



## Sedimentation Pollution Control Program

### *Erosion & Sediment Control Workshop*

December 2, 2021

*Division of Energy, Mineral and Land Resources*

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# Topic Overview

Part I: Statutory changes to the  
Sedimentation Pollution Control Act of 1973

Part II: Permit Coordination



## *Session Law 2021-158*

- Amendment to **G.S. 113A-64.2(a) – Remission of civil penalties**

Shortens the time by which remission of a civil penalty can be requested from 60 days to **30 days** from receipt of the notice of assessment.

- Amendment to **G.S. 113A-61.1(c) – Inspection of land-disturbing activity; notice of violation.**

Eliminates the requirement for hand-delivery of notices of violation to first-time violators. Notices are still served through certified mail and *may* be hand-delivered.



## *Session Law 2021-158*

### Amendment to **G.S. 113A-65.1 – Stop Work Orders**

Stop-work orders issued by the Division are no longer a final agency decision subject to judiciary review, and can be issued without the requirement to file an injunction with the county superior court where the violations occurred.



## *Session Law 2021-121*

### Amendment to **G.S. 113A-54.1(f)** – **Approval of erosion control plans**

Allows for a builder to transfer financial responsibility of a residential lot to the new (home) owner regardless of whether that lot has achieved final stabilization IF the following actions have occurred:

1. The lot has been sold to a new owner;
2. The deed has been recorded in the office of the register of deeds; and
3. The permit authority that approved the erosion control plan has been notified.



## *Session Law 2021-121*

### Amendment to **G.S. 113A-54.1(f)** – **Approval of erosion control plans**

NOTE 1: This only applies to lots where less than 1 acre is disturbed.

NOTE 2: This applies when the builder making the transfer is both the owner of the lot and the financially responsible party.

NOTE 3: Nothing changed with regards to NCG01 permit coverage.



## Part II: Permit Coordination



# Permits Associated with Erosion & Sedimentation Control Plan Reviews

1. Erosion & Sediment Control Certificate of Plan Approvals, Land Disturbance Permits
2. National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit (NCG01)
3. U.S. Army Corps of Engineer (USACE) 404 Permits
4. DEQ-Division of Water Resources (DWR) 401 Water Quality Certifications
5. DEQ-DWR Stream Origin/Buffer Application Determination
6. DEQ-DWR Riparian Buffer Authorizations & Variances
7. DEQ-DWR Isolated Wetlands or Non-404 Jurisdictional Permits
8. DEQ-Division of Coastal management (DCM) Coastal Area Management Act (CAMA) Permits
9. DEQ-DEMLR Trout Buffer Waivers
10. (Post-Construction) Stormwater Permits





# Permits Associated with Erosion & Sedimentation Control Plan Reviews

## LOCAL PERMITS

FEMA Floodplain Permits or No-Rise Certifications



# Activities That Require a Permit

Erosion & Sediment Control Certificate of Plan Approvals  
& Land Disturbance Permits (DEQ or Local Government)

Land disturbances greater than 1 acre (DEMLR)  
or those equal to or less than 1 ac (LGs/LPs)

National Pollutant Discharge Elimination System  
(NPDES) Construction Stormwater General Permit  
(NCG01)

Land disturbances greater than 1 acre or within a  
common plan of development/sale of that size.



# Activities That Require a Permit

## U.S. Army Corps of Engineer (USACE) 404 Permits

Discharges of dredged or fill material into regulated Waters of the United States or work around waters that affects water quality, endangered species, etc. |

## DEQ-Division of Water Resources (DWR) 401 Water Quality Certifications

All projects that require a federal permit dealing with water quality (such as a Section 404 Permit)



# Activities That Require a Permit

## DEQ-DWR Stream Origin/Buffer Applicability Determination

Those that reside within a river basin or watershed governed by the State's riparian buffer rules. "Blue Line Streams" that appear as broken or solid blue lines (or purple lines) on a USGS topographic map are considered waters of the State. Streams do not have to be "blue-line" to be considered waters of the State.



