

Storm Water Construction Permit

*Protecting South Dakota's
Tomorrow ... Today!*

*South Dakota Department of
Environment and Natural Resources*

Background Information

- ◆ In 1972, Congress passed the Clean Water Act
 - ❖ The goal of the Act was to protect and improve water quality in the United States
 - ❖ Authorized states and EPA to issue permits for discharges

Background Information

- ◆ In 1987, EPA expanded the Clean Water Act program to include storm water runoff from construction sites
 - ❖ Construction sites discharge pollutants into waterbodies
 - ❖ Required to get a permit for these discharges

Typical erosion rates for land-based activities

(soil loss from various land areas, in tons per acre per year)

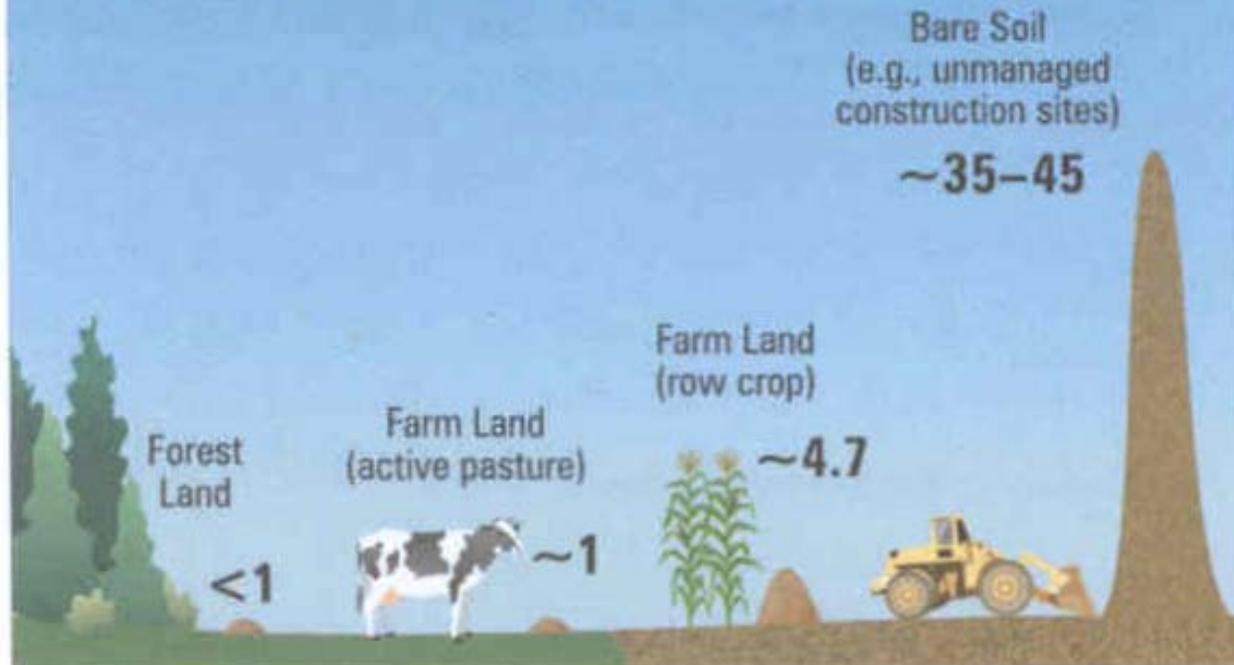


Figure 2. Typical erosion rates from land-based activities. (Dunne, T. and L. Leopold, 1978; NRCS, 2000; NRCS, 2006; ASCE and WEF, 1992)

Background Information

- ◆ In 1993, EPA turned this permitting program over to the SD DENR
- ◆ On July 1, 2002, DENR issued the current construction storm water permit
 - ❖ This permit expired on June 30, 2007
 - ❖ DENR is planning to reissue this permit

Storm Water Construction Permit



Table of Contents

1.0 Definitions

2.0 Coverage Under This Permit

3.0 Effluent Limits

4.0 Storm Water Pollution
Prevention Plan

5.0 Special Conditions

6.0 Standard Permit Conditions

Table of Contents

Attachment A: Notice of Intent

Attachment B: Notice of Termination

Attachment C: Contractor
Certification

Attachment D: Transfer of Permit
Coverage

Attachment E: Notice of Intent for
Reauthorization

1.0 Definitions

- ◆ Most technical words used in the permit are defined here
- ◆ Acronyms are spelled out



2.1 Permit Area

- ◆ Permit applies to all construction storm water discharges located in SD
- ◆ Does not apply to projects in Indian Country



