



North Carolina Department of Environment and Natural Resources

Division of Water Quality

Beverly Eaves Perdue
Governor

Coleen H. Sullins
Director

Dee Freeman
Secretary

Guidance: Coverage of Mines under Phase II Post-Construction Requirements

Revised: April 9, 2010

Approvals:

	<u>Initials</u>	<u>Date</u>
Bradley Bennett, SPU Supervisor	<u>BB</u>	<u>4/12/10</u>
Cyndi Karoly, Wetlands & Stormwater Branch Chief	<u>CK</u>	<u>4/13/10</u>
Matt Matthews, Surface Water Protection Section Chief	<u>mm</u>	<u>4/13/2010</u>

Background Information:

This memo supplies guidance on the post-construction stormwater permitting of non-metallic mines in North Carolina. This guidance addresses how the Division of Water Quality (DWQ) deals with mines that disturb one acre or more of land and are located in areas subject to Phase II Post-Construction requirements.

The SPU believes this guidance is in harmony with the intent of North Carolina Session Law 2006-246 which states that "permittees, delegated programs, and regulated entities must require stormwater controls for a project that disturbs one acre or more of land, including a project that disturbs less than one acre of land that is part of a larger common plan of development or sale." This guidance is also consistent with the current requirements of the 20 Coastal Stormwater Law (S.L. 2008-211). Additionally, this guidance clarifies the application of different state stormwater permitting programs and ensures consistency between stormwater programs within North Carolina.

Guidance:

- New guidance or clarification
- Revision to old guidance

- 1) Under Session Law 2006-246, projects, including mines, which are located in areas subject to Phase II Post-Construction requirements and (1) disturb one acre or more of land (or less than one acre of land that is part of a larger common plan of development) and (2) add impervious area, must include permanent stormwater controls to manage stormwater runoff from "Built Upon Area" (BUA) as defined in S.L. 2006-246.
- 2) This one acre threshold applies in North Carolina's 80 non-coastal counties, and in Phase II communities in the 20 Coastal Counties that are currently regulated by the Division. In all other areas in North Carolina's 20 coastal counties, projects that add more than 10,000 square feet of BUA will require a post-construction permit under the Coastal State Stormwater Program (per Session Law 2008-211).
- 3) DWQ recognizes mining operations may not be like other development projects as all BUA-associated stormwater runoff may drain into the mining pit(s). Where all mining stormwater runoff from built upon area does not drain to the mining pit, other wastewater treatment devices, or otherwise comingle with wastewater, the mine will be subject to post-construction requirements. Built upon area at mines includes large stockpiles or other zones where impervious area is effectively created for or by the mining operation.

- 4) North Carolina requires such projects to submit plans and an application to the correct permitting authority to have these permanent stormwater controls reviewed and permitted. Projects, including mines, which are located in Phase II Post-Construction areas and are not permitted by local entities, shall be submitted to the N.C. Division of Water Quality Central Office Stormwater Permitting Unit or appropriate Regional Office.

Basis for Guidance:

Based on review of the SL, the above guidance was produced to clarify the intent of the SL.

Schedule of Immediate Actions:

- a. Within 60 days after signatures, DWQ permitting programs will incorporate the revised guidance in permit application reviews.
- b. Within 7 days of signatures, DWQ will disseminate the revised guidance internally and to the regulated community. This guidance is open for comments and suggestions.