



State Sedimentation Program Updates *from the*
Division of Energy, Mineral, and Land Resources

Department of Environmental Quality
Local Program Erosion & Sediment Control Workshop

Julie Coco, PE, CPESC

State Sedimentation Program Engineer, DEMLR

May 3 – 4, 2018



Sedimentation & Erosion Control Program

To allow development within our State while preventing pollution by sedimentation

- Enforces Sedimentation Pollution Control Act of 1973
- Oversees 53 local sedimentation programs
- Educational Outreach
- Covers all land disturbing activities except agriculture and mining (conditional forestry exemption)



- 7,000+ active projects
 - 2,000+/- new/year

Overview – What's New?

- I. NPDES Construction General Permit (NCG01) Projects & Reporting
- II. Permit Tracking & Reporting Updates
- III. Civil Penalty Remission Requests



Overview – What's New?

I. NPDES Construction General Permit (NCG01) Projects & Reporting



NPDES (NCG01) Reporting



Field Name	Description	Comments
PROJECT Tracking number	Unique Number Assigned by the Control Authority	
Complete Application/NOI	Application Received date	
Issue Date	Date of E&SC Approval	NCG01 "COC" automatically becomes effective on this same date
SIC Code (Primary)		Commercial (30001) = 1542, Highway (30005) = 1611, Industrial (30002) = 1541, Residential, Single Family Houses (SFE) = 1521, Residential, other than SFE (30000) = 1522, others = blank
Site Name	Project or Site name	
Site Street Address		
Site City		
Site County		
Site State	NC	
Site Zip Code		
Site/Facility Type of Ownership	Non Government Government - County Government - Federal Government - Municipal Organization Government - State	Non Government = POF (default) Government - County = CNG Government - Federal = FDF Government - Municipal = MWD Organization Government - State = STF
Approximate Activity Start Date		
Total Acres of Disturbance		
FRO - First Name		**MUST be Financially Responsible Owner Person**
FRO - Last Name		**MUST be Financially Responsible Owner Person**
FRO - Organization Formal Name		**MUST belong to Financially Responsible Owner**
FRO - eMail Address		**MUST belong to Financially Responsible Owner**
FRO - Mailing Street Address		**MUST belong to Financially Responsible Owner**
FRO - Mailing Supplemental Location Text		**MUST belong to Financially Responsible Owner**
FRO - Mailing City		**MUST belong to Financially Responsible Owner**
FRO - Mailing State		**MUST belong to Financially Responsible Owner**
FRO - Mailing Zip Code		**MUST belong to Financially Responsible Owner**
Latitude: Decimal Degrees		
Longitude: Decimal Degrees		



EPA Final Electronic Reporting Rule *effective* *December 21, 2015 (Federal Register Vol. 80, No. 204)*

Specifically, the rule requires regulated entities to report information electronically, instead of filing written paper reports. These reports include:

- Discharge Monitoring Reports (DMRs)
- Notices of Intent to discharge in compliance with a general permit (*NOI = FR/O form or E&SC Application*)
- Other specified program reports

<https://www.epa.gov/compliance/npdes-ereporting>



NPDES (NCG01) Reporting

The rule also requires states and other regulatory authorities to share data electronically with EPA. The data that these regulatory authorities will share with EPA includes permit, compliance monitoring (e.g., inspection), violation determination, and enforcement action data.

<https://www.epa.gov/compliance/npdes-ereporting>



Intent

“This action will save time and resources for permittees, states, tribes, territories, and the U.S. Government while increasing data accuracy, improving compliance, and supporting EPA's goal of providing better protection of the nation's waters. By modernizing this Clean Water Act reporting program, permittees and regulators will use existing, available information technology to electronically report information and data related to the NPDES permit program.

<https://www.epa.gov/compliance/npdes-ereporting>



NPDES (NCG01) Reporting

....This regulation will help provide greater clarity on who is and who is not in compliance and enhances transparency by providing a timelier, complete, more accurate, and nationally-consistent set of data about the NPDES program. By providing improved data in a more accessible form, this final rulemaking will improve the ability of EPA and authorized NPDES programs to target the most serious water quality and compliance problems.”