2.2 Discharges Covered

- ◆ Discharge of storm water from construction sites ≥ 1 acre
- ◆ Larger common plan of development
- ◆ Designated sites
- ◆ Limited coverage for non-storm water discharges
 - ❖ Uncontaminated ground water
 - ❖ Dust control
 - ❖ Fire fighting



2.3 Discharges Not Covered



- ◆ Discharges after construction is done
- ◆ Discharges mixed with "non-storm water"
- ◆ Permit does not authorize dredge or fill activities (404 permit)
- ◆ Discharges threatening water quality
- ◆ Discharges of regulated substances (spills)

2.4 Obtaining Authorization

- ◆ NOI must be signed **by the owner** and must be complete:
 - ❖ Owner Contact Information
 - ❖ Contractor Information
 - ❖ Project Description
 - ❖ **Latitude/Longitude**
 - ❖ Name of nearest “receiving water”
 - ❖ Dewatering information
 - ❖ **SWPPP must be developed before the NOI is submitted**

Notice of Intent (NOI)

 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**
NOTICE OF INTENT (NOI)
to Obtain Coverage Under the SWD General Permit for Storm Water Discharges
Associated with Construction Activities

Return to: SD Department of Environment and Natural Resources
Surface Water Quality Program
PMB 2020
523 East Capitol Avenue
Pierre, South Dakota 57501-3181
Telephone: (605) 773-3351 or 1-800-SDSTORM

I. Site Owner Contact Information:
Company Name: _____
Primary Contact Person: _____
Mailing Address: _____
City: _____ County: _____ State: _____ Zip Code: _____
Phone Number: _____ Email Address: _____

II. Contactor Information: *(Primary contractor, if different than above)*
Company Name: _____
Primary Contact Person: _____
Mailing Address: _____
City: _____ County: _____ State: _____ Zip Code: _____
Phone Number: _____ Email Address: _____

III. Construction Project Information: *(Physical location of the construction site to be permitted)*
Project Name: _____
Primary Contact Person: _____
Street Address: _____
City: _____ County: _____ State: _____ Zip Code: _____
Latitude: _____ Longitude: _____
Phone Number: _____ Email Address: _____

Type of Ownership: Private Federal
 State Public (Other than Federal or State)

Is this project located on Tribal Lands? Yes No What is the total area disturbed by the project (in acres)? _____

IV. Storm Water Pollution Prevention Plan:
Has the Pollution Prevention Plan been developed as required? Yes No
Please note – the Plan must be developed *before* the NOI is submitted. DENR will not issue coverage until the storm water pollution prevention plan has been developed.

FOR DENR USE ONLY
Postmark Date: _____ Permit Number: _____ Date Permitted: _____ Initials: _____

Notice of Intent – General Storm Water Permit Revised September 1, 2009 Page 1 of 4

2.4 Obtaining Authorization

- ◆ NOI must be submitted at least 15 days before construction begins
- ◆ Copy of DENR's authorization letter must be posted at construction site
- ◆ Permit can now be transferred to new owner
- ◆ Late NOIs can be submitted (after construction has begun)

Department can take enforcement action for unpermitted activities!!



2.5 Additional Notification

- ◆ Check local ordinances to see if you need to notify the city/county you are requesting permit coverage
- ◆ DENR sends authorization letters for projects located within the boundaries of the larger cities

2.6 Terminating Coverage

- ◆ When can I terminate the permit?
 - ❖ Storm water discharge eliminated and site has achieved “final stabilization”
 - ◆ 70% vegetative cover
 - ❖ Submit Notice of Termination (NOT) within 30 days of completing final stabilization

2.6 Terminating Coverage

 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**
NOTICE OF TERMINATION (NOT)
of Coverage Under the SWD General Permit for
Storm Water Discharges Associated with Construction Activities

This form is required to be submitted when a discharge permit is no longer required or necessary. Submission of this form shall in no way relieve the permittee of permit obligations required prior to submission of this form. Please submit this form to the following address:

original to: SD Department of Environment and Natural Resources
Surface Water Quality Program
PMB 2020
523 East Capitol Avenue
Pierre, South Dakota 57501-3181
Telephone: (605) 773-3351 or 1-800-SDSTORM

I. Primary Contact Information:
Company Name: _____
Primary Contact Person: _____
Mailing Address: _____
City: _____ County: _____ State: _____ Zip Code: _____
Phone Number: _____ Email Address: _____