# Activities That Require a Permit

## DEQ-DWR Riparian Buffer Authorizations & Variances

Land disturbances within the Neuse, Tar-Pamlico, Catawba river buffers and the Randleman Lake, Jordan Lake and Goose Creek watershed buffers

## DEQ-DWR Isolated Wetlands or Non-404 Jurisdictional Permits

Major: Impacts to 1+ acres of waters and/or 150+ linear feet of streams (whether intermittent or perennial).  
(Minor permit for lesser impacts)



# Activities That Require a Permit

## DCM Coastal Area Management Act (CAMA) Permits

Land or water disturbances within Areas of Environmental Concern within the 20 coastal counties. Major permits are necessary for activities that require other state or federal permits, for projects that cover more than 20 acres, or for construction covering more than 60,000 square feet.

## DEQ-DEMLR Trout Buffer Waivers

Land disturbances within 25 feet of trout classified streams (Tr) and their unnamed tributaries.

(Applies to ~ 26 western counties in NC)



# Activities That Require a Permit

## DEQ-DEMLR Stormwater Permit (DEQ or Local Government)

Any development activities that require an Erosion and Sedimentation Control Plan or a Coastal Area Management Act (CAMA) major permit.

New development projects of a certain size or planned built-upon area, those draining to ORWs or HQWs, those located within the state's coastal counties or urbanizing areas, or those residing within certain watersheds.



# Scope of Discussion

Only Major or General permits / variances / certificates discussed

Only allowable review times, not average review times, discussed





# Timeline for Filing

Permit	When to Apply	Allowable Review Time (days)	Express Option?
E&SC Certificate	At least 30 days prior to start of construction	30	Yes
NCG01	At least 33 days prior to start of construction	33+	
404 NW or RG Permits	At least 75 days prior to construction	30 + 45	No
401 General Certification	At least 60 days prior to construction	60+	Yes



# Timeline for Filing

Permit	When to Apply	Allowable Review Time (days)	Express Option?
Stream Origin/Buffer Applicability Determination	Prior to a riparian buffer authorization or variance request	NA - no statutory time limit	Yes
Riparian Buffers	For major variance requests, at least 90 days prior to WQC meeting date	Subject to WQC bi-meeting schedule	Yes
Non-404 permits	At least 60 days prior to construction	60+	Yes



# Timeline for Filing

Permit	When to Apply	Allowable Review Time (days)	Express Option?
CAMA Major	At least 75 days prior to construction	75+	Yes
Trout Buffers	Prior to E&SC plan approval request	N/A – no time limit	No
Stormwater *	At least 90 days prior to start of construction or other permits	90+	Yes

\* To help determine if DEQ or Local Government is the permitting agency, please use DEMLR's interactive web-based map viewer: [Post-Construction Stormwater Permitting Map](#).



# Factors that Affect Review Time

Incomplete applications	Communication issues
Time to make revisions	Time to review revisions
Public Notices	Public Hearings
Express review options	Permit Type & Dependency



# Pre-Construction Notification Form

“Pre-Construction Notification form, the ePCN serves as a joint application satisfying both the USACE and NCDEQ reporting requirements for certain activities authorized through NWPs and RGPs under Sections 401 and 404 of the Clean Water Act, and Section 10 of the Rivers and Harbor Act of 1899.”

*- US Army Corps of  
Engineers*



# Pre-Construction Notification Form

- One application
- Multiple permits and review agencies
  - Section 10, 404 permits
  - 401 Water Quality Certifications
  - Stream Origin/Buffer Applicability Determinations
  - Riparian Buffer or Watershed Buffer Authorizations
  - Isolated Wetland or Non-404 jurisdictional Permits
- Coordinated with the DEQ-DWR or led by the DEQ-DCM, if CAMA permit required.
- Review time is 75+ days from receipt of a complete application





**Pre-Construction Notification (PCN) Form**  
For Nationwide Permits and Regional General Permits  
(along with corresponding Water Quality Certifications)  
June 1, 2021 Ver 4.1

Please note: fields marked with a red asterisk \* below are required. You will not be able to submit the form until all mandatory questions are answered.

Also, if at any point you wish to print a copy of the E-PCN, all you need to do is right-click on the document and you can print a copy of the form.

Below is a link to the online help file.

<https://edocs.deq.nc.gov/WaterResources/0/edoc/624704/PCN%20Help%20File%202018-1-30.pdf>

## A. Processing Information

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County (or Counties) where the project is located: \*

[Add additional county](#)

Is this a NCDMS Project \*

Yes  No

Click Yes, only if NCDMS is the applicant or co-applicant.