General Permit Reports (NOIs, NOTs, etc.) start date for reporting
= *December 21, 2020*

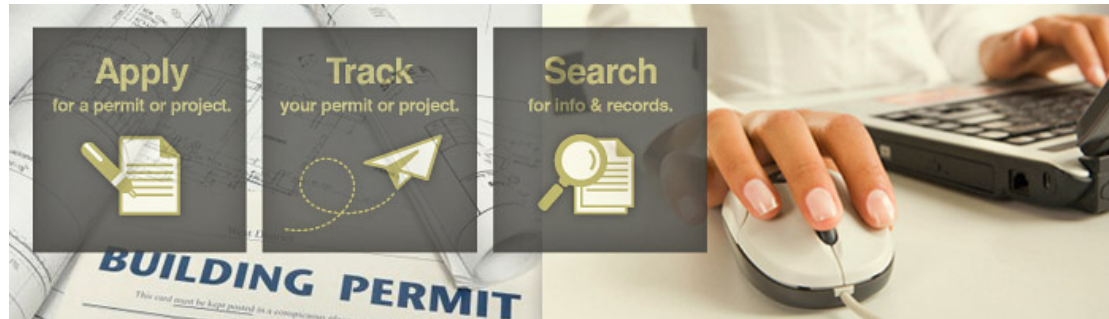
<https://www.epa.gov/compliance/npdes-ereporting>



Overview – What's New?

DEQ

II. Permit Tracking & Reporting Updates



AMANDA is gone girl. *Now what??*

- E-Permitting option
- Public Portal (login)
- Online Application Submittals
- Upload plans, narratives, deeds, cover letters, etc.
- Online Payments with instant confirmation
- View Documents & Permit Status



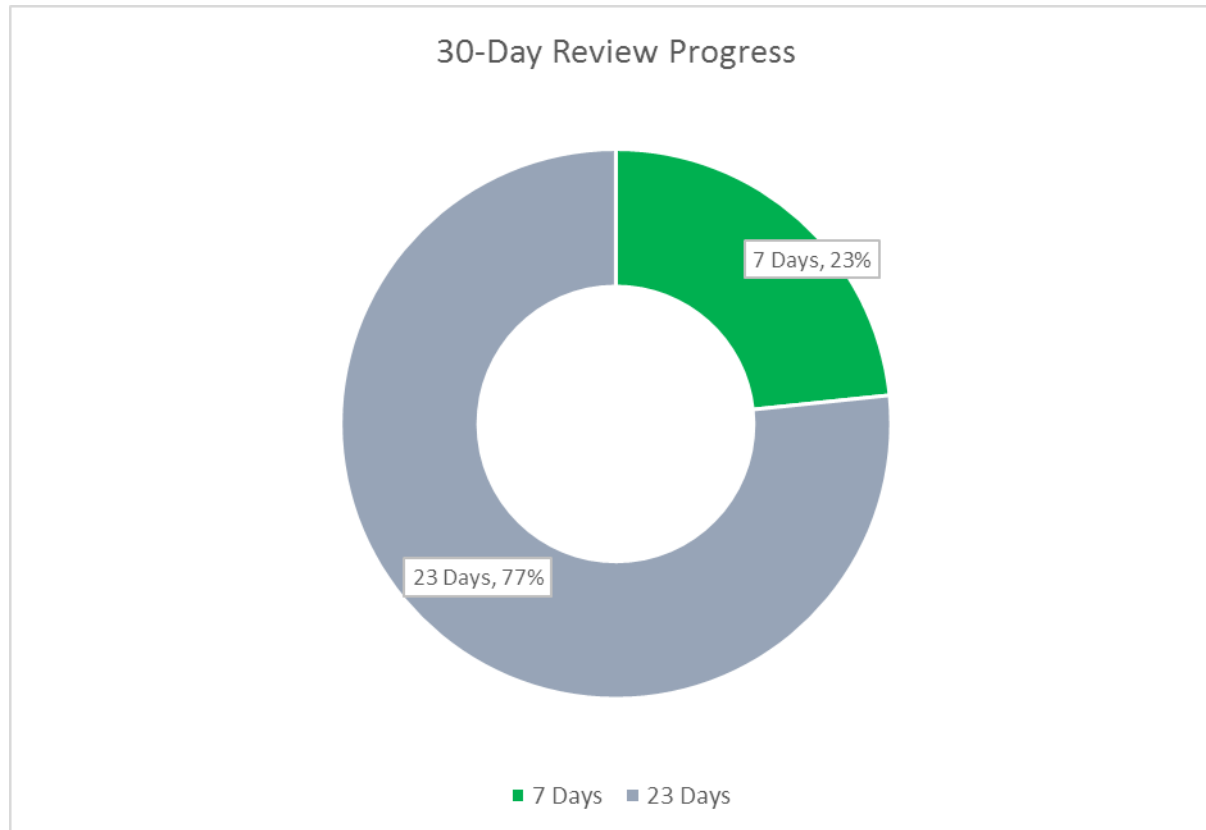
Feedback from DEQ Regional Offices

- Search capabilities by fields to include:
 - Permit #, Permittee Name, FRP Name, Permit Type, Site Name, Site Location (county, city, etc.), Issue Date, Inspection Date.
- The ability for permittees as well as the public to view the status of a permit through its life.





