

**STATE of NORTH CAROLINA  
DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES  
DIVISION of WATER QUALITY**

**PERMIT NO. NCS000430  
TO DISCHARGE STORMWATER UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

Town of Montreat

is hereby authorized to discharge stormwater from their municipal separate storm sewer system located:


within the Town of Montreat Jurisdictional Area  
Buncombe County

to receiving waters, Flat Creek, Big Piney Branch, Kitchen Branch, Little Piney Branch, Puncheon Branch, and unnamed tributaries below Little Piney Branch, within the French Broad River basin in accordance with the discharge limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, VI, VII and VIII hereof.

This permit shall become effective July 1, 2005.

This permit and the authorization to discharge shall expire at midnight on June 30, 2010.

Signed this day June 22, 2005.

  
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Alan W. Klimek, P.E., Director  
Division of Water Quality  
By the Authority of the Environmental Management Commission

## **TABLE OF CONTENTS**

<b>PART I</b>	<b>PERMIT COVERAGE</b>
<b>PART II</b>	<b>FINAL LIMITATIONS AND CONTROLS FOR PERMITTED DISCHARGES</b>
	<b>SECTION A: PROGRAM IMPLEMENTATION</b>
	<b>SECTION B: PUBLIC EDUCATION AND OUTREACH</b>
	<b>SECTION C: PUBLIC INVOLVEMENT AND PARTICIPATION</b>
	<b>SECTION D: ILLICIT DISCHARGE DETECTION AND ELIMINATION</b>
	<b>SECTION E: CONSTRUCTION SITE RUNOFF CONTROLS</b>
	<b>SECTION F: POST-CONSTRUCTION, SITE RUNOFF CONTROLS</b>
	<b>SECTION G: POLLUTION PREVENTION AND GOOD HOUSEKEEPING FOR MUNICIPAL OPERATIONS</b>
<b>PART III</b>	<b>PROGRAM ASSESSMENT</b>
<b>PART IV</b>	<b>REPORTING AND RECORD KEEPING REQUIREMENTS</b>
<b>PART V</b>	<b>STANDARD CONDITIONS</b>
	<b>SECTION A: COMPLIANCE AND LIABILITY</b>
	<b>SECTION B: OPERATION AND MAINTENANCE OF POLLUTION CONTROLS</b>
	<b>SECTION C: MONITORING AND RECORDS</b>
<b>PART VI</b>	<b>LIMITATIONS REOPENER</b>
<b>PART VII</b>	<b>ADMINISTERING AND COMPLIANCE MONITORING FEE REQUIREMENTS</b>
<b>PART VIII</b>	<b>DEFINITIONS</b>

**PART I PERMIT COVERAGE**

1. During the period beginning on the effective date of the permit and lasting until expiration, the town of Montreat is authorized to discharge stormwater from the municipal separate storm sewer system (MS4) to receiving waters, Flat Creek, Big Piney Branch, Kitchen Branch, Little Piney Branch, Puncheon Branch, and unnamed tributaries below Little Piney Branch, within the French Broad River basin. Such discharge will be controlled, limited and monitored in accordance with the permittee's Comprehensive Stormwater Management Program Report, herein referred to as the Stormwater Plan. The Stormwater Plan includes components of the permittee's Phase II Municipal NPDES Stormwater Permit Application, NPDES Stormwater Permit Application Comprehensive Stormwater Management Program Report and any approved modifications.
2. All discharges authorized herein shall be adequately managed in accordance with the terms and conditions of this permit. Any other point source discharge to surface waters of the state is prohibited unless it is an allowable non-stormwater discharge or is covered by another permit, authorization, or approval.
3. This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.
4. This permit covers activities associated with the discharge of stormwater from the MS4 within the jurisdictional area of the permittee as described in the approved local Stormwater Plan to control potential pollution from the MS4. The permit applies to current and future jurisdictional areas of the permittee, as well as areas that seek coverage under this permit through inter-local or other similar agreements with permittee. Agreements for coverage under this permit must be approved by the Division of Water Quality, herein referred to as the Division.
5. The Division may deny or revoke coverage under this permit for separate entities and require independent permit coverage as deemed necessary. In addition, the permittee may petition the Division to revoke or deny coverage under this permit for specific entities.
6. Under the authority of Section 402(p) of the Clean Water Act and implementing regulations 40 CFR Part 122, 123 and 124, North Carolina General Statutes 143-215.1 and Session Law 2004-163 and in accordance with the approved Stormwater Plan, all provisions contained and referenced in the Stormwater Plan are enforceable parts of this permit. The permittee will develop and implement its approved Stormwater Plan in accordance with Section 402(p)(3)(B) of the Clean Water Act, provisions outlined by the Director, and the provisions of this permit.
- 7.
7. The permit requires the development and proper implementation of the Stormwater Management Plan. The purpose of the Stormwater Management Plan is to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water

