

NCG01 – April 1, 2024 – March 31, 2029

Response to Comments on Draft Permit

This document does not respond to every individual comment but responds to common concerns that were identified during the draft permit period.

Comment

Request to combine Erosion and Sedimentation Control (E&SC) Plan and NCG01 – Construction Stormwater Certificate of Coverage application processes, to be similar to pre-2019 process when an applicant automatically received the NCG01 permit upon E&SC plan approval.

Comment

Support procedure that allows applicant to apply for both NCG01 permit and Erosion and Sedimentation Control (E&SC) plan through one application allowing DEMLR to separate data needed for each program without weakening permit protections, monitoring, or oversight. Do not support an attempt to transfer delegation of Clean Water Act oversight and responsibility to local governments.

Response to two preceding comments

NCDEQ continues to develop and implement the new Permit Transformation Process (PTP) where an applicant seeking an Erosion and Sedimentation Control Plan approval from NCDEQ-DEMLR and NCG01 Certificate of Coverage will be able to apply for both in one submittal to the DEMLR Regional Office. The process continues to improve to make it easier for the applicant while still enabling NCDEQ to meet its NPDES EPA reporting and oversight requirements.

Comment

Strengthen permit to be more protective of water resources. Specifically, strengthen permit to minimize stormwater discharges of small particle sizes.

Response

NCDEQ NCG01 permit currently includes language designed to prevent Permittees' stormwater discharges from adversely affecting receiving waters as demonstrated in following sentence: "The discharges allowed by this General Permit shall not cause or contribute to violations of North Carolina Water Quality Standards for surface waters and wetlands (15A NCAC 02B .0200)."

Comment

Part I

Request that landfill facilities transition to NCG12000 following initial construction and site stabilization. Following construction, landfill facilities would closeout NCG01 and transition to NCG12. Facilities would not be required to abide by an active NCG01 during the entire life of the landfill.

Response

After initial construction of the landfill is complete, there is still regular land disturbing activity occurring at an active landfill. NCG12 requires monitoring, but not to the same degree or type in NCG01 (specifically developed to monitor and control potential erosion/sedimentation impacts resulting from extensive land disturbing activity associated with borrow areas, active cells, and heavy equipment operation).

Comment

Part I and Part II – Section D

Below the fall line of North Carolina, there is no mention of Endangered Species Act (ESA) species or designated critical habitat, but ESA listed sturgeon and habitats occur. Request to extend same buffer protections afforded to trout waters to waters where sturgeon can occur.

Response

There are several federal, state, and local requirements that may apply to a specific project in addition to the NCG01 stormwater construction activity permit. The following statement addresses this issue: **This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.**

Comment

Part II – Section A – 8. Documentation

Change wording of “Completed, signed & notarized **Financial Responsibility/Ownership Form**”

Response

Wording changed to “Properly executed **Financial Responsibility/Ownership Form**”

To account for PTP changes.

Comment

Part II – Section G – 1. Modifications to E&SC Plan

Improve the wording of this section.

Response

Removed the following sentence: “A minor adjustment shall be the addition of E&SC measures (e.g., silt fence, inlet protection check dams, rolled erosion control practices, etc), or the relocation of E&SC measures that would improve the overall stormwater management and sediment control onsite.” Removal of this sentence allows the permittee more flexibility in what determines a minor adjustment.

Comment

Part II – Section G – 2. Operation and Maintenance

Request specific timeframes for installing and maintaining temporary and permanent E&SC measures as required by permit and E&SC control plan.

Response

Some timelines specified in both the Erosion and Sedimentation rules and the NCG01 permit pertain to ground stabilization. Regarding maintaining measures, the responsibility of

maintenance falls to the Financial Responsible Party. 15A NCAC 04B.0113 outlines that temporary and permanent measures shall be installed and maintained as required by the approved plan or any provision of the SPCA, NCAC or local ordinance. Maintenance is required whenever measures require maintenance from the beginning of the project, there is not a specific timeframe. Installation of measures is not explicitly given a statutory timeline and will vary with site specific sequencing. The erosion control plan should include a construction sequence and erosion control notes section that would give an outline of when measures are to be installed.