User's Dashboard





Feedback from DEQ Regional Offices

- Forms that include logic & system (regional) variables. For instance, only the statutes or rules tied to particular violations that have been checked by the inspector on the inspection form will be displayed.
- Access to permittee contact information and project history while in the field.



Feedback from DEQ Regional Offices

- Automated Reporting. Notifications or alerts to the permittees, plan review staff, and inspectors as to deadlines and confirmations of document delivery during the application process and beyond.
- Ability to generate and auto-serve review letters and NOVs. Minimize data entry, and time spent filing and e-mailing.





Feedback from DEQ Regional Offices

Access for a permittee or FRO to a timeline that allows for checking off activities as they go (perimeter controls installed, sediment basins installed & stabilized, construction begun, site stabilized, etc.) followed by notifications of these steps, indicating to staff as to when might be a good time to inspect the site.





User's Dashboard

	<i>Construction Started</i>	<i>Installation of perimeter controls</i>	<i>Clearing & Grubbing</i>	<i>Completion of phase of grading</i>	<i>Installation of storm drain facilities</i>	<i>Completion of phase of grading</i>	<i>Completion of all land disturbing activity</i>		
Status Bar									
Date	2-Apr-18	3-Apr-18	6-Apr-18	11-Apr-18	25-Apr-18	26-Apr-18			
Days Elapsed Since Start of Construction	0	1	4	9	23	24			



Feedback from Central...& Regional Offices ?

A system capable of rejecting a permit application or warning us when a FRO/P has another project under a NOV or open fine. G.S. 113A-54.1(c)(1)

Remission requests or appeals would be an exception, but system would need to know this.





Internal Functions & Needs to Address

- Technical support for software upgrades and hardware requirements, as well as on-going training in consideration of upgrades and employee turnover
- Data needs to be backed up and stored in a secure environment (state-owned vs. cloud servers)
- Metadata creation for audit trails



Internal Functions & Needs to Address

- Database indexing (NCDCR)
- Dashboards to view and generate statistical reports used by the central and regional offices. Use of tables, charts, graphs & maps included.
- Levels of permission for administrators, DEQ users, and applicants





Internal Functions & Needs to Address

- Editing of forms (flexibility vs. standardization)
- EPA electronic reporting requirements (preferable)
- \$\$...\$



III. Civil Penalty Remission Requests



Civil Penalty Remissions

- New to E&SC program
- Must be made within 60 days of receipt of the CPA
- Must stipulate to the facts (admit violations) on which the assessment was based and waive the right to appeal to OAH
- Remissions requests will be heard by the Sedimentation Control Commission for requests through a local program, and MAY be heard by the Commission for requests made through a DEQ regional office.



