

## SECTION 9 - THE GENERAL PERMIT PROGRAM

### Subsection 1 - Regulations Governing Storm Water Discharges Associated With Industrial Activities

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# INTRODUCTION

Storm water discharges contribute significantly to water quality degradation across the U.S. Storm water-related sources of potential water quality degradation include the following: manufacturing and processing facilities, transportation maintenance areas, urban areas, resource extraction, hydro-habitat modification, land disposal of wastes and contaminated sediments present in stream and river beds. In November of 1990, the USEPA issued the NPDES Storm Water Permit Application Regulations for Storm Water Discharges in response to the evidence indicating storm water as a major source of impairment to the quality of rivers, streams and wetlands in the United States.

In 1993, Section 9 (The General Permit Program), of the State of Delaware, Department of Natural Resources and Environmental Control, Regulations Governing the Control of Water Pollution was issued. The General Permit Program is designed to provide permit coverage for the wide range of dischargers who could not practicably obtain individual permits in the foreseeable future. This approach will allow the DNREC resources to concentrate on individual permits for facilities with discharges which have a more significant potential for impacting water quality in the State of Delaware.

A General Permit, as defined by federal law in 40 C.F.R. §122.28, authorizes the discharge of storm water associated with industrial activity from sources within a defined area or that share certain similarities. A General Permit Regulation is a self-implementing standard that can apply to multiple dischargers which the DNREC has determined can most efficiently be regulated as a category. Conversely, an individual permit contains special conditions specifically tailored to one specific facility. A General Permit is a Department statement of general applicability. A General Permit is a regulation since it implements and prescribes law which affects existing and future facilities.

Subsection I of the General Permits Program contains The Regulations Governing Storm Water Discharges Associated With Industrial Activity and are referred to as the "General NPDES Storm Water Permit Program". In order to obtain coverage through the General NPDES Storm Water Permit Program, persons will be required to file with the DNREC a Notice of Intent (NOI). The NOI requirement is in accordance with 40 C.F.R. §122.28(b)(2) of the USEPA NPDES Program. The NOI is the equivalent of an NPDES permit application for General NPDES Storm Water Permit coverage. Part I of the NPDES General Storm Water Permit Program consists of general provisions applicable to all discharges associated with industrial activity. A letter verifying acquisition of permit coverage instead of an actual permit will be issued to the dischargers covered by Subsection I.

The goal of the General NPDES Storm Water Permit Program is to establish, over a period of time, accepted practices for protecting and improving water quality and minimizing adverse impacts to waters of the State of Delaware by storm water discharges associated with industrial activity. To apply water-quality based numerical limits to storm water runoff, a large expenditure of the DNREC and industry resources (time and money) would be needed to develop and perform the myriad of assessments (e.g. modeling, analytical testing, statistical reviews of the varied rain event occurrences, event intensities, event intensity-deltas, event durations, and rainfall quantities). Therefore, the General NPDES Storm Water Permit Program requires Best Management Practices (BMPs) to be implemented by all facilities as a more efficient approach to protect and improve water quality in the State of Delaware. The BMPs requirements in this regulation will serve in place of numerical limits in accordance with 40 Code of Federal Regulations (CFR) Part 122.44(k).

The General NPDES Storm Water Permit Program is divided into 14 Parts. In Part 1, the baseline of the General NPDES Storm Water Permit Program is established. Parts 2 through 14 apply to specific categories of industrial activity. A facility is required to obtain coverage under each applicable Part. If there is not an applicable industry-specific Part for a facility, then the facility is required to obtain and maintain coverage under Part 1.

The numbering sequence for the regulations is displayed by the following graphic:

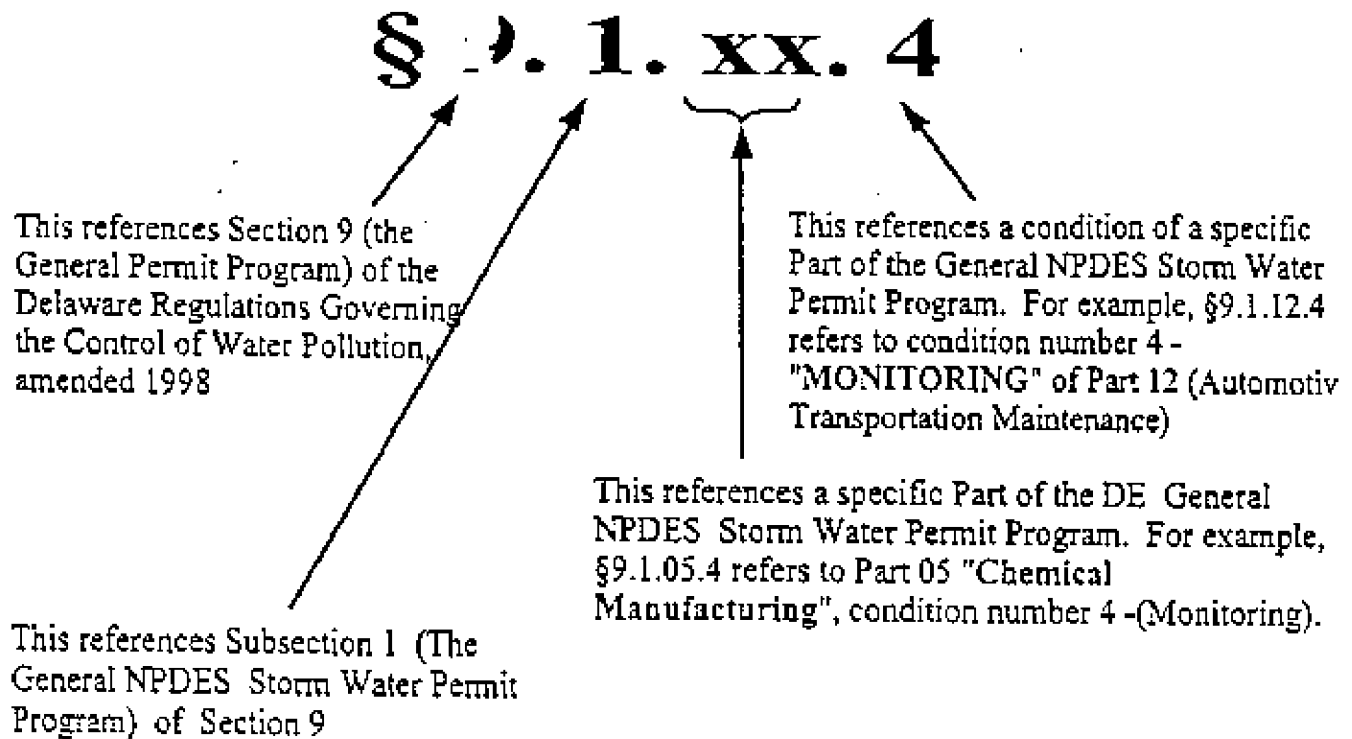


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§9.1.01.0      DEFINITIONS  
 The following words and phrases shall have the meaning ascribed to them in this Subsection unless the context clearly indicates otherwise:

(/)      APPROPRIATE PLAN APPROVAL AGENCY: means the Department, Conservation District, county, municipality, or State agency that is responsible in a jurisdiction for review of a Sediment and Stormwater Management Plan.

- (2) **CERTIFIED CONSTRUCTION REVIEWER**; means those individuals, having passed a Department-sponsored or approved training course, who provide on-site inspection for sediment control and stormwater management in accordance with the Delaware Sediment and Stormwater Regulations.
- (3) **C.F.R.**: means the Code of Federal Regulations.
- (4) **CLEAN WATER ACT**: means 33 U.S.C. 1251 et seq. (formerly known as the Federal Water Pollution Control Act).
- (5) **COMPARABLE LEVEL**: means an estimated level of environmental benefit, related to the quality of the storm water discharges, equivalent to what would be achieved by implementing the requirements described under "Storm Water Plan" (§9.1.xx.5) listed in Parts 3 through 14 of Subsection 1.
- (6) **DEPARTMENT**: means the State of Delaware, Department of Natural Resources and Environmental Control.
- (7) **DISCHARGE**: means storm water runoff.
- (8) **DISCHARGE BUFFERING**: means to use various BMPs that are designed to remove, capture or retain pollutants or minimize hydraulic extremes generated by storm water, through the application of detention, settling, biofiltration, or filtering (e.g. settling basins, wet ponds, vegetated swales, sand filters, inlet filters, oil/water separators, sediment traps, berms for diversion, buffer strips). Straw bale and fabric fence may be used for sheet flow or in conjunction with other structural controls.
- (9) **EFFECTIVE DATE**: means the date when these regulations have formally passed through a public comment period, a public hearing and have been formally adopted by the Department and start being operative.
- (10) **EMERGENCY**: means a situation in which human safety is at risk and/or significant destruction of property is a possibility.
- (11) **ENCLOSED AREAS**: means an area(s) which consists of an impervious surface, such as a floor, is shielded from precipitation and storm water run-on.
- (12) **INDIVIDUAL PERMIT**: means a permit which is written for one specific facility or site.
- (13) **LAND DISTURBING ACTIVITIES**: means a land change or construction activity for residential, commercial, silvicultural, industrial and institutional land use which may result in soil erosion from water or wind, or movement of sediments or pollutants into State waters or onto lands in the State, or which may result in accelerated stormwater runoff, including, but not limited to, clearing, grading, excavating, transporting, and filling of land. (Contact the Department Division of Soil & Water Conservation for more details.)
- (14) **MAINTENANCE**: means the work required to keep vehicles, equipment and/or machinery in proper condition (e.g. painting, paint removal, sanding, grinding, cleaning, repair, lubrication, replacement of parts or structures, draining or replacing fluids).
- (15) **MAXIMUM EXTENT PRACTICABLE**: means to complete an objective or requirement of this Part, to a level which bears the most benefit from an environmental standpoint, but not to a level that is physically or economically infeasible or that would jeopardize human health or safety, or that would prohibit the conductance of work at the facility.
- (16) **MUNICIPAL STORM WATER SYSTEM**: means a conveyance system which is not intended to convey anything but storm water and is owned by a municipal or public entity.
- (17) **PART**: means a component of Subsection 1 (Part 1 generally contains foundation language for Subsection 1, where Parts 2 through 14 contain language specific to certain categories of industry).