quality, and to satisfy the applicable water quality requirements of the Clean Water Act. Implementation of best management practices consistent with the provisions of the Stormwater Management Plan constitutes compliance with the standard of reducing pollutants to the maximum extent practicable. Successive iterations of the Stormwater Management Plan and other components of this permit will be driven by the objective of assuring that discharges do not cause or contribute to the violation of water quality standards, through the expansion and tailoring of management measures within the scope of the Stormwater Management Plan.

8. The permit authorizes the point source discharge of stormwater runoff from the MS4. In addition, discharges of non-stormwater are also authorized through the MS4 of the permittee if such discharges are:
- (a) Permitted by, and in compliance with, another NPDES discharge permit including discharges of process and non-process wastewater, and stormwater associated with industrial activity; or
  - (b) Determined to be incidental non-stormwater flows that do not significantly impact water quality and may include:
    - water line flushing;
    - landscape irrigation;
    - diverted stream flows;
    - rising groundwaters;
    - uncontaminated groundwater infiltration;
    - uncontaminated pumped groundwater;
    - discharges from potable water sources;
    - foundation drains;
    - air conditioning condensate (commercial/residential);
    - irrigation waters (does not include reclaimed water as described in 15A NCAC 2H .0200);
    - springs;
    - water from crawl space pumps;
    - footing drains;
    - lawn watering;
    - residential and charity car washing;
    - flows from riparian habitats and wetlands;
    - dechlorinated swimming pool discharges;
    - street wash water;
    - flows from emergency fire fighting.

The Division may require that non-stormwater flows of this type be controlled by the permittee's Stormwater Plan.

## **PART II FINAL LIMITATIONS AND CONTROLS FOR PERMITTED DISCHARGES**

### **SECTION A: PROGRAM IMPLEMENTATION**

The permittee will implement, manage and oversee all provisions of its Stormwater Plan to reduce pollutants discharged from the MS4. This includes, but is not limited to, the following areas:

1. The permittee will develop and maintain adequate legal mechanism, such as regulations, ordinances, policies and procedures to implement all provisions of the Stormwater Plan. The permittee will keep the Division advised of the status of development of appropriate ordinances and legal authorities and will pursue these authorities in accordance with the schedule outlined in the Stormwater Plan.
2. The permittee's Stormwater Plan will be implemented and managed such that the discharge of pollutants from the MS4 is reduced to the maximum extent practicable. It is anticipated that in order to meet this provision, implementation of the Stormwater Plan will occur with emphasis given to priority areas and to management measures and programs that are most effective and efficient at varying stages of the plan's implementation.
3. The permittee will implement the components of the Stormwater Plan to prohibit, to the maximum extent practicable, illicit connections, spills and illegal dumping into the MS4.
4. The permittee will implement provisions of the Stormwater Plan as appropriate to monitor and assess the performance of the various management measures that are a part of the Stormwater Plan. This will include the provisions of this permit.
5. The permittee will maintain adequate funding and staffing to implement and manage the provisions of the Stormwater Plan.
6. The permittee will implement appropriate education, training, outreach, and public involvement programs to support the objectives of this stormwater discharge permit and the Stormwater Plan.
7. The permittee will implement a program to reduce pollution from construction site runoff as described in the Stormwater Plan and in accordance with this permit.
8. The permittee will implement a post-construction site runoff control program to regulate new development and redevelopment by requiring structural and non-structural best management practices to protect water quality, to reduce pollutant loading, and to minimize post-development impacts. This program will include provisions for long-term operation and maintenance of BMPs.

