

Fact Sheet on the New NCG01 Permit

April 2019



The NC Construction General Permit (also known as “NCG01”) was renewed on April 1, 2019. The updated permit does not significantly change the measures that are required to be implemented on construction sites. However, there are some organizational and technical updates to the permit as described below. Most notably, there is a new process in which construction sites will obtain official coverage under an NCG01 permit through an electronic process. DEMLR worked with a broad team of stakeholders to make all of these updates. If you have questions, contact Annette Lucas at Annette.lucas@ncdenr.gov or (919) 707-3639.

Organizational Updates

The new permit:

- Repeats state requirements for E&SC Plans and organizes them with federal construction activity requirements;
- Is clearly organized by topic; and
- Has less text and more tables.

Technical Updates

The new permit:

- Requires that the E&SC Plan meet SWPPP requirements (p. 2);
- Provides a list of items that must be included in the SWPPP, such as the construction sequence, plans, calculations, etc. (p. 2-4);¹
- Has updated language on bypasses and upsets that is tailored to construction activities (p. 10);
- Puts all timeframes for inspections, record-keeping and reporting in “calendar days” for clarity and consistency (p. 11-14);²
- Changes the inspection frequency (during business hours) to at least once per 7 calendar days and after every storm ≥ 1.0 inch (previously 0.5 inch);³ and
- Excludes weekends, state and federal holidays from normal business hours unless construction activities take place (p. 23).

¹ This list is based on website guidance by the DEMLR Sediment Program.

² The number of calendar days was selected to be as equivalent as possible with the previous permit.

³ The intent is to provide predictability to the inspection schedule.

Acronyms to Know

COC: Certificate of Coverage, proof of coverage under an NCG01 permit

DEMLR: NC Division of Energy, Mineral, and Land Resources

E&SC: Erosion & Sedimentation Control

e-NOI: Notice of Intent, application form for the NCG01 permit

e-NOT: Notice of Termination, form for closing out the NCG01 permit

SWPPP: Stormwater Pollution Prevention Plan, required by the NCG01



The NCG01 Process

The new NCG01 applies to permits approved on or after April 1, 2019.

Permittees will no longer receive a copy of the NCG01 permit in the mail with their E&SC Plan approvals and be considered as covered under the permit. Federal rules require that DEMLR receive an NOI on each construction project and issue each construction project its own COC.

Under the new NCG01 process, construction sites will continue to receive approval for E&SC Plans from either DEMLR or the delegated local E&SC program just like before. After receiving E&SC Plan approval, permittees will officially obtain coverage under the NCG01 by completing an e-NOI (available at deq.nc.gov/NCG01). The e-NOI will only take about 20 minutes to fill out and submit on-line.

Initially, there will be no charge associated with applying for an NCG01 permit but on or around June 1, 2019, DEMLR will begin charging a \$100 annual general permit fee as required per §143-215.3D.

DEMLR is working on creating a single application form that will allow an applicant to simultaneously apply for an E&SC permit and an NCG01 COC. That effort is part of a larger Permit Transformation project at DEMLR.

Q&A About the New NCG01 Permit

Why do construction sites have to do this extra application step?

DEMLR is required by the EPA to issue a specific COC to every construction site that disturbs one acre or more. DEMLR is working to create a form that combines the E&SC plan approval and e-NOI processes, but that will take more time. For now, DEMLR has created an efficient e-NOI process.

If an E&SC Plan is approved before April 1, which permit applies?

Projects with already approved E&SC Plans will automatically follow the new NCG01 permit, but will not need to fill out an e-NOI or pay an annual permit fee. However, the permittees should print the new permit and the two standard detail sheets and have them on site.

Will DEMLR offer tools to help permittees comply with the new NCG01?

Yes, DEMLR will provide two sample plan sheets at deq.nc.gov/NCG01 that can be placed into the E&SC plan set. The first covers the site stabilization and materials handling portions of the permit. The second sheet covers the inspection, record-keeping and reporting portions of the permit.

How will the new e-NOI submittal and COC process work?

Permittees will apply for E&SC Plan approvals from DEMLR or the local E&SC program like before. The E&SC approval letter will instruct the permittee to visit deq.nc.gov/NCG01 to submit an e-NOI form to DEMLR. The permittee may begin the construction activity after receipt of the COC (within three days*). The permittee must print and retain a copy of the permit and the COC on site. Initially, the COC will be issued for free but on or around June 1, 2019, a \$100 annual general permit fee will be charged.