- (18) **PERSON:** means any individual, partnership, corporation, association, institution, enterprise, municipality, commission, political subdivision, or duly established entity.
- (19) **QUALIFIED FACILITY PERSONNEL :** means personnel that are trained and responsible for performing tasks which are related to Significant Material management.
- (20) **PROTOCOLS:** means non-structural Best Management Practices such as preventive maintenance, good housekeeping and training measures designed to minimize the contribution of Significant Materials to storm water runoff (e.g. moving Significant Materials closer to the point of use, providing more space between stacked drums containing Significant Materials).
- (21) **SECRETARY:** means the Secretary of the State of Delaware, Department of Natural Resources and Environmental Control or his duly authorized designee.
- (22) **SIGNIFICANT MATERIALS:** means substances, products, or wastes that are exposed to precipitation and can contribute pollutants to storm water runoff or storm water infiltration (Materials which cannot contribute pollutants to storm water runoff are not considered SIGNIFICANT MATERIALS).
- (23) **STORM WATER:** means run-on or runoff of water from the surface of the land resulting from precipitation or snow or ice melt.
- (24) **STRUCTURAL CONTROLS:** means curbs, dikes, berms, walls, sheds, impervious pads, ditches, diversions or other structures which limit the contribution of Significant Materials to storm water discharges from a facility.
- (25) **THESE REGULATIONS:** means the State of Delaware, Regulations Governing Storm Water Discharges Associated with Industrial Activity (Subsection 1).
- (26) **TRUCK RINSE:** means the water used to rinse the inside of a rotating barrel (after the barrel has been emptied of concrete) which is used to mix concrete and is mounted on a truck.
- (27) **WATER PRIORITY CHEMICALS:** means the list of chemicals presented in Appendix A of these Regulations.

§9.1.01.1 **COVERAGE**

- A. This Subsection shall apply to storm water discharges from the following categories of industrial activities:

Storm Water associated with industrial activity which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. This Subsection does not include discharges from facilities or activities excluded from the NPDES program.

Subsection 1 applies to the categories of industries identified in subparagraphs (i) through (x) of this Part for, but not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling activities; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 C.F.R. §401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and Significant Materials remain.

Subsection 1 applies to the categories of industries identified in subparagraph (xi) of this Part for storm water discharges from all areas listed in the previous paragraph (except access roads) where Significant Material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water.

For the purposes of this Subsection, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above-described areas.

Industrial facilities (including industrial facilities that are municipally owned or operated that meet the descriptions listed in this paragraph (i) through (xi)) include those facilities designated under 40 C.F.R. Part 122.26(a)(1)(v) of the NPDES Storm Water Regulations. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this Subsection:

- (i) Facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards under 40 C.F.R. subchapter N (except facilities exempted under category xi);
- (ii) Facilities classified in the Standard Industrial Classification Manual (Office of Management and Budget, 1987) as: 24 [Lumber and Wood Products] except 2434 [Wood Kitchen Cabinets]; 26 [Paper & Allied Products] except 265 [Paperboard Containers and Boxes] and 267 [Converted Paper & Paperboard Products]; 28 [Chemicals & Allied Products] except 283 [Drugs] and 285 [Paints, Varnishes, Lacquers, Enamels & Allied Products]; 29 [Petroleum Refining & Asphalt]; 311 [Leather Tanning]; 32 [Stone, Clay & Glass Products]; except 323 [Glass Products, Made of Purchased Glass] 33 [Primary Metals Industry]; 3441 [Fabricated Structural Metal]; 373 [Ship Building & Repair];
- (iii) Facilities classified as Standard Industrial Classifications 10 [Metal Mining], 11 [Anthracite Mining], 12 [Coal Mining, except for areas of coal mining operations meeting the definition of a reclamation area under 40 C.F.R. §434.11(f)], 13 [Oil & Gas Extraction including exploration, production, processing, or treatment operations, or transmission facilities, that discharge storm water contaminated by contact with or that has come in contact with, any overburden, raw material, intermediate products, finished products, by-products, or waste products located on the site of such operations], 14 [Nonmetallic Minerals Mining] including active or inactive mining operations. Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;
- (iv) Hazardous waste treatment, storage, or disposal facilities;
- (v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this Subsection);
- (vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but not limited to those classified as Standard Industrial Classification 5015 [Motor Vehicle Parts, Used] and 5093 [Scrap & Waste Materials], but not including recycling collection centers consisting solely of "igloos" or similar structures;
- (vii) Steam electric power generating facilities, including coal handling sites;

- (viii) Transportation facilities classified as Standard Industrial Classifications 40 [Railroad Transportation], 41 [Local & Suburban Transits], 42 [Motor Freight & Warehousing] except 4221 [Farm Product Warehousing & Storage]; 4222 [Refrigerated Warehousing & Storage]; 4225 [General Warehousing & Storage]; 43 [U.S. Postal Service] 44 [Water Transportation], and 45 [Transportation by Air] and 5171 [Bulk Petroleum Terminals]. Only the portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i) through (vii) or (ix) through (xi) of this Subsection are associated with industrial activity;
- (ix) Treatment works with a design flow of one million gallons per day or more treating domestic sewage or any other sewage sludge or waste water treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, or required to have an approved pretreatment program under 7 Del. C. §6033. Not included are farm lands, domestic gardens, or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 C.F.R. §503;
- (x) Construction activity including clearing, grading, and excavation activities;
- (xi) Facilities under Standard Industrial Classifications 20 [Food & Kindred Products]; 21 [Tobacco Products]; 22 [Textile Mill Products]; 23 [Apparel & Other Finished Products Made From Fabrics & Similar Materials]; 2434 [Wood Kitchen Cabinets]; 25 [Furniture & Fixtures]; 265 [Paperboard Containers & Boxes]; 267 [Converted Paper & Paperboard Products]; 27 [Printing, Publishing & Allied Industries]; 283 [Drugs]; 285 [Paints, Varnishes, Lacquers, Enamels, & Allied Products]; 30 [Rubber & Miscellaneous Plastics Products]; 31 [Leather & Leather Products] except 311 [Leather Tanning & Finishing]; 323 [Glass Products, Made of Purchased Glass]; 34 [Fabricated Metal Products] except 3441 [Fabricated Structural Metal Products]; 35 [Industrial & Commercial Machinery & Computer Equipment]; 36 [Electronic & Other Electrical Equipment & Components, Except Computer Equipment]; 37 [Transportation Equipment] except 373 [Ship & Boat Building & Repairing]; 38 [Measuring, Analyzing & Controlling Instruments, Photographic, Medical and Optical Goods/Watches & Clocks]; 39 [Miscellaneous Manufacturing Industries]; 4221 [Farm Product Warehousing & Storage]; 4222 [Refrigerated Warehousing & Storage]; 4225 [General Warehousing & Storage]; (and which are not otherwise included within categories (i) through (x)).