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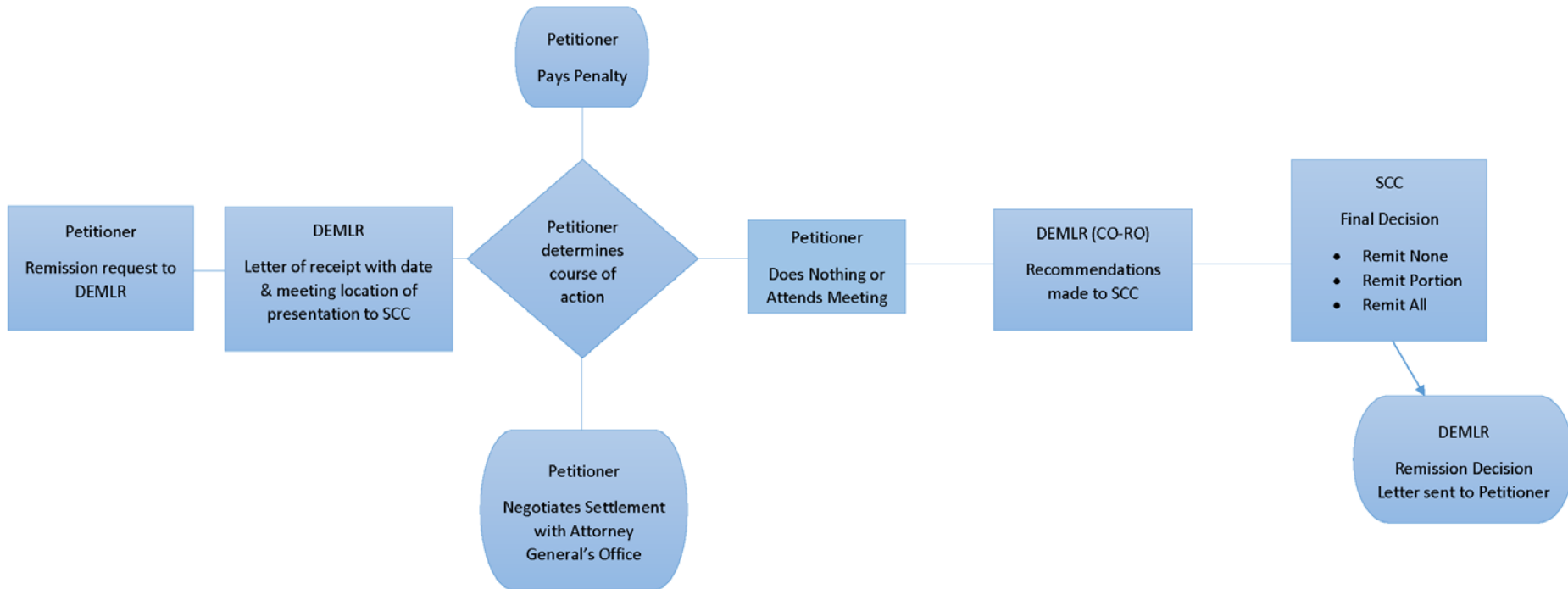
Civil Penalty Remissions, cont.

Factors which may be considered:

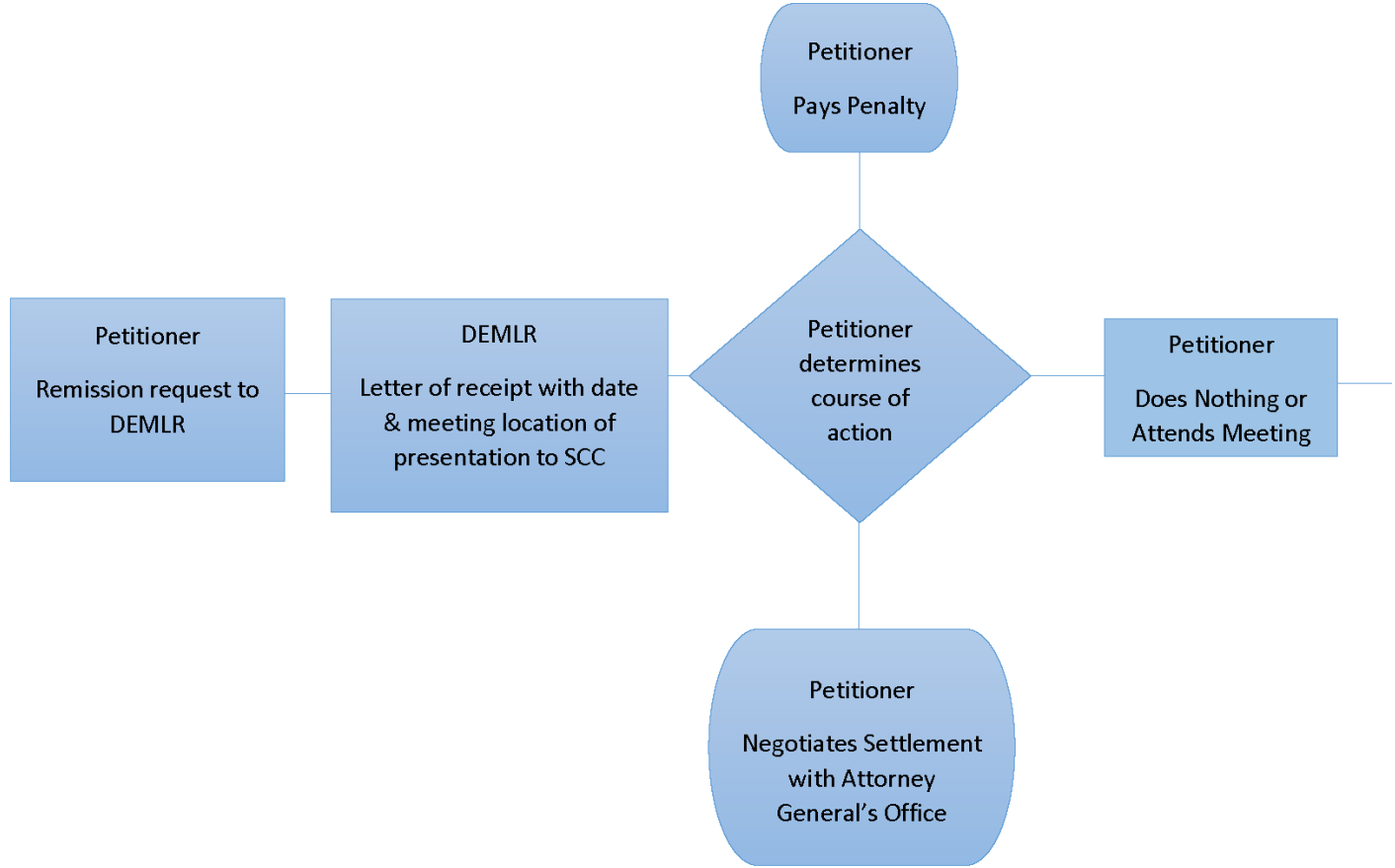
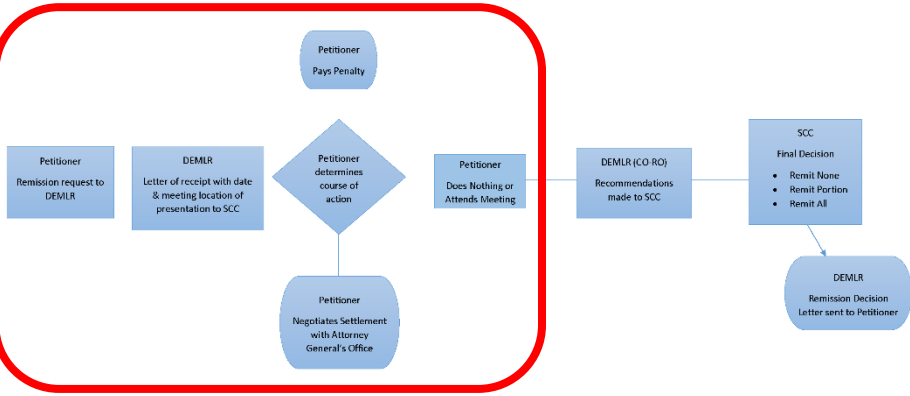
- Whether the CPA factors were wrongly applied
- Whether the violator promptly abated continuing environmental damage
- Whether the violation was inadvertent or accidental
- Whether the violator has received previous CPAs
- Whether payment of the CPA would cause significant financial hardship
- Assessed property tax valuation of the property on which the violation occurred

