

SEDIMENT AND EROSION CONTROL PROGRAM

SEDIMENT AND EROSION CONTROL PROGRAM BACKGROUND (40 CFR PART 122.34(b)(4))

Background.

Sediment and erosion control for construction sites fall under the authority of the following 3 regulations:

1. Federal requirements found in 40 CFR Part 122.34 specifically (b)(4):

(b)Minimum control measures. The permit must include requirements that ensure the permittee implements, or continues to implement, the minimum control measures in paragraphs (b)(1) through (6) of this section during the permit term. The permit must also require a written storm water management program document or documents that, at a minimum, describes in detail how the permittee intends to comply with the permit's requirements for each minimum control measure.

(4)Construction site storm water runoff control.

(i) The permit must identify the minimum elements and require the development, implementation, and enforcement of a program to reduce pollutants in any storm water runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the Director waives requirements for storm water discharges associated with small construction activity in accordance with § 122.26(b)(15)(i), the permittee is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites. At a minimum, the permit must require the permittee to develop and implement:

(A) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State, Tribal, or local law;

(B) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

(C) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

(D) Procedures for site plan review which incorporate consideration of potential water quality impacts; Procedures for site plan review should include the review of individual pre-construction site plans to ensure consistency with local sediment and erosion control requirements. Procedures for site inspections and enforcement of control measures could include steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality.

(E) Procedures for receipt and consideration of information submitted by the public, and

(F) Procedures for site inspection and enforcement of control measures.

2. General Permit NCG 010000 – Construction Stormwater NPDES permit

A summary of the primary requirements found in this general permit is below:

- Applies to construction sites disturbing one or more acres
- Must identify and manage construction site pollutants, including equipment operation and maintenance, material handling, building material waste handling, stockpiles, and handling of concrete.

- Requirement to stabilize slopes steeper than 3:1 within 7 days and all other areas within 14 days. Additional stabilization requirements pertain to slope length and HQWs.
- Rain gauges are required, as are daily rainfall totals.
- Permittees must inspect once every 7 days and within 24 hours of 0.5" of rain.
- Permittee must self-report off-site sediment within 24 hours of observation
- Special or threatened waters – cannot disturb more than 20 acres in these watersheds
- Requirement to install and maintain measures
- Requirement to revise plan with it has been found to be inadequate
- Requirement to follow plan
- Requirement to establish permanent groundcover (80% coverage)

3. State requirements found in The Sedimentation Pollution Control Act of 1973 and NCAC Title 15A Chapter 4.

A summary of the primary requirements in the SPCA and NCAC Title 15A Chapter 4 is below:

- Sites disturbing 1 or more acres must have an approved plan.
- Approved plans must be revised if it is inadequate.
- Landowner shall inspect the site, based upon construction phase and activity (not based upon calendar).
- Buffer zones are required in specific instances.
- Stabilization timelines (steep slopes within 21 days, all other areas within 15 days or 90 days after completion)
- Requirement to install appropriate measures to prevent off-site sedimentation
- Measures must be designed to provide protection from the 10 year storm peak rate of runoff
- Requirement for measures to be installed and maintained
- E&SC design in HQW watersheds and the Neuse and Falls Lake watersheds is more restrictive
- Local governments can be delegated the authority to review, inspect and enforce per the SPCA and NCAC Title 15A.

NPDES PERMIT – PART II SECTION E (1)

As an MS4, the LOCAL GOVERNMENT must develop, implement, and enforce a program to reduce pollutants in stormwater runoff from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.

Local governments have the following 3 options to manage E&SC in NC:

1. Rely on DLR for E&SC
2. Have a delegated program
3. Rely on another delegated program (i.e., County Local Program)

The NPDES permitting authority may recognize that another government entity, including the permitting authority, may be responsible for implementing one or more of the minimum measures on the LOCAL GOVERNMENT's behalf. The N.C. Division of Energy, Mineral, and Land Resources Sediment and Erosion Control Program effectively meets the minimum requirement standard for Construction Site Runoff Controls by permitting and controlling development activities disturbing one or more acres of land surface and those activities less than one acre that are part of a larger common plan of development as authorized under the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code.