**B. Eligibility**

1. This Subsection covers all new and existing discharges that are composed in whole or in part of storm water associated with industrial activities.
2. Facilities with existing individual NPDES permits for discharges other than storm water, are covered by this Subsection, for the storm water discharges not covered by the existing individual NPDES permit.
3. Facilities with individual NPDES permits which do not fully address storm water are covered by this Regulation until amendments which will fully address storm water can be made on the existing individual NPDES permits.

4. No person shall discharge storm water associated with an industrial activity except as authorized by an individual NPDES permit or this Subsection. Part 1 of this Subsection shall apply to all discharges of storm water associated with industrial activity. Parts 2 through 14 of this Subsection apply to certain categories of industrial activity and modify certain parts of Part 1 and/or add requirements for certain specified industrial activities. Authorization can be obtained through this Subsection by submitting a Notice Of Intent (NOI) in accordance with the respective Part of this Subsection. Once coverage through this Subsection has been obtained, the person is authorized to discharge storm water only from the specific outfalls that were listed on the submitted NOI.

C. Limits on Eligibility

The following activities are not eligible for coverage under this Subsection:

1. facilities with individual NPDES permits which fully address storm water discharges associated with the industrial activity at the facility;
2. activities that have been determined by the Secretary to be significant contributors of a pollutant to storm water runoff.

D. Requesting an Individual Permit or Coverage Under an Alternative Regulation

1. Any person covered by this Subsection may request to obtain coverage under an individual permit or Parts 2 through 14 of this Subsection. The person shall submit an individual application (Form 1 and Form 2F) and shall submit in writing, the reasons supporting the request, or an appropriate NOI. Coverage under this Subsection will continue until authorization for coverage under an alternative regulation is granted or an individual permit has been issued to the person making the request.
2. Part 1 shall no longer apply to any person otherwise subject to it when the person is issued an individual NPDES Storm Water Permit for Industrial Activities. Termination of coverage under Part 1 shall occur on the effective date of the individual NPDES Storm Water Permit.
3. No person who is otherwise eligible for coverage under Part 1 whose activities are described in Parts 2 through 14 of this Subsection shall discharge storm water except in compliance with Parts 2 through 14. When a person is approved for coverage under Parts 2 through 14 of this Subsection, some provisions of Part 1 may be superseded or replaced by the requirements of that Part. In the event that the requirements of Parts 2 through 14 supersede, replace, amend, or delete any requirement of Part 1, the requirements of Parts 2 through 14 shall control.

E. Requiring an Individual Permit or Coverage Under Parts 2 Through 14

1. The Secretary may require any person covered by Part 1 of this Subsection to obtain either an individual NPDES permit or coverage under Parts 2 through 14 of this Subsection. Any interested citizen may also petition the Secretary to take action under this paragraph. The Secretary may take action when:
  - a. there is noncompliance with the provisions of this Subsection;
  - b. there is newly demonstrated, higher efficiency control technology or practices applicable to an activity subject to this Subsection;
  - c. the U. S. Environmental Protection Agency develops effluent limitation guidelines for an activity covered by this Subsection;

- d. this Subsection is no longer appropriate for a discharge or type of activity;
  - e. there is evidence indicating potential or realized impacts on water quality due to any storm water discharge covered by this Subsection; or
  - f. other circumstances merit the application of this Subsection.
2. The Secretary shall notify a person in writing when an individual permit application or an alternative NOI is required. The notice shall include a brief statement of the reasons for the decision, an application or appropriate NOI form and a statement setting a deadline for the person to file the application or NOI. The Secretary shall notify the person in writing that permit coverage has been obtained under an alternative Part of this Subsection once a completed, alternative NOI has been received by the Department, or that permit coverage under this Subsection shall automatically terminate on the effective date of the individual NPDES permit that is issued to the person.
  3. If a person fails to submit an individual permit application or an NOI in compliance with a notice from the Secretary, the applicability of Part 1 of this Subsection to the person shall automatically terminate at the end of the day specified for application or NOI submittal.

§9.1.01.2

STANDARD CONDITIONS

A. Entry and Inspection

Any person subject to this Subsection shall allow the Department to:

1. enter the facility subject to this Subsection during standard business hours;
2. inspect and copy at reasonable times, any records that must be kept under the conditions of this Subsection;
3. inspect at reasonable times any facilities or equipment; and
4. perform sampling of the storm water discharges from the site.

B. Signature Requirements

All Notices of Intent, Storm Water Plans, reports, certifications or information submitted to the Department shall be signed in accordance with the following:

1. All NOIs shall be signed by:
  - a. a president, vice-president, secretary or treasurer for a corporation; or
  - b. a general partner or proprietor for a partnership or sole proprietorship; or
  - c. a principal executive officer or ranking official for a municipality or public agency.
2. All other reports or information required by this Subsection shall be signed by a person described above or by a duly authorized representative.

3. Any person signing documents in accordance with this Subsection shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for willful violations."