Is this project a public transportation project? \*

Yes  No

This is any publicly funded by municipal, state or federal funds road, rail, airport transportation project.

1a. Type(s) of approval sought from the Corps: \*

- Section 404 Permit (wetlands, streams and waters, Clean Water Act)
- Section 10 Permit (navigable waters, tidal waters, Rivers and Harbors Act)

1b. What type(s) of permit(s) do you wish to seek authorization? \*

- Nationwide Permit (NWP)



# Express Review Programs

Offered for:

- Erosion & Sediment Control Plan Approvals
- 401 Water Quality Certifications
- Isolated and Non-404 Jurisdictional Permits
- Stream Origin/Buffer Applicability Determinations
- Riparian Buffer Authorizations
- CAMA Major Permits
- State Stormwater Permits





# Express Review Programs

Review times reduced by 68% - 96% depending upon permit\*

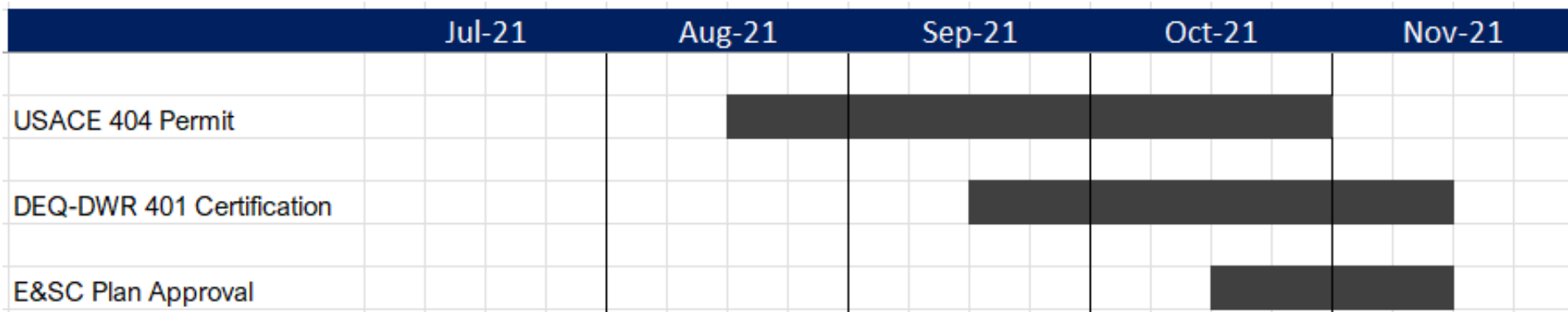
- Project must qualify for this program
- Expedited review period is negotiated based on complexity of project and staff availability to review
- Review fees significantly higher
- Pre-application meetings required

