

The New NCG01 Permit: What You Need to Know

January - February 2019



The NC Construction General Permit (also known as “NCG01”) will be renewed on March 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.

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 obtaining an NCG01 permit

DEMLR: NC Division of Energy, Mineral and Land Resources

E&SC: Erosion & Sedimentation Control

NOI: Notice of Intent, the application form for general permits

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

SWPPP: Stormwater Pollution Prevention Plan, required by the NCG01



The New NCG01 Process

There will soon be a new way to obtain NCG01 permit coverage.

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 electronic NOI. The 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 May 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 US Environmental Protection Agency 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 NOI processes, but that will take more time. For now, DEMLR has created an efficient electronic NOI process.

If a project's E&SC Plan is already approved, will it follow the new NCG01?

Yes, projects with already approved E&SC Plans will automatically follow the new NCG01 permit and will not need to fill out an NOI or pay an annual permit fee. However, the responsible party should have a copy of the new permit on site.

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

Yes, DEMLR will provide two plan sheets at our web site 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 NOI submittal and COC process work?

Permittees will apply for their E&SC Plan approvals from either DEMLR or the delegated local E&SC program like before. The approval letter will instruct the permittee to visit our web site to submit an electronic NOI form to DEMLR. **A COC will be issued within three business days.** Then, the permittee will be responsible for printing a copy of the permit and retaining it on site. Initially, the COC will be issued for free but on or around May 1, 2019, a \$100 annual general permit fee will be charged.

Who is allowed to submit an NOI form?

NOIs may be submitted by the officer, manager, or sole proprietor of the financially responsible organization.

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 the plan is closed out, the permittee will visit our web site to submit an electronic 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 serves.

What will happen if an NOI is not submitted for a construction site?

If a construction site that disturbs one acre or more fails to submit an 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 electronic NOI to DEMLR.



Local programs are not required to check if permittees have submitted 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 NOIs.

When local programs close out an E&SC Plan, the close-out letter will advise permittees that they must submit an electronic 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 comply with the ground stabilization, materials handling, and inspection, record-keeping and reporting portion of the NCG01 permit.