C. Proper Procedures

Any person subject to this Subsection shall at all times properly operate and maintain all facilities, systems and practices of pollution control which are installed, or implemented to achieve compliance with the conditions of this Subsection and with the requirements of the Storm Water Plan.

D. Duty to Mitigate

Any person subject to this Subsection shall take all reasonable steps to minimize or prevent any discharge of pollutants in violation of this Subsection.

E. Other State or Federal Laws

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

F. Penalties for Violations

Any person who violates conditions of this Subsection may be subject to penalties in accordance with 7 Del. C. Chapter 40, 7 Del. C. Chapter 60, or both. Violation of this Subsection is also a violation of the Clean Water Act and may be subject to penalties established under that statute.

G. Oil and Hazardous Substance Liability

Nothing in this Subsection shall preclude the institution of any legal action or relieve any person from any responsibilities, liabilities, or penalties to which a person is or may be subject under 40 C.F.R. Part 117 or 7 Del. C. Chapters 60, 62 or 63.

H. Additional Requirements for Salt Storage

Storage piles of salt shall be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile. Dischargers shall demonstrate compliance with this provision as expeditiously as practicable, but in no event later than three years after the date of issuance of this Subsection.

§9.1.01.3 NOTIFICATION

A. Deadlines

Any person who intends to obtain coverage for storm water discharges associated with industrial activity through this Subsection, must submit a Notice of Intent (NOI) in accordance with this Subsection. The Notice of Intent should be submitted by certified mail.

1. Any person intending to obtain coverage through this Subsection for storm water discharges associated with industrial activities, existing before the effective date of this Subsection, must submit an NOI within 90 days after the effective date of this Subsection.
2. Any person intending to obtain coverage through this Subsection for storm water discharges associated with industrial activities, commencing after the effective date of this Subsection, must submit an NOI at least 180 days prior to the commencement of industrial activities that could potentially impact storm water at the facility listed on the NOI.

**B. Contents of the Notice of Intent**

The Notice of Intent (NOI) shall be submitted on a form provided by the Department. The NOI shall include, but not be limited to, the following information:

1. the name of the owner, the facility, facility mailing address, and location, if different from the mailing address;
2. the latitude and longitude of the facility;
3. up to four Standard Industrial Classification (SIC) codes that best represent the principal products or activities of the facility;
4. the name, address, and telephone number of the individual who is directly responsible for development, implementation, maintenance, and revision of the Storm Water Plan;
5. the name of the receiving waters or municipal storm water system; and
6. whether the facility has participated in a Group application and the EPA number assigned to that Group.

**C. Other Information**

When any person subject to this Subsection becomes aware that any relevant facts were omitted or submitted incorrectly on the NOI or on any other records required by this Subsection, that person shall promptly submit such corrected information to the Department.

**D. Where to Submit**

Persons intending to obtain coverage through this Subsection must submit an NOI to the following address:

Delaware Department of Natural Resources and Environmental Control  
Division of Water Resources  
Surface Water Discharges Section - NPDES Storm Water Program  
89 Kings Highway, Dover, DE 19901

**§9.1.01.4 MONITORING**

- A. Persons subject to this Part shall monitor the discharges of storm water associated with industrial activity as specified below beginning on the effective date of this Subsection:
  1. analyze a grab sample taken within the first half hour of a storm water discharge;
  2. allow for two full days of standard operating activities at the facility since the last rainfall event that resulted in runoff from the facility;

3. samples taken shall be representative of the monitored discharge. Sampling and analysis must be conducted according to test procedures approved under 40 C.F.R. Part 136, or an alternative method approved by the Department for this purpose;
4. allow for at least 180 days from the last sample; and
5. analyze samples in accordance with the following parameters:
  - a. please refer to the applicable Part (Parts 2-14) for requirements.
  - b. Water Priority Chemical Facilities

Facilities that have released a Water Priority Chemical (WPC), (see Appendix A for a list of WPCs) that are subject to §313 of SARA Title III or have WPCs exposed to storm water, are required to sample the storm water discharges associated with the area of the release or exposure. The storm water discharges shall be analyzed for the constituents which will indicate the presence of WPCs as follows:

<u>Discharge Parameter</u>	<u>Units</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow	Gal/minute	At each sampling	Estimated <sup>[1]</sup>
Indicator #1 <sup>[2]</sup>	mg/L	2/year	Grab
Indicator #2 <sup>[2]</sup>	mg/L	2/year	Grab
Indicator #3 <sup>[2]</sup>	mg/L	2/year	Grab

Monitoring shall continue until it is demonstrated that the WPCs are no longer present in the discharge(s).

6. Representative Discharge

If any person subject to this Subsection reasonably believes that two or more outfalls discharge storm water substantially identical (based on a consideration of industrial activity, Significant Materials, management practices and activities within the area drained by the outfalls) that person may test the discharges of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls.

B. Records of all sampling and analysis shall include the following:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements as well as the procedures used for sample collection and preservation;
3. the date and time when the analysis of the samples took place along with the name of the individual(s) who performed the analysis;
4. references and written procedures, when available, for the analytical techniques or methods used; and
5. the results of such analyses, including the bench sheets, instrument read-outs, computer disks or tapes, used to determine these results.

[1] Determine the flow of the storm water discharge at the time the sample is taken. A reading from a rain gage taken at the time of the sampling can be substituted for an estimate of flow.

[2] Persons subject to this Part shall develop a monitoring plan choosing parameters which will represent all Water Priority Chemicals which have been released or are exposed to precipitation. Appropriate units shall be used to measure the chosen parameters.