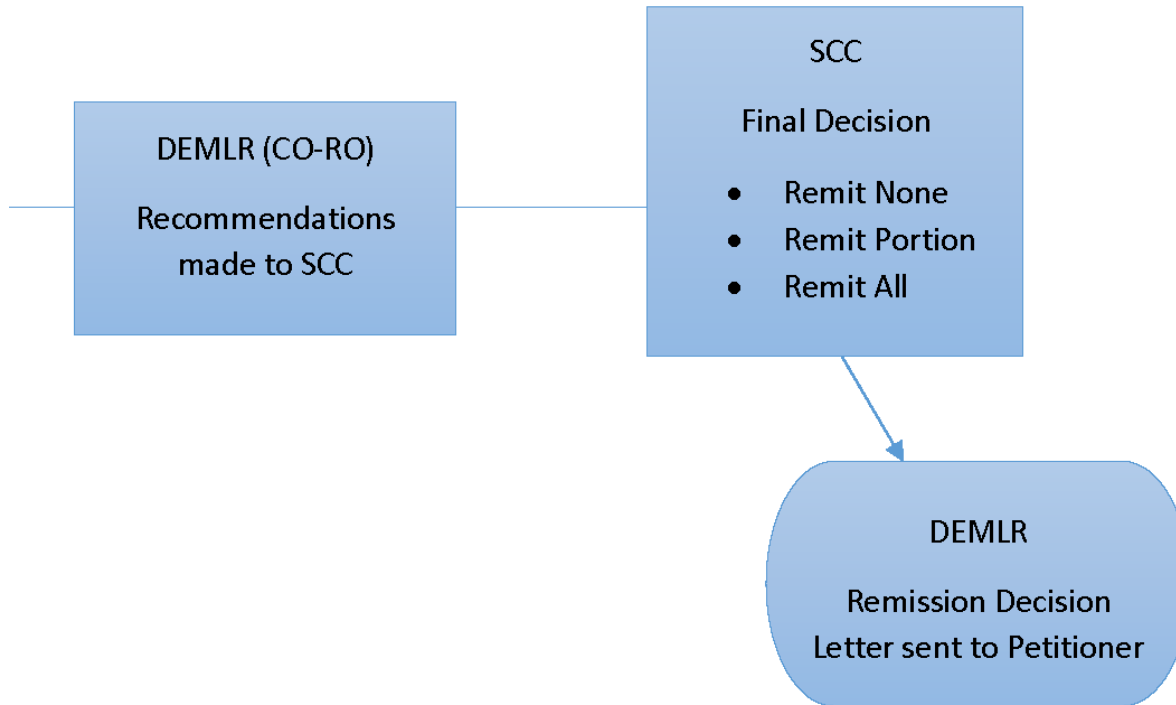
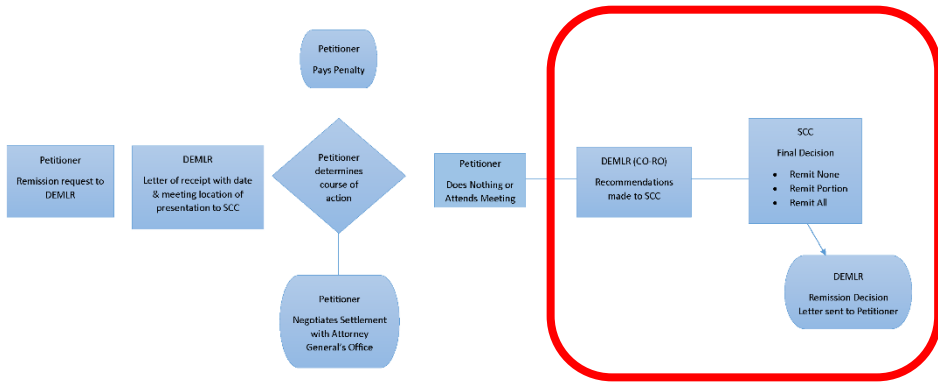


CIVIL PENALTY REMISSION PROCESS – REQUEST SETTLED THROUGH COMMISSION



Flowchart applies to requests through the delegated local programs.





RECOMMENDATIONS REGARDING CIVIL PENALTY REMISSION REQUESTS

- Local Program recommends full remission of assessed penalty
- Local Program recommends partial remission of assessed penalty
- Local Program recommends no remission of assessed penalty

Comments:

Click or tap to insert printed name here.

Click or tap to enter a date.

X

[Sign or insert signature image here.]

Signature



First Time Recipients of Civil Penalty Assessments (CPAs)

A Reminder:

If a person has never been assessed a penalty under the SPCA

AND

That person abates continuing environmental damage resulting from the violation(s) within 180 days from the date of the Notice of Violation (NOV)

THEN

The maximum cumulative total civil penalty which may be assessed is \$25,000



Civil Penalty Remissions



{DATE}

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

WILLIAM E. VINSON, JR.
Interim Director

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

{FRP}
{Address1}
{Address1}
{City, State, Zip}

Re: Civil Penalty Assessment for Violations of the Sedimentation Pollution Control Act of 1973, N.C. General Statute 113A-50 et seq.
{COUNTY}
LQS {XX-XXXX}

Dear Sir or Madam:

Pursuant to North Carolina Administrative Code 15A 4A.0001 et seq., and the above-referenced Act, this letter is notice of a civil penalty assessed by the Department of Environmental Quality (DEQ), formerly Department of Environment and Natural Resources. The civil penalty assessment document is attached.

Within thirty (30) days from the date of receipt of this letter, you must do one of the following:

- (1) Pay the civil penalty assessment; or
- (2) File a written petition for a contested case hearing in the Office of Administrative Hearings (OAH).