9. The permittee will evaluate municipal operations and develop and implement an appropriate program for municipal activities and ongoing operation and maintenance of municipal facilities to reduce the potential for stormwater pollution.
10. Proposed permit modifications must be submitted to the Director for approval.

**SECTION B: PUBLIC EDUCATION AND OUTREACH**

**1. Objectives for Public Education and Outreach**

- (a) Distribute educational materials to the community.
- (b) Conduct public outreach activities.
- (c) Raise public awareness on the causes and impacts of stormwater pollution.
- (d) Inform the public on steps they can take to reduce or prevent stormwater pollution.

**2. BMPs for Public Education and Outreach**

The permittee shall implement the following BMPs to meet the objectives of the Public Education and Outreach Program and shall notify the Division prior to modification of any goals.

BMP	Measurable Goals	YR	YR	YR	YR	YR
		1	2	3	4	5
(a) Establish a Public Education and Outreach Program	Develop a public education program and implement within 12 months of the permit issue date. Incorporate outreach elements for significant minority and disadvantaged communities.	X	X	X	X	X
(b) Informational Web Site	Develop and maintain internet web site. Post newsletter articles on stormwater, information on water quality, stormwater projects and activities, and ways to contact stormwater management program staff.	X	X	X	X	X
(c) Public education materials for schools, homeowners, and/or businesses	Develop general stormwater educational material to appropriate target groups as likely to have a significant stormwater impact. Instead of developing its own materials, the permittee may rely on state-supplied Public Education and Outreach materials, as available, when implementing its own program.			X	X	X
(d) Public education material dissemination	Distribute written educational material to a broad public audience. Possibilities include, but are not limited to utility mailouts and at special events.			X	X	X

**SECTION C: PUBLIC INVOLVEMENT AND PARTICIPATION**

**1. Objectives for Public Involvement and Participation**

- (a) Provide opportunities for the public, including major economic and ethnic groups, to participate in program development and implementation.
- (b) Comply with applicable state and local public notice requirements.

**2. BMPs for Public Involvement and Participation**

The permittee shall implement the following BMPs to meet the objectives of the Public Involvement and Participation Program and shall notify the Division prior to modification of any goals.

BMP	Measurable Goals	YR	YR	YR	YR	YR
		1	2	3	4	5
(a) Administer a Public Involvement Program	Develop and implement a Public Involvement and Participation Program.	X	X	X	X	X
(b) Allow the public an opportunity to review and comment on the Stormwater Plan	Conduct at least one public meeting to allow the public an opportunity to review and comment on the Stormwater Plan.	X				
(c) Organize a volunteer community involvement program	Organize and implement a volunteer stormwater related program designed to promote ongoing citizen participation.	X	X	X	X	X
(c) Establish a Citizens' Group(s)	Develop a citizens' group(s) for input on stormwater issues and the stormwater program.	X	X	X	X	X

**SECTION D: ILLICIT DISCHARGE DETECTION AND ELIMINATION**

**1. Objectives for Illicit Discharge Detection and Elimination**

- (a) Detect and eliminate illicit discharges, including spills and illegal dumping.
- (b) Address significant contributors of pollutants to the MS4. The permittee may require specific controls for a category of discharges, or prohibit that discharge completely, if one or more of these categories of sources are identified as a significant contributor of pollutants to the MS4.
- (c) Implement appropriate enforcement procedures and actions.
- (d) Develop a storm sewer system map showing all outfalls and waters receiving discharges.
- (e) Inform employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

**2. BMPs for Illicit Discharge Detection and Elimination**

The permittee shall implement the following BMPs to meet the objectives of the Illicit Discharge Detection and Elimination Program and shall notify the Division prior to modification of any goals.