STORM WATER PLAN (SWP)

- A. Persons covered by this Subsection shall develop and administer a Storm Water Plan (SWP). The goal of developing and administering the SWP is to create a program for continually assessing the potential for Significant Materials to be exposed to precipitation and storm water run-on, implementing and maintaining practices which eliminate or minimize the transport of Significant Materials from the facility by storm water runoff, as well as reviewing the success of the implemented practices and amending the SWP when appropriate.
- B. Facilities must implement §9.1.01.5 as a condition of this Subsection.
- C. The SWP shall be signed in accordance with this Part and kept at the facility.
- D. SWP Deadlines

## 1. Existing Facilities

- a. Persons covered by this Subsection shall comply with the following deadlines unless granted a different deadline by any of Parts 2 through 14 :
- (1) develop a SWP within 90 days of the effective date; and
  - (2) initiate implementation of the SWP within 180 days of the effective date.
- b. Persons Not Covered by Any of Parts 2 through 14
- (1) Persons with a current NOI on file at the Department shall maintain the existing SWP. Persons subject only to Part 1 shall continue to implement the existing SWP unless informed of SWP deficiencies in writing by the Department.
  - (2) Persons without a current NOI on file at the Department shall develop a SWP in accordance with this Part. Persons without a current NOI on file at the Department shall submit the SWP to the Department for review within 60 days of the effective date of these Regulations. The SWP shall be implemented within 60 days after the date of approval.

## 2. New Facilities

Facilities which were not engaged in industrial activity prior to the effective date shall be required to develop a SWP 90 days before the start of industrial operations at the facility. Full implementation of the SWP shall coincide with the start of industrial activity at the facility.

E. Contents of the SWP

Persons covered by this Subsection shall comply with the following requirements when developing and administering the SWP. The SWP shall include at a minimum, but not be limited to, the following items:

## 1. Facility Identification

The name, address, and telephone number of the individual who is responsible for development, implementation, maintenance and revision of the SWP.

## 2. Facility Assessment

### a. A Map of the Facility

All markings, delineations and designations on the map shall be clearly identifiable. A narrative description of the markings, delineations and designations shall accompany the facility map. The map shall identify:

- (1) all of the buildings at the facility;
- (2) the areas where Significant Materials are stored, handled or used in processes and the types of Significant Materials associated with each area;
- (3) the drainage areas associated with each storm water discharge from the facility/site and the associated ground cover;
- (4) all storm water related drainage and discharge structures including all conveyances systems and appurtenances;
- (5) any structural storm water controls (i.e. detention basins, secondary containment, storm water diversions); and
- (6) all surface waters that receive storm water discharges from the facility.

### b. An Inventory of Significant Materials

Estimate the yearly quantities of Significant Materials handled by the facility unless subject to Part 2.

### c. An Inventory of Spills and Leaks

List substantial spills, leaks or residual deposits of Significant Materials that have occurred within the last three years in areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility. The list shall be updated annually unless subject to Part 2.

## 3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language which identifies and describes the practices which will be implemented by the permittee in order to conform with the following requirements unless subject to any of Parts 2 through 14 :

- a. Non-structural control practices implemented to eliminate or minimize the exposure of Significant Materials to precipitation and storm water run-on during handling, transferring and shipping of Significant Material;
- b. Structural Controls, when needed, to store, cover, enclose, contain, trap or treat Significant Materials or storm water containing Significant Materials;
- c. A response plan which addresses prevention and minimization of releases of oil or hazardous material into the storm water system. When required, the management of oil and hazardous material shall be performed in accordance with 40 C.F.R. Part 117 and 7 Del. C. Chapters 60, 62 and 63.

d. Maintenance

A maintenance program shall describe a schedule of inspections in order to prevent or correct any functional deficiencies of management devices or equipment used to control or prevent the transport of pollutants from the facility by storm water - including - equipment that has the potential to release pollutants to the storm water system as a result of failure or breakdown.

Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

4. Interim Significant Material Management Practices

During the time between the effective date of this Part and the date when any of §9.1.01.5, E.3.a., b., c., or d. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

If a continued transport of substantial amounts of Significant Material through a facility's storm water discharges persists, the Department may require treatment of the contaminated storm water discharges along with limits for contaminant levels. If treatment of the contaminated storm water discharges along with limits for contaminant levels are required, permit coverage through an individual NPDES Storm Water Permit may be required.

F. Non-storm Water Discharges

Discharges to a storm water system of anything other than storm water shall be eliminated or be in compliance with an appropriate NPDES permit. If non-storm water discharges to a storm water system occur, compliance with this Part must be attained by performing one of the following:

1. Obtain coverage through an appropriate Part (general permit) of these regulations; or
2. Develop and submit to the Department a schedule which shall include
  - a. a date for submittal of an application for individual NPDES permit coverage for the non-storm water discharges; or
  - b. a sequence of steps which will result in the elimination of the non-storm water discharges to the storm water system; and

The schedule shall be submitted to the Department within 15 days of when the permittee has knowledge of the non-storm water discharge unless granted a written extension by the Department.

Enclosed Areas where Significant Material is used, stored, handled, shipped, or received shall not have drains connected to any storm water conveyance unless approved by the Department in writing.

G. Review of Plans, Reports, Records or SWP

1. Upon notification from this Department that the SWP does not adequately address the requirements of this Subsection, persons subject to this Subsection shall amend the SWP and submit these amendments to this Department within 30 days of notification. The notification from the Department shall list and describe the deficiencies of the Storm Water Plan.

2. This Department may grant additional time for amending a SWP. This extension must be obtained from the Department in writing.

