



North Carolina Department of Environment and Natural Resources
Division of Water Quality

Beverly Eaves Perdue
Governor

Charles Wakild, P. E.
Director

Dee Freeman
Secretary

April 26, 2012

Richard Wells
Randolph County Manager
725 McDowell Road
Asheboro, NC 27205

Subject: Post Construction Stormwater
Session Law 2006-246 Coverage
Randolph County

Dear Mr. Wells,

The N.C. Department of Environment and Natural Resources, Division of Water Quality has recently reviewed Randolph County's status under Session Law 2006-246. Under the Session Law, a county that had a rate of population growth that exceeded the statewide growth rate for the period between 1995-2004 requires county-wide stormwater permitting. The session law, however, does not specify how to calculate a county's growth rate for comparison to the statewide average; since there are different ways of performing that calculation, there is some ambiguity in the law. In reviewing Randolph County's status, we have realized that the different methods of calculating the growth rate can also lead to different results.

At the time DENR initially made determinations about county-wide stormwater coverage under Session Law 2006-246, all of the other potentially affected counties were clearly above or clearly below the state growth rate for the period between 1995- 2004. Randolph County was the only county that had growth rates so close to the state average for the ten-year period that different ways of calculating the growth rate could change the outcome. Given the ambiguity in the law and the fact that some methods of calculating the growth rate for the relevant time period give a different result, DENR has decided to resolve the issue in favor of excluding Randolph County as a county requiring county-wide stormwater permitting under Session Law 2006-246.

Please note that development in some portions of Randolph County will still require stormwater permits under Session Law 2006-246 due to proximity to High Point (which is a designated Phase II municipality). DWQ's stormwater permitting map will be updated to reflect this change.

This decision only applies to post-construction storm water permits under Session Law 2006-246. Construction stormwater and sedimentation and erosion control requirements remain unchanged. In addition, where a project is in a water supply watershed or other sensitive water classification or requires a state 401 Water Quality Certification due to impacts to lakes, reservoirs, wetlands or streams, stormwater control may be required as a condition of these programs. DWQ will review existing permits issued under the previous interpretation of Session Law 2006-246. It is likely that some of those projects required stormwater controls for other reasons as well – such as project location or other water impacts. If DWQ finds a project that only had stormwater requirements because of Session Law 2006-246, DWQ will designate that stormwater permit as inactive for enforcement purposes.

If you have any questions about this, please feel free to contact Matt Matthews at matt.matthews@ncdenr.gov (919-807-6384) or Bradley Bennett at bradley.bennett@ncdenr.gov (919-807-6378).

Sincerely,

Charles Wakild

cc: Robin Smith – NCDENR
Jessica Marlies – NCDENR
Matt Mathews – NC DWQ
Bradley Bennett – NC DWQ