Alternatively, if you choose to stipulate to the facts on which this assessment was based, but wish to request remission of the civil penalty, then within sixty (60) days from the date of receipt of this letter, you must do the following:

- (3) File a written request for a remission of the civil penalty.

Pursuant to N.C. General Statute 150B-22, informal settlement negotiations may be initiated at any time. To negotiate a settlement of this assessment, please contact John A. Payne, Assistant Attorney General, who may be reached by telephone at (919) 716-6600. Settlement offers do not extend the 30-day deadline for payment or filing of a contested case petition, nor the 60 days deadline for request for remission.

Additional information about your options is provided below.



Action req'd in
30 days



Civil Penalty Remissions

CERTIFIED MAIL

???Resp Person???

Page 2

???date???

PAYMENT

To pay the penalty, send your payment by check or money order made payable to the North Carolina Department of Environmental Quality (or **NCDEQ**) to John A. Payne, Assistant Attorney General, North Carolina Department of Justice, Environmental Division, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001. The Attorney General's Office will represent **NCDEQ** in the resolution of this civil penalty assessment.

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. General Statutes 150B-23. File the original petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, North Carolina 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephoning (919) 431-3000.

You must serve **DEQ** by mailing a copy of the petition to:

Mr. Bill Lane
Registered Agent and General Counsel
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

REMISSION

A request for remission is limited to consideration of the six factors listed below and is not the proper procedure for contesting the accuracy of any of the statements contained in the assessment document.

Because a remission request forecloses the option of an administrative hearing, such a request will not proceed without a waiver of your right to an administrative hearing and a stipulation that there are no factual or legal issues in dispute.

You must execute and return to this office the attached "Waiver of Right to an Administrative Hearing and Stipulation of Facts" and the attached "Justification of Remission Request" which should provide additional information on the following factors which shall be considered in determining whether a civil penalty remission request will be approved:

- 1) One or more of the civil penalty assessment factors in G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.

Updated text



Instructions



Civil Penalty Remissions

Action req'd in 60 days



CERTIFIED MAIL

???Resp Person???

Page 3

??date???

- 2) The petitioner promptly abated continuing environmental damage resulting from the violation.
- 3) The violation was inadvertent or a result of an accident.
- 4) The petitioner had been assessed civil penalties for any previous violations.
- 5) Payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.
- 6) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

You have the burden of providing information concerning the financial impact of a civil penalty and the burden of showing any financial hardship.

If you file a request for remission of the civil penalties, you must submit the required information within 60 days of receipt of this notice. Submit this information to the attention of:

If sending by First Class Mail via the US Postal Service:

If sending via delivery service (e.g. UPS, FedEx):

Julie Coco, PE, State Sediment Engineer
DEMLR
1612 Mail Service Center
Raleigh, NC 27699-1612

Julie Coco, PE, State Sediment Engineer
DEMLR
512 N. Salisbury Street
Raleigh, NC 27604

Payment of this penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in this penalty assessment are continuing in nature, **DEQ** reserves the right to assess additional civil penalties in the future, or take other enforcement action against you.

Please also be aware that because you have never previously been assessed a civil penalty for violations of the Sedimentation Pollution Control Act, should you abate continuing environmental damage resulting from these violations within 180 days of the date of the Notice of Violations (no later than {DATE}), then the maximum cumulative civil penalty assessed against you for these violations cannot exceed \$25,000.00.

Your attention to this matter is appreciated.

Sincerely,

{Name}
{Title}
DEMLR

cc: Julie Coco, State Sedimentation Engineer & John A. Payne, Assistant Attorney General



Civil Penalty Remissions

Updated text



CERTIFIED MAIL

???Resp Person???

Page 3

???date???

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Sincerely,

{Name}
{Title}
DEMLR

cc: Julie Coco, State Sedimentation Engineer & John A. Payne, Assistant Attorney General



Civil Penalty Remissions, cont.

- The petitioner has the burden of proving the financial impact of a civil penalty or showing that it will create a hardship.
- The Sedimentation Control Commission (SCC) may remit the entire amount only if the petitioner has not been assessed civil penalties for previous violations and payment of the civil penalty will prevent payment for necessary remedial actions.
- The SCC cannot increase a penalty, but can only decrease it should they choose.



Julie Coco, PE, CPESC
State Sedimentation Program Engineer
Division of Energy, Mineral, and Land Resources

