



Frequently Asked Questions Regarding the North Dakota Pollutant Discharge Elimination System (NDPDES) General Construction Stormwater Permit (NDR11-0000)

1. When do I need a construction stormwater permit?

You will need a permit if:

- a. The construction project will be disturbing an area which is equal to or greater than one (1) acre or;
- b. The construction project will disturb an area less than one (1) acre but is part of a larger common plan of development (e.g. a residential, commercial, or industrial development or project staging yard) which will ultimately disturb one (1) acre or greater.

Some project owners require a construction permit regardless of size, and the NDPDES program will issue permit coverage for sites less than 1 acre.

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

A construction permit is needed if the project will disturb one (1) or more acres (including projects that disturb less than one (1) acre that are part of a larger plan) and there is a potential for sediment laden water to discharge to a water of the state. This includes discharges of contaminated runoff by contact with any byproduct, or waste products located on the site.

Under N.D.C.C. §61-28-02.10 wastes are defined as:

"Wastes" means all substances which cause or tend to cause pollution of any waters of the state, including **dredged spoil**, **solid waste**, incinerator residue, **sewage**, **garbage**, sewage sludge, munitions, **chemical wastes**, **biological materials**, radiological materials, heat, **wrecked or discarded equipment**, **rock**, **sand**, and **cellar dirt** and industrial, municipal, and agricultural pollution discharged into any waters of the state."

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 NDR11-0000 permit, please submit a new NOI and reference the terminated permit number in Box 20 (brief description of construction activity), or submit a cover letter that references the previous permit number with the new NOI submission.



4. Do I need to submit a Stormwater Pollution Prevention Plan (SWPPP) at the time of application?

You **do not need** to submit the SWPPP with the Notice of Intent (NOI) form at the time of application unless the department has requested a copy. A SWPPP must be in development at the time of and 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 waterbody with an approved Total Maximum Daily Load (TMDL)?

The North Dakota Department of Environmental Quality – Watershed Management Program develops the 303(d) listing for impaired water bodies and waterways with a total maximum daily load (TMDLs). An interactive map of North Dakota is available at: deq.nd.gov/WQ/3_Watershed_Mgmt/SWDataApp/viewer.html

In the interactive map, waters outlined in purple have a listed TMDL. A TMDL is a regulatory term describing a plan to restore impaired waters by limiting specific pollutants from entering a waterbody. Waters outlined in red have a 303(d) listed impairment. If a waterbody is impaired, you can find the impairment by searching the latest integrated report of waters needing TMDLs at the website below. To search for your specific waterbody, press Ctrl+f and type in the stream name. deq.nd.gov/wq/3_Watershed_Mgmt/2_TMDLs/TMDLS_IR.aspx

6. What if my site doesn't discharge directly to an approved TMDL, but to a tributary of a waterbody with an approved TMDL? Does the SWPPP still need to be consistent with the TMDL requirements?

Projects that discharge to a tributary of a TMDL waterbody must also comply with TMDL requirements. Even though a project does not directly discharge to the TMDL waterbody, there is the potential for pollutant contribution. The intent of TMDL listing is to reduce the amount of pollutants that enter an already impaired waterbody.

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

Inspections must be performed once every 14 calendar days and within 24 hours of a storm event of at least 0.25 inches of rain. Rainfall inspections do not take the place of the scheduled once every 14-calendar day inspection unless the rainfall inspection occurs on the same day as the once every 14-calendar day inspection. Inspections only need to be conducted during normal working hours. Rain gauges must be representative of the site.



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 construction. 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 also 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 but not within the state's 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 and accessible on your site:

- Notice of Intent
- Notice of Coverage
- SWPPP
- Inspection Records
- Maintenance Records
- Dewatering Inspection Records (if applicable)
- A copy of the NDR11-0000 General Permit

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

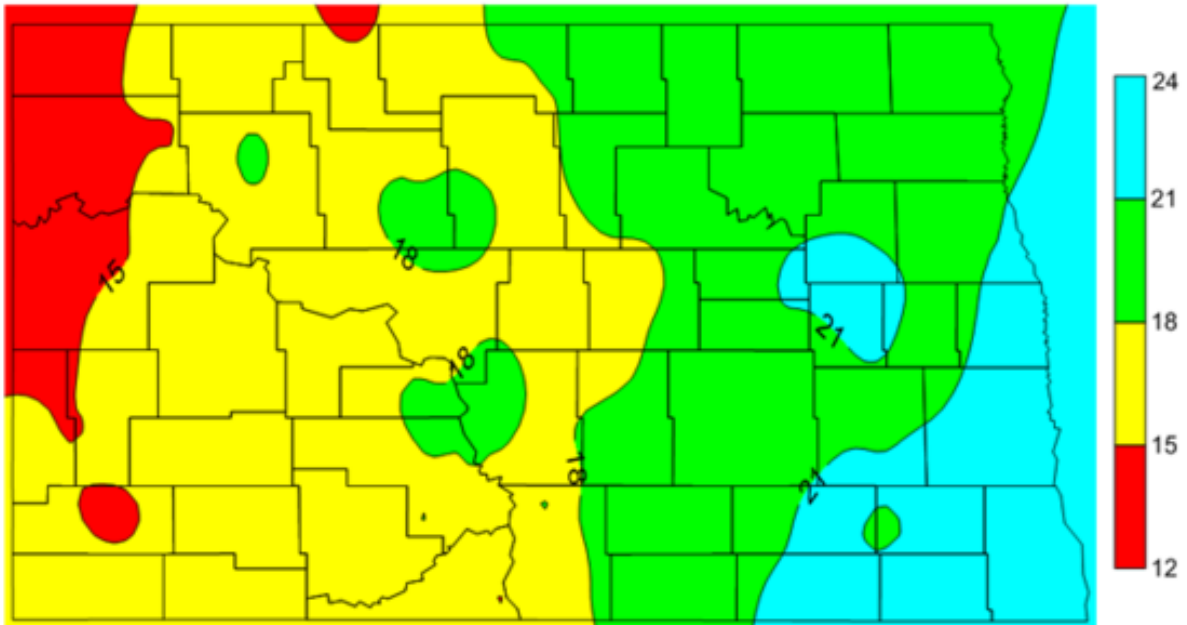
The map below shows the annual amount of precipitation for North Dakota from 1981 to 2010. The map can be found at the North Dakota State Climate Office's website:

www.ndsu.edu/ndsco/data/30yearaverage/precipitation/#c343112



North Dakota Annual 1981-2010 Precipitation (inches)

(Data from NWS Cooperative Network)



ND State Climate Office

Source: North Dakota State Climate Office, July, 15, 2020, www.ndsu.edu/ndsco/data/30yearaverage/precipitation/#c343112