H. Training

Facility employees and contractor personnel that work in areas where Significant Materials are used or stored shall be appropriately trained to meet the requirements of the SWP. Employee training shall be conducted not less than once per year.

I. Consistency With Other Plans

The Storm Water Plan must comply with any other plans developed for the facility to control discharges of Significant Materials into the environment.

J. Facility Security

Facilities shall have the necessary security systems to prevent an accidental or intentional discharge of hazardous material or oil through vandalism.

K. Additional Requirements for Facilities Subject to SARA III §313 (Water Priority Chemicals)

Appropriate containment, drainage control and/or diversionary structures shall be provided in all areas where Water Priority Chemicals (WPCs) are stored, processed or otherwise handled. At a minimum, the appropriate preventive systems or its equivalent shall be used (an equivalent practice may be used if approved by the Department in writing for this purpose).

1. Storage locations for Non-liquid WPCs shall have roofs, covers or other forms of appropriate protection to prevent exposure of storage piles to storm water and wind; and
2. Storage locations for Liquid WPCs shall include secondary containment providing at least 110% of the entire contents of the largest single tank plus 6 inches to allow for precipitation.

§9.1.01.6

EFFECTIVE DATE OF COVERAGE UNDER THIS PART

A. Commencement of Coverage

Coverage under this Part begins when the Department has received notification pursuant to the NOI requirements outlined in §9.1.01.3.

B. Renotification

Any person subject to the provisions of this Subsection is required to submit a new NOI in accordance with the requirements of the reissued Subsection.

## APPENDIX

SECTION 313 WATER PRIORITY CHEMICALS	
CAS Number	Common Name
75-07-0	Acetaldehyde
107-02-8	Acrolein
107-13-1	Acrylonitrile
309-00-2	Aldrin[1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-(1.alpha.,4a.beta.,5.alpha.,8.alpha.,8a.beta.)-]
107-05-1	Allyl Chloride
7429-90-5	Aluminum (fume or dust)
7664-41-7	Ammonia Nitrogen
120-12-7	Anthracene
7440-36-0	Antimony
7647189	Antimony pentachloride
28300745	Antimony potassium tartrate
7789619	Antimony tribromide
1002-25919	Antimony trichloride
7783564	Antimony trifluoride
1309644	Antimony trioxide
7440-38-2	Arsenic
1303328	Arsenic disulfide
1303282	Arsenic pentoxide
7784341	Arsenic trichloride
1327533	Arsenic trioxide
1303339	Arsenic trisulfide
1332-21-4	Asbestos (friable)
542621	Barium cyanide
71-43-2	Benzene
92-87-5	Benzidine
100470	Benzonitrile

## SECTION 313 WATER PRIORITY CHEMICALS

CAS Number	Common Name
74-87-3	Chloromethane (Methyl chloride)
95-57-8	2-Chlorophenol
106-48-9	4-Chlorophenol
1066304	Chromic acetate
11115745	Chromic acid
10101538	Chromic sulfate
7440-47-3	Chromium
1308-14-1	Chromium (Tri)
10049055	Chromous chloride
7789437	Cobaltous bromide
544183	Cobaltous formate
14017415	Cobaltous sulfamate
7440-50-8	Copper
108-39-4	m-Cresol
9548-7	o-Cresol
106-44-5	p-Cresol
1319-77-3	Cresol (mixed isomers)
142712	Cupric acetate
13002038	Cupric acetoarsenite
7447394	Cupric chloride
3251238	Cupric nitrate
5893663	Cupric oxalate
7758987	Cupric sulfate
10380297	Cupric sulfate, ammoniated
815827	Cupric tartrate
57-12-5	Cyanide
110-82-7	Cyclohexane

## SECTION 313 WATER PRIORITY CHEMICALS

CAS Number	Common Name
100-44-7	Benzyl chloride
7440-41-7	Beryllium
7787475	Beryllium chloride
7787497	Beryllium fluoride
7787555	Beryllium nitrate
111-44-4	Bis(2-chloroethyl) ether
75-25-2-7	Bromoform
74-83-9	Bromomethane (Methyl bromide)
85-68-7	Butyl benzyl phthalate
7440-43-9	Cadmium
543908	Cadmium acetate
7789426	Cadmium bromide
10108642	Cadmium chloride
7778441	Calcium arsenate
52740166	Calcium arsenite
13765190	Calcium chromate
592018	Calcium cyanide
63-25-2	Carbaryl [1-Naphthalenol, methylcarbamate]
75-15-0	Carbon disulfide
56-23-5	Carbon tetrachloride
57-74-9	Chlordane (4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-)
7782-50-5	Chlorine
59-50-7	Chloro-4-methyl-3-phenol p-Chloro-m-cresol
108-90-7	Chlorobenzene
75-00-3	Chloroethane (Ethyl chloride)
67-66-3	Chloroform

