

General Construction Stormwater Water Permit NDR10-0000 FAQ

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1. When do I need a permit?

If your construction project will be disturbing an area which is equal to or greater than one (1) acre or will disturb an area less than one (1) acre and is part of a larger common plan of development (e.g. a residential, commercial, or industrial development) which will ultimately disturb equal to or greater than one (1) acre, and will discharge to a water of the state, coverage under the Construction General Permit would be necessary.

A permit is required when the construction site will discharge stormwater, which contains pollutants (including sediment), to a water of the state. By definition, waters of the state are:

“All waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters that do not combine or effect a junction with natural surface or underground waters just defined.”

Under this definition, storm sewer systems are also considered to be waters of the state.

2. When do I need a permit for oil and gas exploration, production, processing or treatment operations, or transmission facilities?

This also includes discharges from oil and gas exploration, production, processing or treatment operations, or transmission facilities composed of contaminated runoff by contact with or that has come into contact with any byproduct, or waste products located on the site of such operations.

Under N.D.C.C. §61-28 wastes are defined as:

“All substances which cause or tend to cause pollution¹ of any waters of the state of the state, including, dredged spoil, solid waste, ... sewage, garbage, ...chemical wastes, ... radiological materials,...wrecked or discarded equipment, rock, sand, and cellar dirt and industrial, ... pollution discharged into any waters of the state.”

The discharge of sediment laden storm water to waters of the state would be required to obtain coverage under the construction general stormwater discharge permit, if the activity will disturb one (1) or more acres.

3. If my permit was administratively terminated during the permit reissuance, what do I need to do to re-active the permit?

If your permit has been terminated and you need continued coverage under the re-issued NDR10-0000 permit, please submit a new NOI and reference the permit ID in Box 20 (brief description of construction activity), or submit a cover letter that references the permit ID with the NOI.

4. Do I need to submit a SWPPP at the time of application?

Under the 2015 re-issued NDR10-0000 you **do not need** to submit the SWPPP at the time of application, unless the department has requested a copy.

¹ North Dakota Administrative Code § 33-16-02.1-04(7) defines pollution as “contamination, or other alteration of the physical, chemical, or biological properties, of any water of the state, including change in temperature, taste, color, turbidity, or odor. Pollution includes discharge of any liquid, gaseous, solid, radioactive, or other substances into any waters of the state that will or is likely to create nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or livestock, wild animals, birds, fish, or other aquatic biota.

A SWPPP still must be developed at the time of application, but does not need to be completed at the time of application. The SWPPP must be completed prior to the start of construction activities.

5. Where can I find information to determine if my site discharges to an impaired body of water or a water body with an approved TMDL?

The North Dakota Department of Health, Surface Water Program develops the 303(d) impaired bodies of water list and TMDLs. An interactive map is available at:

http://www.ndhealth.gov/WQ/SW/Z8_SWData/index.html

The lakes and reservoir layer is active by default, and the Rivers and Streams layer will need to be activated.

If a water body is impaired you may find what the water body is impaired for by searching (Ctrl+F) the Final 2014 Integrated Report with Letter of Approval for the name of the water body. This report can be found and downloaded at:

http://www.ndhealth.gov/WQ/SW/Z2_TMDL/Integrated_Reports/B_Integrated_Reports.htm

6. If my site doesn't discharge directly to a water body which has an EPA approved TMDL, but the surface water that I discharge to does flow to a water body with an approved TMDL, does the SWPPP still need to be consistent with the TMDL assumptions, allocations, and requirements?

Yes, TMDL's are designed to reduce the amount of pollutants which enter that specific water body. TMDLs are established for water bodies which do not meet the water quality standards set forth by the state. The TMDL will identify which pollutant does not meet the water quality standards and set limits on how much of that specific pollutant can be discharged to that water body.

Even if you don't discharge directly to the water body with an approved TMDL, your site still has the potential to contribute pollutants to that water body and thus will need to comply with the TMDL for that water body.

7. How often do I need to conduct self inspections?

Self inspections are required at least once every 14 calendar days, during normal working hours and within 24 hours after a storm event which produces greater than 0.25 inches of rainfall in a 24 hour period.

If a rainfall event triggers an inspection, you may restart the 14 day calendar count. Inspections just need to be done at least once every 14 calendar days. For example:

At the beginning of a project, you don't have a rainfall event for 14 calendar days. On the 14th calendar day, you must conduct an inspection which then restarts the 14 day count.