BMP	Measurable Goals	YR	YR	YR	YR	YR
		1	2	3	4	5
(a) Develop/Implement Illicit Discharge Detection and Elimination Program	Develop and implement an Illicit Discharge Detection and Elimination Program. Include provisions for program assessment and evaluation.	X	X	X	X	X
(b) Establish and maintain appropriate legal authorities	Establish and maintain adequate legal authorities to prohibit illicit discharges and enforce the approved Illicit Discharge Detection and Elimination Program.		X	X	X	X
(c) Develop a Storm Sewer System Base Map	Identify outfall locations and map stormwater drainage system components. At a minimum, mapping components includes outfalls, drainage areas, and receiving streams.		X	X	X	X
(d) Implement illicit discharge detection procedures	Implement an inspection program to detect dry weather flows at system outfalls. Establish procedures for tracing the sources of illicit discharges and for removing the sources. Develop procedures for identification of priority areas likely to have illicit discharges. Continue to identify, locate, and update map of drainage system components on a priority basis per approved Illicit Discharge Program.		X	X	X	X

BMP	Measurable Goals	YR 1	YR 2	YR 3	YR 4	YR 5
(e) Conduct employee cross-training	Conduct training for municipal staff on detecting and reporting illicit discharges.		X	X	X	X
(f) Provide public education	Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.	X	X	X	X	X
(g) Establish a public reporting mechanism	Establish and publicize a reporting mechanism for the public to report illicit discharges.		X	X	X	X

**SECTION E: CONSTRUCTION SITE RUNOFF CONTROLS****1. Objectives for Construction Site Runoff Controls**

- (a) Reduce pollutants in stormwater runoff from construction activities disturbing one or more acres of land surface and those activities less than one acre that are part of a larger common plan of development.
- (b) Provide procedures for public input, sanctions to ensure compliance, requirements for construction site operators to implement appropriate erosion and sediment control practices, review of site plans which incorporates consideration of potential water quality impacts, and procedures for site inspection and enforcement of control measures.
- (c) Establish requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.

**2. BMPs for Construction Site Runoff Controls**

The permittee relies on the NCDENR Division of Land Resources (DLR) Erosion and Sediment Control Program to comply with this minimum measure.

The NCDENR Division of Land Resources Erosion and Sediment Control Program effectively meets the requirements of the Construction Site Runoff Controls by permitting and controlling development activities disturbing one or more acres of land surface and those activities less than one acre that are part of a larger common plan of development. This program is authorized under the Sediment pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code. This program includes procedures for public input, sanctions to ensure compliance, requirements for construction site operators to implement appropriate erosion and sediment control practices, review of site plans which incorporates consideration of potential water quality impacts, and procedures for site inspection and enforcement of control measures.

NCDENR Division of Water Quality NPDES general permit for construction activities (NCG010000), specifically Par I, Section A, Paragraphs 3, 4, 5, and 6, effectively meets the above requirements. The NCG010000 permit establishes requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.

The permittee must provide and promote a means for the public to notify the appropriate authorities of observed erosion and sedimentation problems. The permittee may implement a plan promoting the existence of the NCDENR, Division of Land Resources "Stop Mud" hotline to meet the requirements of this paragraph.

The permittee may pursue local government implementation of the Erosion and Sediment Control Program by requesting a "minor modification" to the permit.

