed for a zoning certificate and building permit. The County Engineer may waive the requirement that a registered professional engineer conduct the drainage study for minor developments.
- (c) In designing storm drainage facilities, special consideration shall be given to the avoidance of problems which may arise from concentration of Stormwater runoff onto adjacent developed or undeveloped properties.
- (d) Storm drainage facilities shall be designed to handle the anticipated peak discharge from the property being developed and the anticipated increase in runoff that will occur when all property at a higher elevation in the same drainage area is fully developed.

- (e) In those instances when underground piped storm drainage facilities are reasonably accessible to the proposed development, the developer shall connect such developer's on-site drainage system to the public system based on standard storm drainage design practices or other special design standards deemed necessary by the County Engineer.
- (f) Drainage easements shall be provided in accordance with the following criteria:
 - (1) Where development is traversed by a drainage facility, adequate areas for storm drainage, including ponding, shall be allocated, conforming substantially with the lines of such drainage facility, and of sufficient width to carry off storm drainage and provide for maintenance and improvement of the drainage facility. An adequate access easement for maintenance and equipment is required. Generally, for underground storm drain pipe, the minimum width of the easement shall be not less than 20 feet or the outside diameters of the pipes in feet plus eight feet each side of the pipe whichever is greater. Where open improved drainage channels, paved or unpaved, are permitted, the width of the easement shall be a minimum of three feet on one side measured at the intersection of the existing ground and channel cut plus the width of the channel at the top or ground level, plus 15 feet on the opposite side to allow equipment to enter for maintenance operations. Depending on the design of the paved channel, this requirement may be reduced to not less than ten feet on one side.
 - (2) The location of any surface or underground drainage facilities shall not be changed without the approval of the County Engineer.

Sec. 9.5-92. - Drainage system standards.

- (a) All streets shall be provided with an adequate storm drainage system consisting of curbs, gutters, and storm sewers.
 - (1) All streets shall be designed so as to carry the Stormwater drainage of at least the street itself and adjacent property.
 - (2) Curb drainage inlets shall be provided at appropriate intervals along streets with curb and gutter drainage facilities. These inlets shall connect to a storm drain system and a drainage inlet structure with a protective grating shall be installed in accordance with standard specifications of the State Department of Highways and Public Transportation.
 - (3) Inlet spacing and capacity shall be adequate to limit the spread of water into the street and to maintain pedestrian walks and street crosswalks free of standing water.

- (4) Where driveways connect to existing streets with side ditch drainage facilities, a culvert shall be provided under such driveway as required by the County Engineer. The minimum pipe size is 15 inches and shall conform to standard specifications of the state department of highways and public transportation.
 - (5) All streets having curb and gutter shall not allow Stormwater flow across intersections and/or driveways and shall have a suitable cross-gutter system.
- (b) The design of the off-street drainage system shall include the watershed that affects the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. The design shall be in accordance with the following requirements:
- (1) When the drainage system is outside of the street right-of-way, the subdivider shall provide all required easements in accordance with section 9.5-91(f).
 - (2) Open ditch drainage may be used, provided that such ditches are "V" ditches with side slopes not exceeding one to three (1:3) ratio, (one vertical to three horizontal) and a maximum depth of two feet. Where open ditches meeting these requirements are not adequate to provide satisfactory storm drainage, an underground piped system shall be installed as required by the County Engineer. These open ditches shall be protected from erosion by either sodding or seeding as approved by the County Engineer.
 - (3) No open natural major storm drainage course shall be permitted within 75 feet of the rear or side of a building as measured from the building to the top of the edge of the drainage facility or vice versa, unless exceptional site planning opportunity is afforded and the improvement will not be jeopardized by flooding or erosion.
 - (4) Off-street drainage from private parking lots or other buildings/uses shall be channeled to and collected at one or more catch basins located on the private property of the development and piped underground to any reasonably accessible existing storm drainage facility. Such surface storm runoff shall not be allowed to flow over public sidewalks.

Sec. 9.5-93. - Areas subject to flooding; floodplain management administrator.

The Zoning Administrator shall be the floodplain manager for developments in the County.

Sec. 9.5-94. - Methods of calculating stream flow and runoff.