During the next 14 day period, you get a 0.5 inch rainfall event on the 7th day, which triggers the need for an inspection. After that inspection, you may restart the 14 calendar day count because you satisfied the minimum requirement of conducting an inspection at least once every 14 calendar days.

You would then need to conduct the next inspection either within 14 calendar days or after a storm event which produces greater than 0.25 inches of rain per 24-hour period (whichever comes first).

8. What is the difference between a natural vegetative buffer and providing a vegetative buffer?

A natural vegetative buffer is when the vegetation was pre-existing (prior to the start of the construction project) and is not planned to be disturbed during the construction activity. These areas must be outlined in the SWPPP.

A vegetative buffer would be installed (seeded) vegetation in areas which have already been disturbed due to construction activity. These areas must be outlined in the SWPPP.

9. My project is located in both Indian Country and within the jurisdiction of the state, if I obtain an EPA Construction Stormwater Permit, do I need to obtain coverage under the state permit also?

Yes, the EPA has jurisdiction on any construction activity within Indian Country and the state has jurisdiction within its borders except for Indian Country. Coverage under the EPA construction general permit would authorize the discharge for any portion of the project within Indian Country and not within the states jurisdiction. Obtaining coverage under the state construction general permit would authorize the discharge of stormwater for any portion of the project within the jurisdiction of the state.

10. What records do I need to keep on-site?

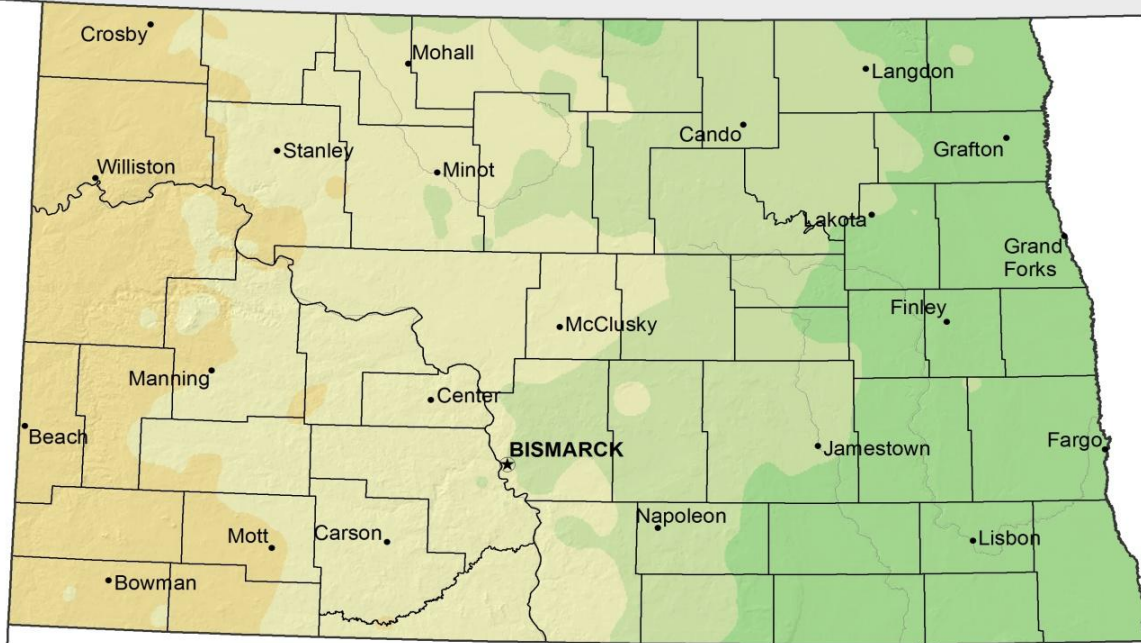
The following records must be retained or accessible on your site:

- Notice of Intent
- Notice of Coverage
- SWPPP
- Inspection Records
- Maintenance Records
- Dewatering Inspection Records (if applicable)
- A copy of the NDR10-0000 General Permit

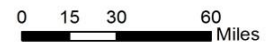
11. For final stabilization criteria, what areas of the state have less than 20 inches of annual rainfall per year?

Approximately $\frac{3}{4}$ of the state qualify for the final stabilization criteria for areas which the average annual rainfall is less than 20 inches. Please refer to the map below.

Average Annual Precipitation (1981-2010) North Dakota



Precipitation (in.)



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