**Guidance for February 23, 2015 Meeting of the MDC Team**

**Language in SL 2013-82:**

 "**§ 143-214.7B. Fast-track permitting for stormwater management systems.**

The Commission shall adopt rules to establish a fast-track permitting process that allows for the issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application prepared by a qualified professional. In developing the rules, the Commission shall consult with a technical working group that consists of industry experts, engineers, environmental consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The rules shall, at a minimum, provide for all of the following:

(1) A process for permit application, review, and determination.

(2) The types of professionals that are qualified to prepare a permit application submitted pursuant to this section and the types of qualifications such professionals must have.

(3) A process for ensuring compliance with the Minimum Design Criteria.

(4) That permits issued pursuant to the fast-track permitting process comply with State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1).

(5) A process for establishing the liability of a qualified professional who prepares a permit application for a stormwater management system that fails to comply with the Minimum Design Criteria."

**Proposed Rule-Making Schedule:**

The fast-track rule must be adopted no later than May 2016.

Jul 8, 2015 WQC approves rule text

Jul - Oct 2015 DEMLR develops fiscal note

Nov 1, 2015 OSBM certifies fiscal note

Nov 12, 2015 WQC (30 day wavier) / EMC approves rule & fiscal note

Nov 20, 2015 DEMLR’s files rule & fiscal note in Register

Dec 15, 2015 Comment period begins (hearing after 12/29)

Feb 16, 2016 Comment period ends

May 2016 WQC (30 day waiver) / EMC adopts rule

**Note:** As soon as possible, a small technical group will develop MDC for dry ponds, innovative stormwater technologies and low density developments to present to the entire MDC team for review & approval.

Qualified professional\* prepares fast track application package

Determination meeting w/DEMLR:

Is project eligible & complete?

Fast track permit issued in a reasonable timeframe. DEMLR reviews a randomly selected projects for compliance with MDC.

Missing information provided by qualified professional

Submittal sent to regular or express review process

Project or project phase constructed & completed.

Permittee submits marked-up as-built drawings.

As-built drawings are reviewed for compliance. Randomly selected projects receive a field audit in conjunction with the as-built review.

Do the as-built drawings and field audit (if applicable) comply with the MDC?

Does the permittee bring the project up to MDC?

DEMLR issues a letter to close-out the construction phase of the permit. This allows the permittee to transfer permit to owner.

DEMLR informs permittee of the deficiencies in writing.

Enforcement action against qualified professional and permittee.

Ongoing maintenance and compliance for SCMs.

incomplete

ineligible

No

No

Yes

Yes

**Potential Fast-track Process for MDC Team Discussion**

Yes

Feb

2015

Mar

2015

Apr

2015

(blue)

&

May

2015

(pink)

\*Note: We’ll define “qualified professional” in March.

**For Discussion: List of Projects that are not eligible for Fast-Track**

* Projects where that do not follow the MDC.
* Projects claiming vested rights.
* Projects that require a CAMA permit, 401 Certification, buffer approval, waiver or variance from the state.
* Projects that require a watershed permit or other stormwater review from a local government.
* Modifications to existing permits.
* Projects currently in non-compliance
* Projects for Transfer (these require an inspection prior to transfer and often it is found there are issues before a transfer can be processed).
* Off- site permits unless an inspection has already been conducted for the Master permit BMP and it is in compliance.  Here compliance means that the pond is operating correctly and can handle additional stormwater (minor non-compliance like grass not growing on pond slopes should not hold up an offsite.)
* Renewals unless an inspection has already been conducted in the last 3 months and it is in compliance.

**For Discussion: Items that should be required in a Fast-Track Permit Application**

1. Application form and permit application fee. (Should we require use of the Storm-EZ form for fast track?).
2. A sealed, signed, dated & notarized statement that the project has followed the MDC.
3. Suggestion from DEMLR staff: accurate GPS coordinates.
4. A USGS map identifying the site location. If the receiving stream is reported as class SA or the receiving stream drains to and is within 1/2 mile of SA waters, then include the 1/2 mile radius on the map.
5. A copy of the most current property deed.
6. Sealed, signed and dated calculations.
7. Sealed, signed, & dated 24’x36” plans of the entire site at a readable scale, including:

a. Project name, engineer and firm, revision number and dates.

b. Location map with street names and SR numbers, legend, north arrow, scale.

c. Dimensioned property/project boundary with bearings & distances.

d. The boundaries of all surface waters, regulatory flood zones, and protected riparian buffers or a note on the plans that none exist.

e. The boundaries of all vegetated or protected riparian buffers.

f. Site layout showing all built-upon areas, drainage features, stormwater collection systems (inlets, outlets, swales, pipe elevations, slopes and diameters), and SCMs at ultimate build-out.

g. Existing contours, proposed contours, spot elevations, and finished floor elevations.

h. Existing drainage (including off-site), drainage easements, pipe sizes, runoff calculations.

i. Drainage area boundaries (included in the main set of plans, not as a separate document).

j. Existing and proposed maintenance access routes, utility easements, drainage easements, public rights-of-way etc.

k. A construction sequence that shows how the SCMs will be protected from sediment until the entire drainage area is stabilized.

1. Sealed, signed, & dated full-sized plan details of each SCM (or typical if appropriate) in both plan view and cross-section at a scale of 1" = 30' or larger, including:

a. Dimensions, side slopes, length to width ratios and elevations with a benchmark for clean-out if appropriate.

b. All applicable conveyance devices, including: bypass structure, pretreatment area, flow distribution device, underdrains, outlet device, outlet dissipater and level spreader.

c. A table of elevations, incremental volumes and accumulated volumes (if applicable).

d. Specifications for applicable materials, such as planting media, aggregate, sod, underdrains, outlet devices, etc.

1. Sealed, signed, & dated landscaping plans for each wet pond, stormwater wetland and bioretention cell (or typical) at a scale of 1" = 20' or larger, including:
2. Delineation of planting zones (for stormwater wetlands only);
3. Plant layout with species names and locations; and
4. Total number and sizes of all plant species.
5. Sealed, signed, & dated soils report based on field evaluation indicating the SHWT elevations within the footprints of the proposed SCM(s). Provide a map of the boring locations with the existing elevations and boring logs. For infiltration SCMs, the report shall include the soil type, infiltration rate and method for determining the infiltration rate. Soils information shall be signed and sealed by a licensed soil scientist.
6. A copy of the signed and notarized operation and maintenance (O & M) agreement.
7. A copy of the proposed deed restrictions protecting the SCMs and limiting the built-upon area so that it does not exceed the capacity of the SCM(s) or the high density threshold (as applicable).
8. For corporations and limited liability corporations (LLC): Documentation from the NC Secretary of State or other official documentation, which supports the titles and positions held by the persons listed in the Contact Information section. The corporation or LLC must be listed as an active corporation in good standing with the NC Secretary of State, otherwise the application will be returned.
9. A copy of the lease agreement or pending sales agreement if applicable.
10. A Financial Responsibility/Ownership Form.
11. A performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the SCMs are installed by the permit holder as required by the approved stormwater management plan**,** and maintained by the *owner* as required by the operation and maintenance agreement. The amount shall be:
	1. Installation: The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.
	2. Maintenance: The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction’s cost of borrowing minus a reasonable estimate of long-term inflation.