## SECTION 313 WATER PRIORITY CHEMICALS

CAS Number	Common Name
94-75-7	2,4-D [Acetic acid, (2,4-dichlorophenoxy)-]
106-93-4	1,2-Dibromoethane (Ethylene dibromide)
84-74-2	Dibutyl phthalate
25321-22-6	Dichlorobenzene (mixed isomers)
95-50-1	1,2-Dichlorobenzene
541-73-1	1,3-Dichlorobenzene
106-46-7	1,4-Dichlorobenzene
91-94-1	3,3'-Dichlorobenzidine
75-27-4	Dichlorobromomethane
107-06-2	1,2-Dichloroethane (Ethylene dichloride)
540-59-0	1,2-Dichloroethylene
120-83-2	2,4-Dichlorophenol
78-87-5	1,2-Dichloropropane
542-75-6	1,3-Dichloropropylene
62-73-7	Dichlorvos [Phosphoric acid, 2,2-dichloroethenyl dimethyl ester]
115-32-2	Dicofol [Benzenemethanol, 4-chloro- $\alpha$ -(4-chlorophenyl)- $\alpha$ -(trichloromethyl)]
84-66-2	Diethyl phthalate
105-67-9	2,4-Dimethylphenol
131-11-3	Dimethyl phthalate
534-52-1	4,6-Dinitro-o-cresol
51-28-5	2,4-Dinitrophenol
121-14-2	2,4-Dinitrotoluene
606-20-2	2,6-Dinitrotoluene
117-84-0	n-Dioctyl phthalate
122-66-7	1,2-Diphenylhydrazine (Hydrazobenzene)
100-41-4	Ethylbenzene

## SECTION 313 WATER PRIORITY CHEMICALS

CAS Number	Common Name
106934	Ethylene dibromide
76-44-8	Heptachlor [1,4,5,6,7,8,8-Helachloro-3a,4,7,7a-tetrahydro-4,7-methano-1H-indene]
118-74-1	Hexachlorobenzene
87-68-3	Hexachloro-1,3-butadiene
77-47-4	Hexachlorocyclopentadiene
67-72-1	Hexachloroethane
7647-01-0	Hydrochloric acid
74-90-8	Hydrogen cyanide
7664-39-3	Hydrogen fluoride
7439-92-1	Lead
301042	Lead acetate
7784409	Lead arsenate
76452526	" "
10102484	" "
7758954	Lead chloride
13814965	Lead fluoborate
7783462	Lead fluoride
10101630	Lead iodide
10099748	Lead nitrate
7428480	Lead stearate
1072351	" "
52652592	" "
7446142	Lead sulfate
1314870	Lead sulfide
592870	Lead thiocyanate
58-89-9	Lindane [Cyclohexane, 1,2,3,4,5,6-hexachloro- (1.alpha.,3.beta.,4.alpha.,5.alpha.,6.beta.)-]

## SECTION 313 WATER PRIORITY CHEMICALS

CAS Number	Common Name
100-1-6	Maleic anhydride
592-11	Mercuric cyanide
10045940	Mercuric nitrate
7783359	Mercuric sulfate
592858	Mercuric thiocyanate
7782867	Mercurous nitrate
7439-97-6	Mercury
72-43-5	Methoxychlor (Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-])
8-62-6	Methyl methacrylate
91-20-3	Naphthalene
7440-02-0	Nickel
15699180	Nickel ammonium sulfate
37211055	Nickel chloride
7718549	" "
12054487	Nickel hydroxide
14216752	Nickel nitrate
7786814	Nickel sulfate
7697-37-2	Nitric acid
98-95-3	Nitrobenzene
88-75-5	2-Nitrophenol
100-02-7	4-Nitrophenol
62-75-9	N-Nitrosodimethylamine
86-30-6	N-Nitrosodiphenylamine
621-64-7	N-Nitrosodi-n-propylamine
56-38-2	Parathion [Phosphorothioic acid, O,O-diethyl-O-(4-nitrophenyl) ester]
87-86-5	Pentachlorophenol (PCP)
108-95-2	Phenol

## SECTION 313 WATER PRIORITY CHEMICALS

CAS Number	Common Name
7664-38-2	Phosphoric acid
7723-14-0	Phosphorus (yellow or white)
1336-36-3	Polychlorinated biphenyls (PCBs)
7784410	Potassium arsenate
10124502	Potassium arsenite
7778509	Potassium bichromate
7789006	Potassium chromate
151508	Potassium cyanide
91-22-5	Quinoline
7782-49-2	Selenium
7446084	Selenium oxide
7440-22-4	Silver
7761888	Silver nitrate
7631892	Sodium arsenate
7784465	Sodium arsenite
10588019	Sodium bichromate
7775113	Sodium chromate
143339	Sodium cyanide
10102188	Sodium selenite
7782823	" "
7789062	Strontium chromate
100-42-5	Styrene
7664-93-9	Sulfuric acid
79-34-5	1,1,2,2-Tetrachloroethane
127-18-4	Tetrachloroethylene (Perchloroethylene)
935-95-5	2,3,5,6-Tetrachlorophenol
78002	Tetraethyl lead

## SECTION 313 WATER PRIORITY CHEMICALS

CAS Number	Common Name
7440-28-0	Thallium
10031591	Thallium sulfate
108-88-33	Toluene
8001-35-2	Toxaphene
52-68-6	Trichlorfon [Phosphonic acid, (2,2,2-trichloro-2-hydroxyethyl)-dimethylester]
120-82-1	1,2,4-Trichlorobenzene
71-55-6	1,1,1-Trichloroethane (Methyl chloroform)
79-00-5	1,1,2-Trichloroethane
79-01-6	Trichloroethylene
95-95-4	2,4,5-Trichlorophenol
88-06-2	2,4,6-Trichlorophenol
7440-62-2	Vanadium (fume or dust)
108-05-4	Vinyl acetate
75-01-4	Vinyl chloride
75-35-4	Vinylidene chloride
108-38-3	m-Xylene
95-47-6	o-Xylene
106-42-3	p-Xylene
1330-20-7	Xylene (mixed isomers)
7440-66-6	Zinc (fume or dust)
557346	Zinc acetate
14639975	Zinc ammonium chloride
14639986	" " "
52628258	" " "
1332076	Zinc borate
7699458	Zinc bromide
3486359	Zinc carbonate
7646857	Zinc chloride