If the local government is a delegated program or is relying on another delegated program, the LOCAL GOVERNMENT must have the following minimum components:

1. An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance;
2. Require construction site operators to implement appropriate erosion and sediment control best management practices;
3. Procedures for site plan review which incorporate consideration of potential water quality impacts; and
4. Procedures for site inspection and enforcement of control measures.

Minimum Requirement 1: Rely on DLR be a delegated program or rely on a delegated program for implementation and enforcement of the E&SC program.

Minimum criteria: Ensure mechanisms are in place to get sites covered/permited.

Note for each question answer Yes or No, and enter a comment and/or a recommendation if appropriate. Comments are normally associated with positive findings where recommendations are normally associated when either responding "no" or where there are specific recommendations to strengthen the program.

General Sustainability:

1. Does the LOCAL GOVERNMENT conduct random inspections of land disturbing?
 - a. If yes, does the LOCAL GOVERNMENT report sites that are not in compliance?
2. Does the LOCAL GOVERNMENT provide general awareness training to municipal staff on construction site stormwater management?
3. Does LOCAL GOVERNMENT support DLR staff in providing general awareness to the general public on construction site stormwater management?
4. Does the LOCAL GOVERNMENT monitor follow-up action by the Division of Land Resources (DLR)?
5. Does the LOCAL GOVERNMENT maintain a record of Division of Land Resources (DLR) findings?
6. Does the LOCAL GOVERNMENT have an ordinance regulating E&SC?
 - a. If yes, does it have enforcement authority?

- b. If yes, consider becoming a delegated E&SC program.

Delegated Program Sustainability:

7. Do you have a delegated program?
8. Does the LOCAL GOVERNMENT maintain an E&SC ordinance or other regulatory mechanisms that provides the legal authority to oversee and enforce the E&SC program components, such as having an approved plan, requiring appropriate measures, and enforcement steps?
 - a. If yes, does the ordinance or other legal instrument include penalty provisions to ensure compliance and to address noncompliance?
9. Does the LOCAL GOVERNMENT have the ability to promptly require that violators cease and desist discharges of stormwater in violation of any ordinance or standard and/or cleanup and abate such discharges?
10. Has the LOCAL GOVERNMENT documented any changes to programs or practices?
11. Has the LOCAL GOVERNMENT developed standard operating procedures, policies, and written programs for their legal authority?
 - a. If yes, does the LOCAL GOVERNMENT maintain a list of standard operating procedures, policies, and written programs and does the list identify when it was last updated?
 - b. If yes, do the standard operating procedures, policies, and written programs specify what needs to happen, who needs to do it, when it needs to get done? Are responsibilities and assignments documented?
 - c. If yes, has the LOCAL GOVERNMENT properly implemented standard operating procedures, written programs, checklist, policies, etc.?
 - d. If yes, does the local government maintain a table that identifies what best management practices will be used, their frequency, measurable goals, implementation schedule, and the responsible person or position for implementation?
 - e. If yes, are annually reviews of ordinances or other regulatory mechanisms conducted and documented?
 - f. If yes, are ordinances or other regulatory mechanisms revised as needed?
 - g. If yes, has the LOCAL GOVERNMENT developed a written enforcement response plan (ERP) which clearly describes the action to be taken for common violations?
 - h. If yes, does the LOCAL GOVERNMENT's enforcement response plan (ERP) include enforcement responses that vary with the type of permit violation?
 - i. If yes, does the LOCAL GOVERNMENT's enforcement response plan (ERP) include escalating enforcement if violations are repeated or not corrected?
 - j. If yes, does the LOCAL GOVERNMENT have the authority to request from operators of construction sites information such as stormwater plans, inspection reports, monitoring results, and other information deemed necessary to assess compliance?
 - k. If yes, are operators of construction activity prohibited from commencing construction activity until they receive receipt of written approval of the plans?
12. Does the LOCAL GOVERNMENT have requirements for construction site operators to implement appropriate erosion and sediment control best management practices?
13. Does the LOCAL GOVERNMENT have requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.
 - a. If yes, are construction site operators required to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste?
 - b. If yes, do inspections address good housekeeping practices, spill prevention and response, materials handling and storage, waste management practices and non-stormwater discharges?
14. Does the LOCAL GOVERNMENT have Procedures for site plan review which incorporate consideration of potential water quality impacts;
 - a. If yes, does the LOCAL GOVERNMENT maintain written procedures for Erosion and Sediment Control site plan review?
 - b. If yes, does the LOCAL GOVERNMENT identified who reviews of the Erosion and Sedimentation Control Plans?