Comment

Part II – Section G – 3. Corrective Actions

Improve wording of this section, specifically “... these actions shall be **performed** as soon as possible ... “

Response

The wording has been changed as follows: “... these actions shall be **initiated** as soon as possible ... “

Comment

Part II – Section G – 6. Secondary Containment (Plan)

There was concern with adding Secondary Containment Plan requirement to NCG01.

Response

The requirement remains. Language has been revised so that the requirement intent is preserved while numerous specific items are eliminated.

Comment

Part III – Section A – Self Inspections - Table 4

Request to change the following: “**The permittee may use another onsite rain-monitoring device approved by the Division.**” To make language more specific.

Response

Language remains unchanged allowing division to decide alternative options on a case specific basis.

Comment

Part III – Section A – Self Inspections - Table 4

Frequency specified under several items reads: “At least once per 7 calendar days and within 24 hours of a rain event \geq 1.0 inch in 24 hours. “ Request to align this frequency with the EPA Construction General Permit inspection frequency.

Response

EPA and NCDEQ discussed this issue during the previous permit renewal and the two agencies reached the compromise language in the NCG01 permit.

Comment

Part III – Section B – Recordkeeping – 1. E&SC Plan Documentation

Request for expansion of electronically available (digital) records to include all SWPPP documents for the project including but not limited to E&SC plan and Table 5: Recordkeeping Requirements.

Response

[15A NCAC 04B .0131](#) requires that a plan be made available onsite, but other required items may be electronic as long as they are available during an inspection.

Comment

Part III – Section C – 2. Reporting Timeframes and Other Requirements – Table 6

Change wording from “*Within 7 calendar days*, a report that contains a description of the sediment and actions taken to address the cause of the deposition. Division staff may waive the requirement for a written report on a case-by-case basis.”

To

“*Within 7 calendar days*, a report that contains a description of the sediment and actions taken to address the cause of the deposition, if requested by the Division following the initial self-report notification. “

Response

This change was agreed upon and then accidentally not changed in the most recent version of the permit. This change can be addressed when the permit will be reopened to incorporate Permit Transformation Process changes.

Comment

Part IV – Section B – 5. Impacts of Potential Impacts to Surface Waters or Wetlands

Request that measure be added that calls for all land disturbing activities to stop until stormwater discharges from the site no longer impact or have potential to impact surface waters or wetlands.

Response

NCDEQ can issue a formal Stop Work Order as an enforcement action. This would be based on inspections and would need to be initiated by the NCDEQ-DEMLR Regional Office.

Comment

Part IV – Section B – 6. Signatory Requirements (b)

Request alternative to the following:

“The written authorization is submitted to the Director. [40 CFR 122.22]”

Response

This cannot be changed as it is a federal requirement [40 CFR 122.22].

Comment

Part V – Definitions

Request that street washing waters be added to the Allowable Non-Stormwater Discharges.

Response

Street washing waters is not included in the 40 CFR 122.3 Exclusions list.

NC can be more stringent, but cannot be less stringent than the federal requirements.

Comment

Part V – Definitions

Request Stormwater Discharge Outfall definition change in relation to silt fence outlets.

Response

No change made as silt fence outlets that are discharging are to be monitored and reported.

Comment

Part V – Definitions

Request that Qualified Person definition (as defined in EPA Construction General Permit) be added to definitions section.

Response

This definition was not added as NCDEQ did not believe this addition was necessary.

Comment

Several on the NCDEQ DEMLR supplemental plan sheets.

Response

These sheets will be revised to ensure that they are consistent with most recent permit.

Comment

Several items pertained to the Erosion and Sedimentation Control Plan components (Part II – Section A of NCG01).

Response

Although the Erosion and Sedimentation Control Plan is referenced in the NCG01 permit, changes to the E&SC plan are done by the NCDEQ – DEMLR – Erosion and Sediment Control Section.