**SECTION F: POST-CONSTRUCTION SITE RUNOFF CONTROLS**

**1. Objectives for Post-Construction Site Runoff Controls**

- (a) Manage stormwater runoff from new development / redevelopment that drains to the MS4 and disturbs an acre or more of land surface, including projects less than an acre that are part of a larger common plan of development or sale.
- (b) Provide a mechanism to require long term operation and maintenance of BMPs.
- (c) Ensure controls are in place to minimize water quality impacts.

**2. BMPs for Post-Construction Site Runoff Controls**

The permittee shall implement the following BMPs to meet the objectives of the Post-Construction Stormwater Management Program.

<b>BMP</b>	<b>Measurable Goals</b>	<b>YR 1</b>	<b>YR 2</b>	<b>YR 3</b>	<b>YR 4</b>	<b>YR 5</b>
(a) Establish a Post-Construction Stormwater Management Program	Develop, adopt by ordinance (or similar regulatory mechanism), implement, and enforce a program to address stormwater runoff from new development and redevelopment. The ordinance must be reviewed and approved by the Director prior to implementation. Ensure that controls are in place to prevent or minimize water quality impacts.		X	X	X	X
(b) Establish strategies which include BMPs appropriate for the MS4	Develop and implement strategies that include a combination of structural and/or non-structural BMPs. Provide a mechanism to require adequate long-term operation and maintenance of structural BMPs. Require annual inspection reports of permitted structural BMPs performed by a qualified professional.		X	X	X	X
(c) Establish a program to control the sources of fecal coliform to the maximum extent practicable	Control the sources of fecal coliform to the maximum extent practicable. Develop and implement an oversight program to ensure proper operation and maintenance of on-site wastewater treatment systems for domestic wastewater. Municipalities must coordinate this program with the county health department.	X	X	X	X	X

3. **The evaluation of Post-construction Stormwater Management Program measures**

- (a) Those areas within the jurisdictional area of the permittee that are already subject to the existing state stormwater management programs listed herein are deemed compliant with the post-construction stormwater management model practices identified in (b) below. The listed programs are: the Water Supply Watershed protection programs for WS-I – WS-IV waters, the HQW and ORW waters management strategies, the Neuse River Basin Nutrient Sensitive Waters Management Strategy, the Tar-Pamlico River Basin Nutrient Sensitive Waters Management Strategy, and the Randleman Lake Water Supply Watershed program.
- (b) Model Practices. For those areas within the jurisdictional area of the permittee that are not subject to the post-construction stormwater management provisions of another existing state stormwater management program, the permittee’s Post-construction Stormwater Management Program must equal or exceed the stormwater management and water quality protection provided by the following model practices.
  - (i) The permittee may issue a local stormwater management permit to a development or redevelopment project as either a low density project or a high density project.
  - (ii) A project may be permitted as a low density project if it meets the following criteria:
    - (A) No more than two dwelling units per acre or 24% built-upon area;
    - (B) Use of vegetated conveyances to the maximum extent practicable;
    - (C) All built-upon areas are at least 30 feet landward of perennial and intermittent surface waters; and,
    - (D) Deed restrictions and protective covenants are required by the locally issued permit and incorporated by the development to ensure that subsequent development activities maintain the development (or redevelopment) consistent with the approved plans.
  - (iii) A project not consistent with the requirements for a low density project may be permitted as a high density project if it meets the following requirements:
    - (A) The stormwater control measures must control and treat the difference between the pre-development and post-development conditions for the 1-year 24-hour storm. Runoff volume drawdown time must be a minimum of 24 hours, but not more than 120 hours;
    - (B) All structural stormwater treatment systems must be designed to achieve 85% average annual removal of total suspended solids;

