1100.30 STORM WATER DISCHARGE (NOT YET FULLY IMPLEMENTED)

All NDR construction projects which disturb 2 ha (5 acres) or more are required to have a STORM WATER PERMIT. (The rules also apply to cities and counties with populations of 100,000 or more.)

A Storm Water Permit requires specific actions intended to reduce and/or eliminate the problems associated with runoff, soil erosion, and siltation. To comply with this environmental regulation, the NDR has developed the following procedure:

- Projects which disturb 2 ha (5 acres) or more are identified by Project Development.
- When projects are turned in, Project Development tabulates projects with PPPs and sends NOIs and newspaper notices to the Construction Division.
- The Construction Division forwards required notices to appropriate newspapers for publication. Once publication verification is returned, the Construction Division assembles all parts for NOIs and forwards copies to DEQ and the Project Manager.
- At this point, the Project Manager administering a particular project is notified that a Storm Water Permit is in place. (The contractor may begin work any time after that notification.)

Project Manager shall check to assure that projects requiring a Storm Water Permit have a Pollution Prevention Plan (PPP). Along with a PPP there should be bid items for pollution control items such as silt fence, stabilizing crops, ditch checks, etc. As always, it is important to check preliminary plans whenever possible to be sure all needed contract items have been included. Obviously, if a contract is let without erosion control items, the Project Manager will have to change order those items.

1100.31 NOTICE OF INTENT (NOI)

NOIs are NDR's official notification to DEQ that there is a project located at "xxxxxxxxxxxxxx," and the project will be disturbing at least 2 ha (5 acres) or more are required to have a STORM WATER PERMIT. (The rules also apply to cities and counties with populations of 100,000 or more.)

1100.32 CONSTRUCTION DIVISION POLICIES

- Project Managers shall have a copy of all contractor NOIs (noncommercial sources) on file in the project documents before allowing a contractor to produce or provide material for the project.
- *SSHC Subsection 204.02* restricts exposing erodible soil to less than 75000 ± m² (90,000 sy) without prior approval of the Project Manager. Criteria for approving a variance to the maximum exposure limit will be based on:

  A. Having current exposed area protected with erosion control measures. Minimum measures would include silt fence around the perimeter of the area, ditch checks, and additional silt fence where sediments may leave the project. This includes all disturbed areas (i.e., borrows, areas within temporary and permanent easements.)

B. The contractor has demonstrated ability and willingness to keep erosion control measures current and maintained within existing work areas.

C. Consideration must be given for the time of year before exposing additional areas. For example: It would not be unreasonable to deny a request for additional working area in a situation where it is late in the grading season and the contractor is falling behind in finishing, applying mulch, or temporary seeding.

Also, it would not be unreasonable to place a condition on approving an additional spread. For example: "Contractor, you may open area "X" as soon as you have finished and stabilized up to Station "Y.""

D. The contractor has successfully followed their erosion control work plan. The Project Manager has not noted storm water violations, and has every reason to believe additional open areas will **not** over-extend the contractor's ability to comply with our Storm Water Pollution Permit.

It is strongly recommended that the Project Manager approve additional area on a case-by-case basis and consider approval on the contractor's previous work experience as well as site conditions.

- Contractors have been told it is their responsibility to maintain the project within storm water compliance. They have also been told about the need to be prepared to complete requirements of their Pollution Prevention Plan should a subcontractor not be able to perform.

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Pollution prevention is necessary even through most of the erosion control work is subcontracted to DBEs. However, compliance is a must and project administrators **MUST** be sure the project is maintained within storm water requirements and that the Pollution Prevention Plan is followed.

1100.33 QUESTIONS OFTEN ASKED

The weather is not favorable to establish temporary seeding or silt fences. What do we do?

A. Stabilization

Regulations say if an area will not have any activity for 21 days; by the 14th day, some form of stabilization will be required. There is very little latitude in that statement even if it is wet or freezing.

