



Michael F. Easley, Governor

William G. Ross Jr., Secretary  
North Carolina Department of Environment and Natural Resources

Coleen H. Sullins, Director  
Division of Water Quality

## Memorandum

August 20, 2007

From: Coleen H. Sullins

Subj: Policy Change Regarding the Review and Approval of Stormwater Management Plans  
Associated with 401 Certification Applications

The purpose of this memorandum is to initiate and publicize a major change in the review and approval of Stormwater Management Plans (SMPs) submitted as part of the 401 Certification application process. At present, all activities that require a 401 Certification and that will also have impervious surface coverage equal to or greater than 30%\* (this 30% is referred to as the "impervious surface threshold") are required to submit a stormwater management plan as part of the 401 application process for review and approval by appropriate DWQ 401 Staff. This current DWQ review and approval is in addition to any local government review and approval of the SMP that may be required under local government implementation of a State-mandated stormwater program. In an effort to maximize the use of limited staff resources at the State and local level, and in order to streamline the permitting process and remove any unnecessary duplication in the review of these stormwater management plans, effective on the date of this memorandum, SMPs that have been approved by an element of a local government as part of that local government's implementation of a State-mandated stormwater control program, will not require additional stormwater approval from DWQ 401 Staff for the approval and issuance of the 401 Certification. For the purposes of this policy, local approval of the SMP under the following State stormwater programs shall satisfy this requirement and shall not require the approval of the SMP by DWQ 401 permitting staff as part of the 401 application process:

- Water Supply Watershed II, III, and IV
- Local Implementation of the NPDES Phase 2 Program
- Universal Stormwater Management Program
- Nutrient Sensitive Waters (NSW) Stormwater Nutrient Loading Limits
- Randleman Lake Water Supply Watershed Stormwater Requirements

Under this new policy, applicants shall submit:

1. A valid approval letter from the appropriate local government indicating that the proposed activity has a SMP that has been approved and indicating under which State stormwater program the approval has been granted along with a copy of the approved SMP, or
2. If the necessary local approval of the SMP has not yet been obtained at the time of application, the application should indicate that a SMP has been, or will be, submitted for local government approval, indicate the local government that approval is being requested from, and indicate under what State stormwater program the activity will be covered by. Any 401 Certification approved under this scenario shall be conditioned so that the proposed activity shall not commence until such time that the appropriate local approval has been granted. In addition, following local

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government approval, a copy of the approved SMP shall be submitted to DWQ for record-keeping purposes.

Applications for 401 Certifications for proposed activities that exceed the impervious surface threshold but are not within a local jurisdiction that is implementing a State stormwater program must still contain a SMP for DWQ review and approval. Applications that exceed the impervious surface threshold and do not contain a SMP or the information specified in #1 and #2 above, shall be returned as incomplete.

As a result of this policy change, the Division of Water Quality will develop a comprehensive training program for those local government personnel directly involved in the SMP review and approval process. Once this training program has been developed, the Division will require that local SMP review personnel attend and successfully complete this course of instruction in order to continue the implementation of this policy within that local jurisdiction. The Division will also develop a proactive audit and review program that will be intended to ensure that the applicable stormwater program requirements are being successfully implemented at the local level.

Notwithstanding the policy previously set forth within this document, the Director of the Division of Water Quality reserves the right to require the review and approval of individual stormwater management plans on a case-by-case basis in order to ensure that a proposed activity will not violate water quality standards. Additionally, the DWQ Director reserves the prerogative to provide comments to local governments of special provisions that may need to be incorporated into locally-reviewed SMPs in order to provide an enhanced level of protection to sensitive watersheds or to provide an enhanced level of stormwater control on unusual projects.

Please direct questions regarding this new policy to Tom Reeder at 919-733-5083 extension 528 or at [tom.reeder@ncmail.net](mailto:tom.reeder@ncmail.net) or Cyndi Karoly at 919-733-9721 or at [cyndi.karoly@ncmail.net](mailto:cyndi.karoly@ncmail.net).

\* Note: Under the ongoing renewal of the NC General Certifications it has been proposed to lower the impervious surface threshold to 24% when the new General Certifications go into effect.