- c. If yes, does the LOCAL GOVERNMENT verify that appropriate BMPs are incorporated into the plan to address erosion control, sediment control, and housekeeping?
 - d. If yes, does the LOCAL GOVERNMENT verify that design specifications and details for all BMPs are included on the plans?
 - e. If yes, does the LOCAL GOVERNMENT verify that standards conditions are included in erosion and sediment control or stormwater provisions?
 - f. If yes, does the LOCAL GOVERNMENT verify that maintenance requirements are specified?
 - g. Verify that coverage under NCG01 has been obtained, where required?
 - h. If yes, does the LOCAL GOVERNMENT identify the more common compliance issue on construction projects?
15. Does the LOCAL GOVERNMENT have and promote a means for the public to notify the appropriate authorities of observed erosion and sedimentation problems.
- a. Does the LOCAL GOVERNMENT provide and promote a means for the public to notify the appropriate authorities of observed erosion and sedimentation problems?
 - b. Does the LOCAL GOVERNMENT have written procedures for the receipt and consideration of information submitted by the public?
 - i) If yes, do written procedures for the receipt and consideration of information submitted by the public lead directly to a site inspection or other follow-up action?
 - c. Does the LOCAL GOVERNMENT have a website or hotline?
 - (1) If yes, is it advertised?
 - ii) Does the LOCAL GOVERNMENT track complaint investigations and response?
 - (1) If yes, does the LOCAL GOVERNMENT respond back to public?
16. Does the LOCAL GOVERNMENT have procedures for site inspection?
- a. If yes, does the procedure or checklist include what is being inspected, who is inspecting and when inspections are to be conducted? Who what where when why?
17. Does the LOCAL GOVERNMENT have procedures for enforcement of control measures?
- a. If yes, is it written guidance?
 - i) If yes, does the guidance address who, what, where, why in addition to actions (i.e., re-inspection, enforcement) to ensure compliance?
 - b. If yes, does the LOCAL GOVERNMENT have written procedures for the possible sanctions to include non-monetary penalties (such a stop work orders), fines, bonding requirements, and/or permit denials for non-compliance contractors?
 - c. If yes, does the LOCAL GOVERNMENT track enforcement actions?
 - d. If yes, does the LOCAL GOVERNMENT revise as necessary, written procedures outlining the enforcement procedures?
 - e. If yes, does the LOCAL GOVERNMENT train staff?
18. Does the LOCAL GOVERNMENT provide education to staff, public and construction site operators?
- a. If yes, does the LOCAL GOVERNMENT train staff on site plan reviews?
 - b. If yes, does the LOCAL GOVERNMENT train staff on inspections?
 - i) If yes, are inspectors knowledgeable about erosion and sediment control BMPs, State stormwater construction general permit, stormwater control measures, local stormwater requirements, and legal authority (ordinances)?
 - c. If yes, does the LOCAL GOVERNMENT train staff on enforcement?
 - d. If yes, does the LOCAL GOVERNMENT train construction site operators on appropriate E&SC controls and P2?
 - i) If yes, does the LOCAL GOVERNMENT make available appropriate outreach materials to construction operators who will be disturbing land within the MS4 boundary?
 - ii) If yes, does the LOCAL GOVERNMENT provide information to construction operators on appropriate selection, installation, implementation, and maintenance of controls?
 - iii) If yes, does the LOCAL GOVERNMENT provide brochures or outreach materials targeted at operators?

- (1) If yes, are materials or brochures given to the site contact to educate them about appropriate BMPs?
- e. If yes, does the LOCAL GOVERNMENT educate the public on general E&SC?
- f. If yes, does the LOCAL GOVERNMENT train all staff whose primary job duties are related to implementing the construction stormwater program, including permitting, plan review, construction site inspections, and enforcement?
 - i) If yes, does the LOCAL GOVERNMENT provide refresher training?
 - ii) If yes, does the LOCAL GOVERNMENT provide information on training opportunities?
 - iii) If yes, has the LOCAL GOVERNMENT developed or utilize existing outreach tools (i.e. brochures, posters, website, plan notes, manuals etc.)?