Who is allowed to submit an e-NOI form?

Submittal must be by a responsible corporate officer that owns or operates the activity, such as a president, secretary, treasurer, or vice president or a manager that is authorized in accordance with IV.B.6 of the NCG01 permit. Additional signatory options are set forth in IV.B.6 of the permit. It is possible for consultant to prepare the e-NOI, save it as a draft, and email it to the responsible entity for signature & submittal.

What happens to the COC when the construction activity is complete?

When a project is complete, the permittees will contact DEMLR or the local delegated program to close out the E&SC Plan. After DEMLR or the local E&SC program inform the permittee of the project close out via inspection report, the permittee will visit deq.nc.gov/NCG01 to submit an e-NOT.

Will there be a grace period for adherence to the new process?

DEMLR does not have the authority to grant a grace period from a federally mandated permit. Permittees will be informed of the new process via web site, E&SC Plan approval letters and list servs. If a construction activity disturbs one acre or more (or is part of common plan of development that disturbs one acre or more) fails to submit an e-NOI after approval of its E&SC Plan, this is a violation of federal permitting requirements and the permittee could be subject to a penalty assessment.

How does the new NCG01 affect the delegated local E&SC Programs?

Local programs will continue to review and approve E&SC plans. However, they will no longer send copies of the NCG01 with E&SC Plan approvals. DEMLR will provide sample language to use in local E&SC Plan approvals to advise permittees that they must submit an e-NOI to DEMLR.



Local programs are not required to check if permittees have submitted e-NOIs to DEMLR. However, if they wish to do this voluntarily, there will be a tool available on DEMLR's web site for them to view a list of construction projects that have submitted e-NOIs.

When local programs close out an E&SC Plan, the close-out letter will advise permittees that they must submit an e-NOT. DEMLR will provide sample language.

Local programs may approve E&SC plans that meet state sediment laws and rules even if those plans are not compliant with all of the NCG01 requirements. However, their permittees will be required to add two plan sheets (which will be provided by DEMLR) to their E&SC Plans to ensure that they fully comply with the ground stabilization, materials handling, and inspection, record-keeping and reporting portion of the NCG01 permit.

** Or 24 business hours for a project approved under the DEMLR Express review program.*

Options for Covering Lots/Outparcels Under the NCG01

DEMLR has the option to issue NCG01 COCs on a “per contiguous project, per owner” basis. There are certain types of developments where that may be convenient; for example, a builder who is taking down, building and selling multiple lots in a single subdivision or an entity with a large campus that is often commencing and completing construction projects.

Although we have this capability, there are some caveats: COCs must be issued to the legally responsible owner or operator of a construction activity. For example, one builder cannot be covered under another builder’s COC. See the information under “Option 2” about using one COC to cover multiple construction activities done by one owner in one development.

Option 1: Obtain a COC for each lot or outparcel (or group of lots/outparcels) as it receives E&SC Plan approval.

This option is to have a COC corresponding to each approved E&SC Plan, with matching boundaries and acres approved for disturbance. This may keep your paperwork simpler and make your coverage under the COC more clear. However, you will have the requirement to submit an e-NOI form for each approved E&SC Plan.

Option 2: Cover more than one E&SC Plan approval under a single COC when the approvals are for the same owner and conducted in the same project.

As you complete Tab A of the e-NOI form:

- Provide a Project Name in the e-NOI that will be appropriate for the whole project. For example, do not call it “Whispering Pines, lots 3-9” if you plan to include additional lots under the same COC.
- Enter the disturbed acres that were approved under the E&SC Plan approval letter you will be attaching to the e-NOI.
- Provide the names of ALL waterbodies where the construction activities you plan to cover under the same COC may drain. This may be more than where the first project that you have E&SC Plan approval for drains.

After you obtain your COC, you will need to keep DEMLR up-to-date with new E&SC Plan approval letters and close-out documentation as follows:

- Email all E&SC Plan documentation (such as letters from the E&SC Plan Authority that approve or close out project phases) to bethany.georgoulas@ncdenr.gov. The email shall have the **COC number** and the words “**Add to File**” in the subject line. Please include the number of acres disturbed or the number of acres closed out in the message of the email. *Do not include the E&SC Plans unless specific pages of those plans are the only documentation with approval for acres of disturbance.*
- Comply with permit conditions until the final close-out inspection of the final lot. Upon receiving documentation of the termination of the E&SC plan, submit the e-Notice of Termination (e-NOT) to end NCG01 coverage for that subdivision.