- (C) Stormwater management measures must comply with the General Engineering Design Criteria For All Projects requirements listed in 15A NCAC 2H .1008(c);
  - (D) All built-upon areas are at least 30 feet landward of perennial and intermittent surface waters; and,
  - (E) Deed restrictions and protective covenants are required by the locally issued permit and incorporated by the development to ensure that subsequent development activities maintain the development (or redevelopment) consistent with the approved plans.
- (c) Watershed Protection Plans. Public bodies may develop and implement comprehensive watershed protection plans that may be used to meet part, or all, of the requirements for post-construction stormwater management.
- (d) A regulated entity may develop its own comprehensive watershed plan, may use the model ordinance developed by the Commission, may design its own post-construction practices based on the Division's guidance and engineering standards for best management practices, or it may incorporate the post-construction model practices to satisfy, in whole or in part, the requirements for post-construction stormwater management.

**SECTION G: POLLUTION PREVENTION AND GOOD HOUSEKEEPING FOR MUNICIPAL OPERATIONS**

**1. Objective for Pollution Prevention and Good Housekeeping for Municipal Operations**

Prevent or reduce stormwater pollution from municipal operations.

**2. BMPs for the Pollution Prevention and Good Housekeeping for Municipal Operations**

The permittee shall implement the following BMPs to meet the objectives of the Pollution Prevention and Good Housekeeping Program and shall notify the Division prior to modification of any goals.

BMP	Measurable Goals	YR	YR	YR	YR	YR
		1	2	3	4	5
(a) Develop an operation and maintenance program	Develop an operation and maintenance program that has the ultimate goal of preventing or reducing pollutant runoff from municipal operations.			X	X	X
(b) Inspection and evaluation of facilities, operations, and the MS4 system and associated structural BMPs.	Develop an inventory of all facilities and operations owned and operated by the permittee with the potential for generating polluted stormwater runoff, including the MS4 system and associated structural BMPs. Inspect potential sources of polluted runoff, the stormwater controls, and conveyance systems. Evaluate the sources, document deficiencies, plan corrective actions, and document the accomplishment of corrective actions.			X	X	X
(c) Conduct staff training	Conduct staff training specific for pollution prevention and good housekeeping procedures.			X	X	X
(d) Review of municipality owned or operated regulated industrial activities	Conduct annual review of the industrial activities with a Phase I NPDES stormwater permit owned and operated by the permittee. Review the following aspects: the Stormwater Pollution Prevention Plan where one is required, the timeliness of any monitoring reports required by the Phase I permit, and the results of inspections and subsequent follow-up actions at the facilities.	X	X	X	X	X

### PART III PROGRAM ASSESSMENT

1. Implementation of the Stormwater Plan will include documentation of all program components that are being undertaken including, but not limited to, inspections, maintenance activities, educational programs, implementation of BMPs, enforcement actions, and other stormwater activities. If monitoring and sampling are being performed documentation of results shall be included. Documentation will be kept on-file by the permittee for a period of five years and made available to the Director or his authorized representative immediately upon request.
2. The permittee's Stormwater Plan will be reviewed and updated as necessary, but at least on an annual basis. The permittee will submit a report of this evaluation and monitoring information to the Division on an annual basis. This information will be submitted by August 31 of each year and cover the previous year's activities from July 1 to June 31. The permittee's reporting will include appropriate information to accurately describe the progress, status, and results of the permittee's Stormwater Plan and will include, but is not limited to, the following components:
  - (a) The permittee will give a detailed description of the status of implementation of the Stormwater Plan. This will include information on development and implementation of all components of the Stormwater Plan for the past year and schedules and plans for the year following each report.
  - (b) The permittee will adequately describe and justify any proposed changes to the Stormwater Plan. This will include descriptions and supporting information for the proposed changes and how these changes will impact the Stormwater Plan (results, effectiveness, implementation schedule, etc.).
  - (c) The permittee will document any necessary changes to programs or practices for assessment of management measures implemented through the Stormwater Plan. In addition, any changes in the cost of, or funding for, the Stormwater Plan will be documented.
  - (d) The permittee will include a summary of data accumulated as part of the Stormwater Plan throughout the year along with an assessment of what the data indicates in light of the Stormwater Plan.
  - (e) The permittee will provide information on the annual expenditures and budget anticipated for the year following each report along with an assessment of the continued financial support for the overall Stormwater Plan.
  - (f) The permittee will provide a summary of activities undertaken as part of the Stormwater Plan throughout the year. This summary will include, but is not limited to, information on the establishment of appropriate legal authorities, project assessments, inspections, enforcement actions, continued inventory and

review of the storm sewer system, education, training and results of the illicit discharge detection and elimination program.