Rely on another Delegated Program Sustainability

- 1. Does the LOCAL GOVERNMENT rely on another S&EC delegated program?
 - a. If yes, does the LOCAL Government have a written MOU/MOA/LOA/ILA with the delegated authority?
 - b. If yes, does the LOCAL GOVERNMENT conduct random inspections of land disturbing with the MS4?
 - c. If yes, does the LOCAL GOVERNMENT report sites that are not in compliance?
 - d. If yes, does the LOCAL GOVERNMENT provide general awareness training to municipal staff and the general public on construction site stormwater management?
 - e. If yes, does the LOCAL GOVERNMENT monitor follow-up action by the Division of Land Resources (DLR) or the County?
 - f. If yes, does the LOCAL GOVERNMENT maintain a record of Division of Land Resources (DLR) or the County findings?

NPDES PERMIT – PART II SECTION E (2) NCG010000 PERMIT

BMP: NCG010000 permit

Minimum Requirement 2: The NCG010000 permit, as administered by the State, establishes requirements for construction site operators.

Minimum Criteria:

For sites over 1 acre, does the LOCAL GOVERNMENT provide construction operators with the NCG010000 Permit?

Sustainable Elements:

1. Does the LOCAL GOVERNMENT require construction site operators to provide a copy of the NCG01 NOI to the LOCAL GOVERNMENT prior to issuing building or grading permits?
2. Does the LOCAL GOVERNMENT inspect sites for construction site waste management practices?
3. Does the LOCAL GOVERNMENT contact DLR regarding sites that may be in violation of NCG01?
4. Does the LOCAL GOVERNMENT educate staff, contractors and developers about construction site waste management best practices?

NPDES PERMIT – PART II SECTION E (3)

Even if the LOCAL GOVERNMENT relies on the State for implementation of the Soil and Erosion Control program, the LOCAL GOVERNMENT must still provide general awareness training on construction site stormwater management to municipal staff and the general public, conduct random inspections within their jurisdiction of sites greater than an acre and report their observations to the implementing agency.

The permittee may implement a plan promoting the existence of the NCDEQ, Division of Land Resources “Stop Mud” hotline to meet the requirements of this paragraph.

SUSTAINABILITY ASSESSMENT of the OVERALL SEDIMENTATION AND EROSION CONTROL PROGRAM

1. Is the organization committed to the Sediment and Erosion Control Program, i.e., provides adequate resources and supports the program?
2. Has the LOCAL GOVERNMENT engaged & collaborated with stake holders?
 - a. Does the LOCAL GOVERNMENT coordinate with other local governments departments and staff, State, or County organizations to implement the Soil and Erosion Control program?
 - b. Does the LOCAL GOVERNMENT collaborate with organizations such as APWA, SWANC, etc. as well as other LOCAL GOVERNMENTS, and other stake holders to strengthen the Sediment and Erosion Control Program?
3. Has the LOCAL GOVERNMENT completed an assessment of the Sediment and Erosion Control Program?
 - a. Has the LOCAL GOVERNMENT conducted and documented annual reviews of the Sediment and Erosion Control Program including any SOPs, policies and/or written plans?
 - b. Does the LOCAL GOVERNMENT maintain a written explanation of how the LOCAL GOVERNMENT will evaluate the success of their Sediment and Erosion Control Program?
 - c. Has the LOCAL GOVERNMENT identified recommendations to strengthen the program?
4. Has the LOCAL GOVERNMENT developed and implemented an action plan with deadlines to address the areas that need to be strengthened?
 - a. Has the LOCAL GOVERNMENT identified the root causes of any findings and/or recommendations?
 - b. Has the LOCAL GOVERNMENT developed and implement a plan and schedule to address the identified modifications and improvements?
 - c. Has the LOCAL GOVERNMENT documenting changes to programs or practices?
 - d. Has the LOCAL GOVERNMENT identified deadlines to implement changes to the programs or practices?
 - e. Has the LOCAL GOVERNMENT trained Staff on the changes and/or revised SOPs?