

What are the owners' responsibilities after construction is complete?

The site must meet the final stabilization requirements in the permit, the permit should be terminated once those requirements are met, and all records shall be retained for 3 years past the date of termination. **Final stabilization is considered when disturbed areas are uniformly covered with a perennial vegetative cover over at least 70% of the disturbed areas.** See the NDDoH Permit for more information and details.

What are the consequences of being in noncompliance with a NDPES and SWPPP?

The NDDoH is here to assist the locals with their compliance concerns. However, the NDDoH may assess a penalty of up to \$12,500/violation/day for any violation of the NDDoH permit. The NDDoH is here to reduce the impacts of potential non-compliance with the EPA, which could assess even greater penalties if found in non-compliance.

On a NDDOT site, the project engineer can stop work, have the work completed by another contractor and deduct those costs from the contract, impose liquidated damages of \$500/day/violation, and/or withhold all payment until compliance is achieved.

Where can I find more information regarding NDPES permits, erosion and sediment control, and SWPPPs?



<http://www.ndltap.org/library/>

EROSION & SEDIMENT CONTROL FOR NORTH DAKOTA MUNICIPALITIES, COUNTIES AND TOWNSHIPS



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When do you need a NPDES (National Pollutant Discharge Elimination System) Permit?

If your construction project will disturb 1 or more acres of ground, or will disturb less than one acre of land but is part of a common plan of development or sale that will ultimately disturb one or more acres of land, **the project owner is required to obtain a permit from the ND Department of Health** and is required to prepare and implement a SWPPP (Stormwater Pollution Prevention Plan).

If your project is within the boundaries of an Indian Reservation, the NPDES permit must be acquired through the Federal EPA office (Environmental Protection Agency).

Example projects that could require a NPDES permit and SWPPP:

- Borrow areas
- Stockpile sites or gravel pits
- Disturbing the earth for any development activity
- Roadway construction
- Bridge construction
- Emergency diking
- Obliteration/restoration of previously developed areas (roads, gravel pits, well sites, etc.)

Example “routine maintenance” activities that do not need a permit:

- Gravel recovery (pulling shoulders)
- Using a disc, rototiller, or other means of breaking up sod along the roadway edge
- Ditch reshaping (as long as it is less than 1 acre)

Can the NDPEs permit and SWPPP be delegated to a contractor?

Yes. However, the owner is still ultimately responsible for the consequences of the NDPEs permit and SWPPP requirements and activities.

What is the time frame requirements for obtaining a NDPEs permit and SWPPP?

An NOI must be submitted a minimum of 7 days before construction begins on a NDDoH Permitted site and a minimum of 14 days before construction begins on a EPA permitted site.

What are the basic requirements of a SWPPP?

This is a difficult question to answer quickly. There are two main parts to a SWPPP. A narrative and an illustrative. Between these two sections, you must cover all the requirements of the Permit. Usually the illustrative shows where everything will be located or done, while the narrative explains those items in greater detail and the justification behind the approach.

The SWPPP is meant to be a plan for controlling pollutants on a project. This includes planning out erosion prevention methods, capturing sediment, how to manage chemicals and petroleum products, regular inspection frequencies, and how to take care of maintenance.

What activities are prohibited on a construction site that has a NDPEs permit and SWPPP?

Anything that will cause or has a potential to cause pollution off site, or to a water of the state. Also, the permit does not allow the discharge of wastewater of any kind.

What are the owners’ responsibilities during construction?

The owner is responsible for compliance with all terms and conditions of the permit.

What are the owners’ responsibilities if construction is temporarily suspended for short periods or for the winter season?

All disturbed areas must be stabilized within 14 days and all controls needed to maintain sediment on site must be installed and maintained. If owner suspends work in this instance, disturbed areas are required to be covered with an approved stabilization method, i.e. straw mulch, blankets, etc. Once the disturbed area is free from frost and work is complete, the areas must be prepped and uniformly covered with a perennial vegetative cover.

Any suspension of work, as well as everything that has been done to prepare for said suspension, must be documented in the SWPPP.