3. The Director may notify the permittee when the Stormwater Plan does not meet one or more of the requirements of the permit. Within 30 days of such notice, the permittee will submit a plan and time schedule to the Director for modifying the Stormwater Plan to meet the requirements. The Director may approve the corrective action plan, approve a plan with modifications, or reject the proposed plan. The permittee will provide certification in writing (in accordance with Part IV, Paragraph 2) to the Director that the changes have been made. Nothing in this paragraph shall be construed to limit the Director's ability to conduct enforcement actions for violations of this permit.
4. The Division may request additional reporting information as necessary to assess the progress and results of the permittee's Stormwater Plan.

## PART IV REPORTING AND RECORD KEEPING REQUIREMENTS

### 1. Records

The permittee shall retain records of all information required by this permit for a period of at least 5 years from the date of acquisition. This period may be extended by request of the Director at any time prior to the end of the five-year period.

### 2. Report Submittals

- (a) Duplicate signed copies of all reports required herein, shall be submitted to the following address:

Department of Environment and Natural Resources  
Division of Water Quality  
Stormwater Permitting Unit  
1617 Mail Service Center  
Raleigh, North Carolina 27699-1617

- (b) All applications, reports, or information submitted to DWQ shall be signed by a principal executive officer, ranking elected official or duly authorized representative. A person is a duly authorized representative only if:
- (i) The authorization is made in writing by a principal executive officer or ranking elected official;
  - (ii) The authorization specified either an individual or a position having responsibility for the overall operation of a regulated facility or activity or an individual or position having overall responsibility for environmental/stormwater matters; and
  - (iii) The written authorization is submitted to the Director.
- (c) Any person signing a document under paragraphs (a) or (b) of this section 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 gather and evaluate 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 fines and imprisonment for knowing violations."

**3. Recording Results**

For each activity performed or information collected pursuant to the requirements of this permit, the permittee shall record the following information:

- (a) The dates, exact place, and time of the activity or information collected;
- (b) The individual(s) who performed activity;
- (c) The techniques or methods used; and
- (d) The results of such activity or information collected.

**4. Twenty-four Hour Reporting**

The permittee shall report to the central office or the appropriate regional office any noncompliance that may constitute an imminent threat to health or the environment. Any information shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances.

The written submission shall contain a description of the noncompliance, and its causes; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time compliance is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

**5. Annual Reporting**

The permittee will submit reporting and monitoring information on an annual basis per Part III of this permit on forms provided by the DWQ.

**6. Additional Reporting**

The Director may request reporting information on a more frequent basis as deemed necessary either for specific portions of the permittee's Stormwater Plan, or for the entire Program.

**7. Other Information**

Where the permittee becomes aware that it failed to submit any relevant facts in applying to be covered under this permit or in any report to the Director, it shall promptly submit such facts or information.

## PART V STANDARD CONDITIONS

### SECTION A: COMPLIANCE AND LIABILITY

#### 1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of permit coverage upon renewal application.

- (a) The permittee shall comply with standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) The Clean Water Act provides that any person who violates a permit condition is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently \$27,500 per day for each violation). Any person who negligently violates any permit condition is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than 1 year, or both. Any person who knowingly violates permit conditions is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. Also, any person who violates a permit condition may be assessed an administrative penalty not to exceed \$11,000 per violation with the maximum amount not to exceed \$137,500. [Ref: Section 309 of the Federal Act 33 USC 1319 and 40 CFR 122.41(a).]
- (c) Under state law, a daily civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation may be assessed against any person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit. [Ref: North Carolina General Statutes 143-215.6A]
- (d) Any person may be assessed an administrative penalty by the Administrator for violating sections 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently \$11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$27,500). Pursuant to 40 CFR Part 19 and the Act, penalties for Class II violations

are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently \$11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$137,500).