- (a) Minimum design frequencies for calculating rainfall runoff:
 - (1) Residential – (25 – years)
 - (2) Light industrial and commercial – (25 – years)
 - (3) Heavy industrial and high-value commercial – (50 – years)
 - (4) Any development in a FEMA regulated flood zone – (100 – years)
- (b) Variance in design frequency shall depend upon the density of development, existing and expected; value of development; and cost effectiveness of design. Minimum design frequency may be used if approved by the County Engineer. The following formula and values may be used for calculating all stream flow and runoff for the policies and regulations established herein:
 - (1) Runoff from drainage areas of 20 acres or less may be determined by the "Rational Formula". ($Q=C*I*A$)
 - (2) The size of closed storm sewers, open channels, culverts, and bridges may be determined by using the "Manning Formula" which may be modified for use with runoff determined by the "Rational Formula". ($Q=(1.486/n)*R^{2/3}*S^{1/2}*A$)
 - (3) The rational method may not be used for calculating flows for sizing Stormwater detention/retention facilities or for any drainage areas greater than 20 acres. In these cases all hydrologic computations shall be accomplished using a volume based hydrograph method acceptable to the County.

Sec. 9.5-95. - Natural primary and/or major drainage channel requirements.

- (a) All natural primary and/or major drainage channels which are located within or along the property line of an improvement, development or subdivision shall be protected and improved by the developer as follows:
 - (1) The existing channel lying within or along the property line of the subdivision or parcel of land proposed for development or redevelopment shall be cleaned to provide for the free flow of water. The existing channel shall be cleaned to provide free flow of water, straightened, widened, levied or diked, or otherwise improved to the extent required to prevent overflow from a 50-year frequency flood. Improvements shall extend beyond

- the limits of the dedicated drainage easement provided in section 9.5-91(f) sufficient to provide compliance.
- (2) Site improvement shall provide for the grading of all building pads to an elevation where all building pads will not be subject to overflow from 100-year flood event and in a manner that will provide for a rapid runoff of Stormwater.
 - (3) Whenever channel improvements are carried out, sodding, back-sloping, cribbing, and other bank protection shall be designed and constructed to control erosion for the anticipated conditions and flow resulting from a 50-year frequency rainfall.
 - (4) An existing natural drainage channel shall not be located in a street easement unless it is placed in an enclosed storm drain system except under the following conditions:
 - a) Where a paved street surface at least two lanes wide is provided on both sides of a paved channel so as to provide access to abutting properties.
 - b) When a condition exists as outlined above, adequate space shall be dedicated as right-of-way to provide for maintenance of the paved drainage channel.
 - (5) Culverts, bridges and other drainage structures shall be constructed in accordance with the specifications and design criteria of the County when the County shall have present or future maintenance responsibility.
 - (6) No open natural storm drainage course shall be permitted within 75 feet of the rear or side of a building as measured from the building to the top of the edge of the drainage facility or vice versa, unless exceptional site planning opportunity is afforded and the improvement will not be jeopardized by flooding or erosion.

Sec. 9.5-96. - Secondary drainage and/or minor drainage channel requirements.

- (a) All secondary drainage channels which are within, or immediately adjacent to, an improvement, development or subdivision shall be protected and improved by the developer as follows:
 - (1) Secondary drainage channels which have a primary function of collecting surface water from adjacent properties or intercepting and diverting side hill drainage shall be underground and piped.
 - (2) Developments:

- a) In single-family residential, duplex or apartment/townhouse/condominium development, site grading shall be carried out in such a manner that surface water from each dwelling lot will flow directly to a storm drain system, sodded swale, or paved street with storm drainage without crossing more than four adjacent lots in overland flow and with no adverse effects to adjacent property.
 - b) In commercial, industrial and institutional development, roofs, paved area, yards, courts and courtyards shall be drained into a storm drain system.
- (3) Surface water collected on streets shall be diverted to storm drains at satisfactory intervals to prevent overflow of six-inch high curbs during a 25-year frequency rain for the area and grades involved. Design frequency may vary with the classification of street, highway, or land use in the area. Drainage area allowed for surface flow on streets at point of diversion shall not exceed 20 acres, regardless of flow.
 - (4) Drainage easement of satisfactory width to provide working room for construction and maintenance shall be provided for all storm drains as detailed in section 9.5-91(f).

Sec. 9.5-97. - Major channel requirements.

- (a) All major channels which are located outside the floodplain area as defined by the Federal Emergency Management Agency's flood insurance study and maps, or the U.S. Army Corps of Engineers, whichever is most appropriate to the situation, and which are located within or immediately adjacent to an improvement or subdivision shall be protected and improved by the developer as follows:
 - (1) The existing channel shall be cleaned to provide free flow of water, straightened, widened, levied or diked, or otherwise improved to the extent required to prevent overflow from a 50-year frequency flood.
 - (2) Site improvements shall be in accordance with the provisions of the County's adopted zoning ordinance.

