

### **15A NCAC 02H .0153 NPDES MS4 STORMWATER: PROGRAM IMPLEMENTATION**

(a) Permit Standards. To obtain a NPDES permit for stormwater management, an applicant shall develop, implement, and enforce a stormwater management plan approved by the Commission that satisfies the six "minimum control measures" required by 40 CFR 122.34(b). These federal regulations may be accessed at no cost at <http://www.gpo.gov/fdsys/>. The evaluation of the post-construction stormwater management measures required by 40 CFR 122.34(b)(5) shall be conducted as provided in Rule .1017 of this Subchapter. Regulated entities may propose using any existing State or local program that relates to the minimum control measures to meet, either in whole or in part, the requirements of the minimum control measures.

(b) Implementation Schedule. The requirements of this Rule shall be implemented as follows:

- (1) a regulated entity shall apply within 18 months of notification by the Department that the regulated entity is subject to regulation pursuant to Rules .0151(a) and (b) and Rule .1016 of this Subchapter;
- (2) public education and outreach minimum measures shall be implemented within 12 months from date of permit issuance;
- (3) a regulated entity shall implement its post-construction program no later than 24 months from the date the permit is issued; and
- (4) the Department shall include permit conditions that establish schedules for implementation of each minimum control measure of the regulated entity's stormwater management program based on the submitted application so that the regulated entity implements its permitted program within five years from permit issuance.

(c) Federal and State Projects. The Commission shall have jurisdiction, to the exclusion of local governments, to issue a NPDES permit for stormwater management to a federal or State agency that applies to all or part of the activities of the agency or that applies to the particular project. If a federal or State agency does not hold a MS4 NPDES permit for stormwater management that applies to the particular project within North Carolina, then the project shall be subject to the stormwater management requirements of this Rule as implemented by the Commission or by a local government. The provisions of G.S. 153A-347 and G.S. 160A-392 apply to the implementation of this Rule.

(d) General Permit. The Commission shall develop and issue a NPDES general permit for stormwater management. The general permit requirements for post-construction stormwater management measures required by 40 CFR 122.34(b)(5) shall require a permittee to meet the standards set forth in Rule .1017 of this Subchapter. After the Commission has issued a National Pollutant Discharge Elimination System (NPDES) general permit for stormwater management, a public entity that has applied for a permit may submit a notice of intent to be covered under the general permit to the Commission. The notice of intent shall be submitted to the Division accompanied by the application fee as set forth in G.S. 143-215.3D. The Commission shall treat an application for a permit as an application for an individual permit unless the applicant submits a notice of intent to be covered under a general permit under this Paragraph.

(e) The exclusions from the requirement to obtain a NPDES permit for stormwater management set out in 40 CFR 122.3, including the exclusions for certain nonpoint source agricultural and silvicultural activities, apply to the provisions of this Rule.

(f) In order to fulfill the post-construction minimum control measure requirement for linear transportation projects, including private transportation projects constructed to North Carolina Department of Transportation standards that will be conveyed to the State or another public entity upon completion, a permittee, delegated program, or regulated entity may use the Stormwater Best Management Practices Toolbox (Version 2, April 2014 Edition) developed by the North Carolina Department of Transportation which is herein incorporated by reference, including any subsequent amendments and editions, and may be accessed at no cost at [https://connect.ncdot.gov/resources/hydro/HSPDocuments/2014\\_BMP\\_Toolbox.pdf](https://connect.ncdot.gov/resources/hydro/HSPDocuments/2014_BMP_Toolbox.pdf).

*History Note:* Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 2006-246; S.L. 2014-1; Eff. July 3, 2012; Readopted Eff. January 1, 2017.