To be in compliance with storm water regulations, something needs to be done. For example, incorporating mulch, using HydroMulch or Soil Binders which are comprised of wood fiber and paper mulch. Both work, but tend to be expensive knowing it is less than temporary and we will have to ultimately seed.

Best solution is to conduct temporary seeding in a timely manner and not let the contractor get so much open that it cannot be stabilized by seeding. At the least keep it to a minimum so if one of the other alternates is necessary, costs can be kept to a minimum.

B. Localized Soil Erosion (Ditch Check and Slit Fences)

Bale checks used as ditch checks are most likely not as effective as "properly" installed silt fence. However, in situations where you are unable to properly install silt fence, bale checks are far superior to nothing at all. For example:

- It is wet and muddy, a trencher cannot get in to place silt fence. Interim ditch check should be bale checks.

- The ground is frozen to a point where a trencher will not work. Winter is coming. Rather than do nothing, bale checks should be installed. At least there is protection in place during the spring thaw. If an "Indian Summer" comes along and silt fence can be installed, by all means replace the bale check.

Bottom Line: Bale checks are very good interim erosion control measures when used in emergency situations. (Check the Road Standards as Roadside Development is resurrecting a standard for bale checks.)

How are borrows evaluated for Storm Water compliance?

All project specified borrows are included in the calculation for a Pollution Prevention Plan (PPP).

A. Pond Borrows

- All pond borrows (wet or dry) during construction must have at least the perimeter protected by erosion control measures. Plus, site specific considerations must be included if there is any dredging involved during construction.

- Temporary stabilization and mulching will not be required on concave slopes within the borrow. However, channels (in-flow and/or out-flow) will require stabilization or erosion control measures.

- Seeding for pond borrows will be required on any disturbed area above normal design pool or ground water elevation.

B. Wetland Mitigation Areas

- Seeding for wet land areas typically does not require special attention. Usually these areas are seeded with the same vegetation crop as any other disturbed segment on a project. Check the contract documents for non-standard situations where special aquatic plants such as cattails, wild rice, etc. may be required.

- Refer to Pond Borrows (Section A, above) for guidance in areas of standing water and selected sections in Normal Borrows (Section C, below) for those areas which are dry during seeding. In either case, all "normal" erosion control practices are required for wet land areas.

C. Normal (Dry) Borrows

- All normal borrows must be protected by perimeter erosion control measures, and are included for temporary erosion control measures if work is halted at that site for more than 21 days.

- All normal borrows, purchased by fee title, shall be included in the area which is permanently seeded.

- Normal borrows obtained by temporary easement:

  1. That require replacement of topsoil **AND** are used for agricultural row crops. The Project Manager needs to ask the property owner if they want the area permanently seeded.

     a. If the property owner requests permanent seeding, provide that seeding.

     b. If the property owner does not want permanent seeding, shape and place temporary seeding on the area. In this case, because the property will be returned to agricultural row crop use, consider temporary seeding as complying with storm water requirements. Note: Other temporary erosion control measures in that area will have to be maintained until the project is accepted.

  2. For temporary easements NOT used for agricultural row crops, permanent seeding will be required. (Examples of this situation would be permanent pastures, timber land, non-farmed land, etc.)

Is snow considered temporary cover in the Storm Water regulations? YES.

Storm water regulations are written recognizing that snow is a **"temporary"** preventive measure. However, just because it snows may or may not fulfill a winter long stabilization and definitely will not comply as spring thaws begin. As soon as the snow is gone, some other means of stabilization is required. ("Gone" could be by melting, wind, or snow plow.) Best advice is to keep working on some form of soil stabilization until it absolutely freezes so hard that work from then on will not be practical.

EXAMPLE: If snow comes in late October and is blown off the site by mid December, then some other form of temporary stabilization is required from that point forward.

Plan notes have designated a plant site within NDR right-of-way. Further, the contractor is told it is their responsibility to provide a permit for this activity. Who is ultimately responsible?

@ The contractor is responsible for that portion of area designated as the "plant site." When this situation occurs, the contractor should modify the project PPP by note to exclude the plant site when the contractor's NOI becomes effective.