*\*Processing Times for NC's Environmental Permitting Programs (FY 19-20)*



# Example Review Timelines

Anticipated start date:  
Monday, November 15, 2021



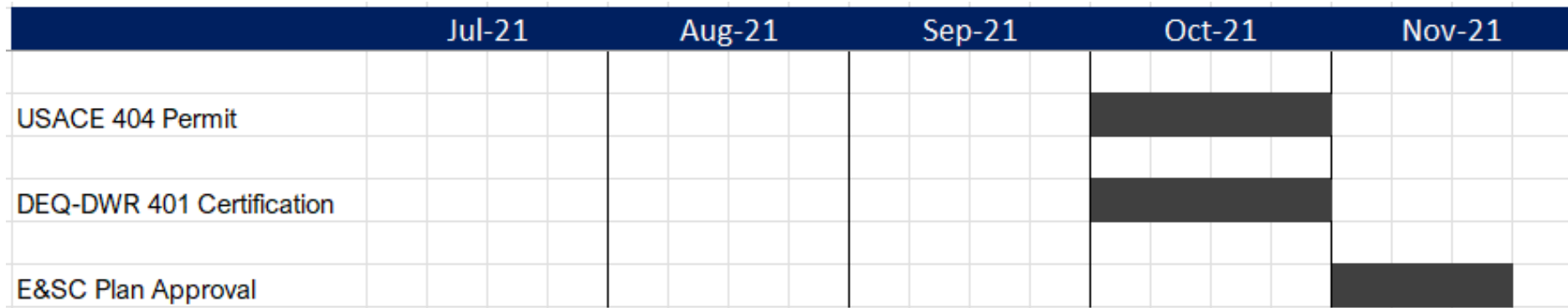
PCN Form: Submit by August 17th

E&SC Certificate: Submit by October 15th



# Example *Express* Review Timelines

Anticipated start date:  
Monday, November 15, 2021



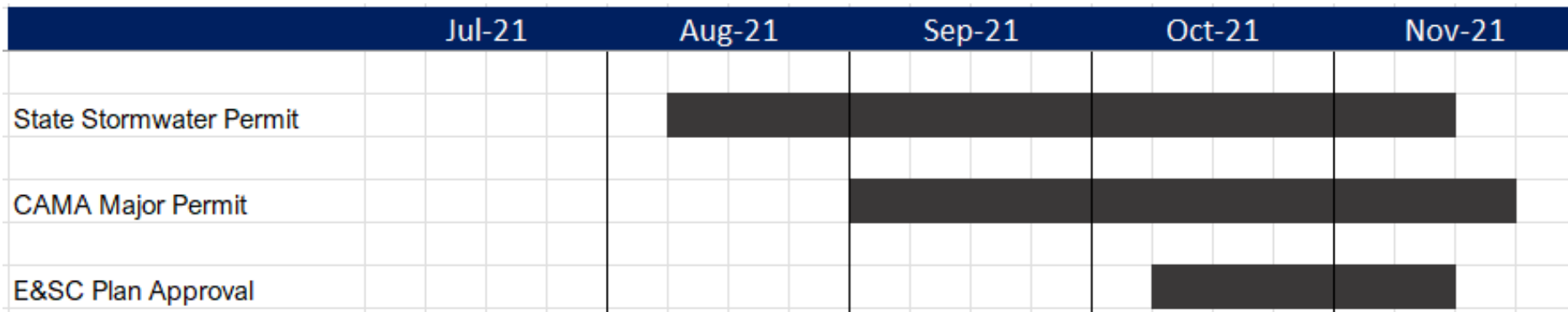
PCN Form: Submit by October 1st

E&SC Certificate: Submit by November 2nd



# Example Review Timelines

Anticipated start date:  
Monday, November 15, 2021



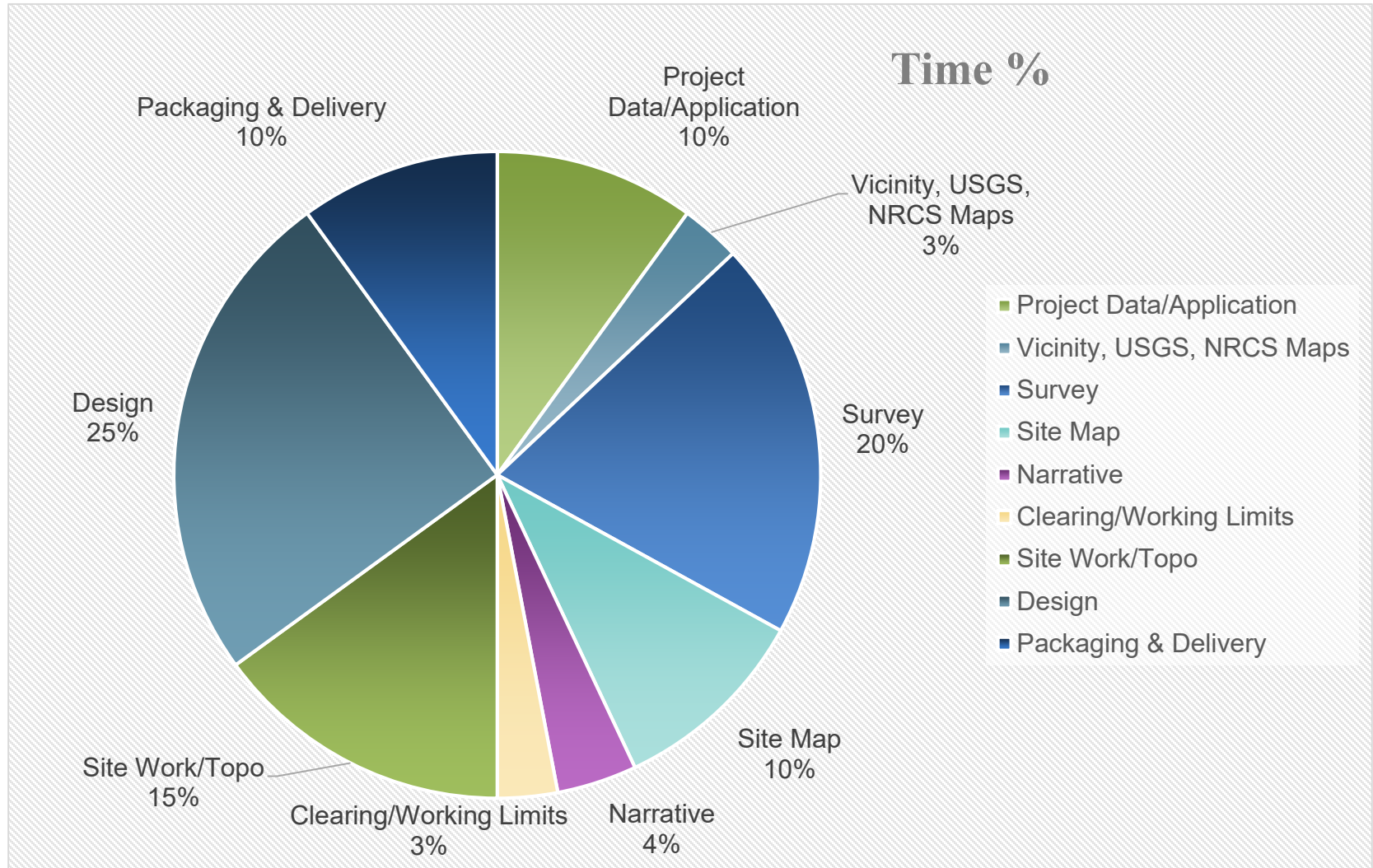
State Stormwater Permit: Submit by August 13th

CAMA Major Permit: Submit by September 1st

E&SC Certificate: Submit by October 13th



# Common Plan & Project Elements



# NCDEQ - Division of Environmental Assistance and Customer Service (DEACS)

Primary responsibility is to assist businesses, industries, local governments, other institutions, consultants and residents as they seek to identify, understand and comply with the state's environmental requirements.

*“One-Stop Permit Shop”*



# Reg DEACS Regional Offices

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questions, explains permit and regulatory requirements; receives and helps to address environmental complaints and issues along with DEQ program staff.

# DEQ's Permit Directory

<https://deq.nc.gov/permits-rules/permit-directory#express-permitting>