**2. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

**3. Civil and Criminal Liability**

Nothing in this permit shall be construed to relieve the permittee from any responsibilities, liabilities, or penalties for noncompliance pursuant to NCGS 143-215.3, 143-215.6A, 143-215.6B, 143-215.6C or Section 309 of the Federal Act, 33 USC 1319. Furthermore, the permittee is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

**4. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under NCGS 143-215.75 et seq. or Section 311 of the Federal Act, 33 USC 1321.

**5. Property Rights**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

**6. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

**7. Duty to Provide Information**

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the coverage issued pursuant to this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required by this permit.

**8. Penalties for Tampering**

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

**9. Penalties for Falsification of Reports**

The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both.

**10. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The notification of planned changes or anticipated noncompliance does not stay any permit condition.

**SECTION B: OPERATION AND MAINTENANCE of POLLUTION CONTROLS**

**1. Proper Operation and Maintenance**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are owned and/or operated by the permittee to achieve compliance with the conditions of this permit.

**2. Need to Halt or Reduce not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the condition of this permit.

**SECTION C: MONITORING AND RECORDS**

**1. Representative Sampling**

When required herein, stormwater samples collected and measurements taken shall be characteristic of the volume and nature of the permitted discharge. Analytical stormwater sampling shall be performed during a representative storm event. These samples shall be taken on a day and time that is characteristic of the discharge. Where appropriate, all stormwater samples shall be taken before the discharge joins or is diluted by any other waste stream, body of water, or substance. When specified herein, monitoring points established in this permit shall not be changed without notification to and approval of the Director.

**2. Flow Measurements**

Where required, appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges.

**3. Test Procedures**

Test procedures for the analysis of pollutants shall conform to the EMC regulations published pursuant to NCGS 143-215.63 et. seq, the Water and Air Quality Reporting Acts, and to regulations published pursuant to Section 304(g), 33 USC 1314, of the Federal Water Pollution Control Act, as Amended, and Regulation 40 CFR 136.

To meet the intent of the monitoring required by this permit, all test procedures must produce minimum detection and reporting levels and all data generated must be reported down to the minimum detection or lower reporting level of the procedure.

**4. Inspection and Entry**

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Director), or in the case of a facility which discharges through a municipal separate storm sewer system, an authorized representative of a municipal operator or the separate storm sewer system receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to;

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

**5. Availability of Reports**

Except for data determined to be confidential under NCGS 143-215.3(a)(2) or Section 308 of the Federal Act, 33 USC 1318, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Water Quality. As required by the Act, analytical data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NCGS 143-215.6B or in Section 309 of the Federal Act.

## **PART VI LIMITATIONS REOPENER**

The issuance of this permit does not prohibit the Director from reopening and modifying the permit, revoking and reissuing the permit, or terminating the permit as allowed by the laws, rules, and regulations contained in Title 40, Code of Federal Regulations, Parts 122 and 123; Title 15A of the North Carolina Administrative Code, Subchapter 2H .0100; and North Carolina General Statute 143-215.1 et. al.

**PART VII ADMINISTERING AND COMPLIANCE MONITORING FEE  
REQUIREMENTS**

The permittee must pay the administering and compliance monitoring fee within 30 (thirty) days after being billed by the Division. Failure to pay the fee in a timely manner in accordance with 15A NCAC 2H .0105(b)(4) may cause this Division to initiate action to revoke the permit.