Sec. 9.5-98. - Bridge and culvert requirements.

All flow of water across continuous streets or alleys shall be through culverts or bridges. Bridges and culverts shall be sized to accommodate a 50-year frequency rain. Design of bridges and culverts shall conform to County and construction specifications of the State Department of Highways and Public Transportation, and approved by the County Engineer.

Sec. 9.5-99. - Closed storm drain system.

Closed storm drain system shall be constructed of pre-cast, prefabricated pipe, or built in place of closed box design to conform to County and construction specifications of the State Department of Highways and Public Transportation. Sizing shall be calculated by the "Manning Formula." However, storm drains carrying runoff from streets may be designed to serve the design frequency rainfall for the drainage area involved, provided that overflow from a 100-year frequency rainfall can reach a suitable outlet without inundating any building pad.

Sec. 9.5-100. - Open paved storm drainage.

Open paved storm drainage channels shall be constructed in accordance with County specifications. Side slopes above the paved section shall be shaped and sodded on a slope of three horizontal to one vertical or flatter. Fences shall not be located any more than one foot (measured horizontally) from the right-of-way/easement line as provided for in section 9.5-91(f).

Sec. 9.5-101. - Areas outside subdivision or development.

County reserves the right to require improvements to preclude any backup of tail water inundating any areas outside of the dedicated drainage easements in the subdivision or development as a result of a 50-year frequency flood.

Sec. 9.5-102. - Existing open ditches.

At the time of development, any existing man-made waterway shall be included in the Stormwater management plan. Modifications, including piping, may be required by the County.

Sec. 9.5-103. - Review by County Engineer.

Prior to authorization of any building permit by the County Building Department, the County Engineer shall review and approve all such stream flow, runoff calculations, and drainage plans as such engineer may require of a developer under the terms of this article. The County Engineer shall have final authority of engineer interpretations of all required fifty (50)-year and one-hundred (100)-year flood elevations necessary to this article and shall report the findings to the County's Floodplain Management Administrator for appropriate action.

Sec. 9.5-104. - Application and enforcement of this article.

- (a) Sufficient inspections shall be made to insure compliance with the specifications set forth in this article. A registered engineer, employed by the developer and approved by the County Engineer, may certify in writing to the County Engineer that such engineer has inspected each phase of the construction of the storm drainage improvements required in this article and said inspection certification shall meet the terms of this article. The County Engineer, however, shall make a final inspection of said improvements before accepting said improvements for dedication to the County for permanent maintenance.
- (b) No zoning certificate or building permit shall be issued for any new building or development by the zoning secretary or codes enforcement division without a written statement from the County Engineering division stating that the storm drainage facilities for said property and building meet all of the requirements of this article.
- (c) The County Council may amend the regulations or provisions of this article after study and a written report by the Planning Commission and the holding of a public hearing as required by law.
- (d) Any violation of these regulations will be a misdemeanor and upon conviction is punishable as provided by law.

Sec. 9.5-105 - Variations and exceptions.

- (a) Whenever strict compliance with these regulations would result in extraordinary hardship or injustice to the subdivider because of unusual topography, unusual size or shape of the property, or unusual conditions in surrounding property or development, the planning commission, acting only upon the written concurrence of the County Engineer, may modify, vary or waive such regulations in order that the subdivider or developer may subdivide or develop the property in a reasonable manner, provided that such modification, variation or waiver will not nullify the intent or purpose of this article and that the public welfare, interest of the County and the surrounding area shall be protected. Any such variance, together with reasons therefore, shall be entered upon the minutes of the planning commission.
- (b) In granting modifications, variations or waivers, the planning commission may impose such other reasonable conditions as well, in its judgment, in order to justify such modification, variation or waiver and still maintain the objectives of these regulations.
- (c) Each modification, variation or waiver of these regulations sought by a subdivider or developer shall be applied for specifically on forms supplied by the planning and

development division, copies of which shall be forwarded to the County Engineer for such engineer's review and comments and an evaluation of such submitted to the planning and development division and the County planning commission.

Sec. 9.5-106. - Interpretation and conflict.

In interpreting and applying the provisions of this article, the provisions shall be held to be minimum requirements necessary to uphold the purpose of this article. It is not intended by this article to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, where this article imposes greater restriction on the subdivision and/or use of buildings or land, or requires more open spaces or more stringent development standards than required by other resolutions, ordinances, rules or regulations, or by easements, covenants, or agreements, the provisions of this article shall govern. When the provisions of any other statute require more restrictive standards than are required by the regulations of this article, the provisions of the more restrictive statute shall govern.