



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

October 1, 2014

Mr. Steve Willis, County Administrator
Lancaster County
101 N. Main Street
Lancaster, SC 29721

RE: Lancaster County small Municipal Separate Storm Sewer System (MS4) designation to be regulated under the NPDES Phase II Stormwater Program

Mr. Willis:

You are receiving this letter because Lancaster County has been identified as being located within an urbanized area according to the 2010 Census. Based on this, the County's small MS4 comes under the purview of the Clean Water Act's stormwater permitting requirements. In accordance with SC Water Pollution Control Permits Regulation 61-9 §122.32(a)(1), the Department is hereby designating Lancaster County small MS4 for permitting.

Background

Stormwater discharges are a significant contributor to local water quality impairments as high levels of sediment, oil, toxics and other pollutants flow from impervious surfaces through storm sewer systems into waterways. In 1987, Congress established a phased approach to regulating stormwater discharges from MS4. The largest municipalities were regulated first, followed by smaller municipalities that are located in urbanized areas. The Census defines where the urbanized areas (UA) are, and the latest Census shows that Lancaster County is located within the Charlotte UA.

SC R. 61-9 requires that owners and operators of MS4 obtain a National Pollutant Discharge Elimination System (NPDES) permit and develop and implement a program to minimize the discharge of pollutants through and from the MS4 into waters of the United States. Small MS4 programs include the development of a Stormwater Management Program (SWMP) which includes the implementation of six minimum control measures (MCM):

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination
- Construction Site Runoff Control
- Post-Construction Runoff Control from New and Redeveloped Sites
- Good Housekeeping at Municipal Operations

Regulatory Requirement

The State of South Carolina NPDES General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (SMS4), SCR030000, has been issued. This general permit (GP) sets out the requirements that apply to regulated small MS4 discharges throughout South Carolina. The first step for the owner or operator of a regulated small MS4 is to submit a notice of intent (NOI) to SC DHEC Bureau of Water to comply with SCR030000. The NOI is in lieu of an application for a permit.

In general, the NOI includes information on best management practices (BMP) and measurable goals that the jurisdiction plans to implement as part of its SWMP. The NOI should be submitted to:

SC DHEC Bureau of Water
Attn: Stormwater Permitting
2600 Bull Street
Columbia, SC 29201-1708

The NOI is due within 180 days from the date of this letter. The County should work to develop the small MS4 SWMP. It must include milestones for implementing each aspect of your program. It is expected that by the end of the first permit term you will have fully developed and implemented your SWMP, meeting these milestones along the way. The specific requirements for information that must be included in the NOI can be found in SCR030000 located at:

http://www.scdhec.gov/Environment/docs/Final_SMS4_Permit.pdf

Alternatively, the County may elect to apply for an individual permit rather than seek coverage under SCR030000.

SC DHEC Bureau of Water stands ready to assist you in developing your SWMP and in determining how to comply with the regulations.

Please feel free to contact us should you have any questions or concerns regarding this letter. We can provide further explanation of why you're receiving this letter, what this letter means for your community, next steps, and answer any other questions you may have.

EPA has developed a series of Fact Sheets which provide information on the NPDES Stormwater Program. These and other resources are available through the following link: <http://water.epa.gov/polwaste/npdes/stormwater/Municipal-Separate-Storm-Sewer-System-MS4-Main-Page.cfm>

This decision to designate Lancaster County's small MS4 system for regulation is subject to a Request for Review by the DHEC Board. Please see the enclosed "Guide to Board Review" document for information.

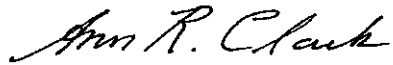
Should you have questions or concerns regarding the designation of Lancaster County as a regulated MS4 or if Lancaster County is not the owner or operator of the small MS4, please contact either of the DHEC staff contacts listed on the following page:

Ann R. Clark, Director
Stormwater, Construction, Agriculture and Dam Safety
Division
(803) 898-4028
clarkar@dhec.sc.sc.gov

Jill Stewart, P.E., Manager
Stormwater Permitting Section
(803) 898-0439
stewarjc@dhec.sc.gov

Additionally, if you are not the appropriate contact for this program, please forward to the appropriate person and contact, please let us know.

Sincerely,



Ann R. Clark, Director
Stormwater, Construction, Agriculture and Dam Safety Division
SC DHEC Bureau of Water
2600 Bull Street
Columbia, SC 29201-1708

cc. Chris Plymale, EPA Region IV

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:
South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201
Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will

respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.