## List of Permits

This permit directory, produced by the N.C. Department of Environmental Quality, centralizes all of the department's permit information. It is a guide that covers North Carolina's most commonly required environmental permits, licenses, certifications, approvals, etc. By using this directory, NCDEQ hopes that you can quickly gain an initial understanding of regulatory requirements for various permitted activities.

[A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H](#) [I](#) [L](#) [M](#) [N](#) [O](#) [P](#) [R](#) [S](#) [T](#) [U](#) [V](#)  
[W](#) [Y](#)

PERMIT NAME	ENVIRONMENTAL CATEGORY	DESCRIPTION
A		<a href="#">[Top]</a>
<a href="#">Air Curtain Incinerators - General Title V Air Permit</a>	Air	New Air Curtain Incineration (ACI) Units only burning the following: 100 percent wood waste; 100 percent clean lumber, and 100 percent mixture of only wood waste, clean lumber and/or yard waste.
<a href="#">Animal Waste NPDES Permits</a>	Water	Any animal feeding operation that plans to discharge from the production area or land application area must have coverage under an Animal Waste NPDES Permit. Most

### Permit Directory

#### List of Permits

[Air](#)

[Coast](#)

[Fishing](#)

[Land](#)

[Waste](#)

[Water](#)

[Other](#)



*Failing to Plan*  
*is*  
*Planning to Fail*

*- Benjamin Franklin*

# Questions?

Please Remember to Complete the End of Workshop Evaluation



<https://bit.ly/2021EscEval>

**NC STATE**  
UNIVERSITY

Crop & Soil  
Sciences