II. Mailing Address of Facility/Site Location
Project Name: _____
Primary Contact Person: _____
Street Address: _____
City: _____ County: _____ State: _____ Zip Code: _____

III. Permit Number: _____

I certify under penalty of law that all storm water discharges associated with industrial or construction activity from the identified facility that are authorized by a SWD general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting the Notice of Termination, I am no longer authorized to discharge storm water associated with industrial or construction activity under this general permit, and that discharging pollutants in storm water associated with industrial or construction activity to waters of the state is unlawful under the federal Clean Water Act, where the discharge is not authorized by a SWD permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the South Dakota Water Pollution Control Act. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NOTE: NOT shall be signed by the authorized chief elective or executive officer of the applicant, or by the applicant, if an individual.

Name (print) _____ Title _____
Signature _____ Date _____

FOR DENR USE ONLY		
Postmark Date: _____	Date Terminated: _____	Initials: _____

Notice of Termination - General "SWD" Permit Revised February 14, 2007 Page 1 of 1

3.0 Effluent Limits

- ◆ Permit now contains a section entitled "Effluent Limits"
- ◆ Overall, there are very few changes to DENR's intent
 - ❖ This section intended to clearly delineate the permit requirements

3.1 Precipitation Event

- ◆ Two (2) inches in a 24-hour period
 - ❖ Gives permittees a specific rainfall amount to design controls
 - ❖ Based on the 2-year, 24-hour storm event for most parts of SD

3.2 Sediment Controls

- ◆ Based on *disturbed* acres
 - ❖ Sediment basins required if ≥ 10 acres disturbed at one time, where possible
 - ❖ Sediment traps or other equivalent controls required if < 10 acres disturbed



3.3 Maintenance of Controls

- ◆ Remove sediment when ponds are 50% full
- ◆ Clean silt fences before sediment is 50% of the fence height.



3.4 Off-Site Tracking

- ◆ Minimize dust generation and tracking
 - ❖ Street sweeping required at a minimum



3.5 Off-Site Accumulations

- ◆ Remove sediment that accumulates off-site
 - ❖ Revise storm water pollution prevention plan to prevent further problems



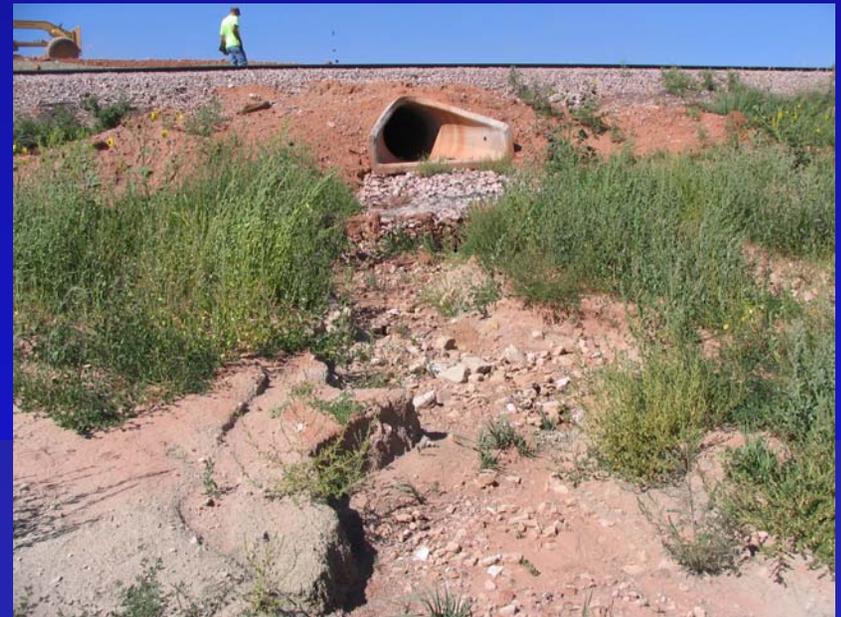
3.6 Inlet Protection

- ◆ All storm drain inlets must be protected
 - ❖ Maintain protection until site is stabilized



3.7 Erosive Velocity

- ◆ Install velocity dissipation devices at points with high flows



3.8 Soil Stockpiles

- ◆ Must have silt fence or other effective controls



3.9 Site Stabilization

- ◆ Site must be stabilized within 14 days after construction has ceased at the site
 - ❖ An exception is allowed if construction will resume within 21 days



3.10 Waste Materials

- ◆ Properly store and dispose of litter, construction debris, and chemical



3.11 Spills

- ◆ Don't do it!
- ◆ Protect storm water runoff from contamination

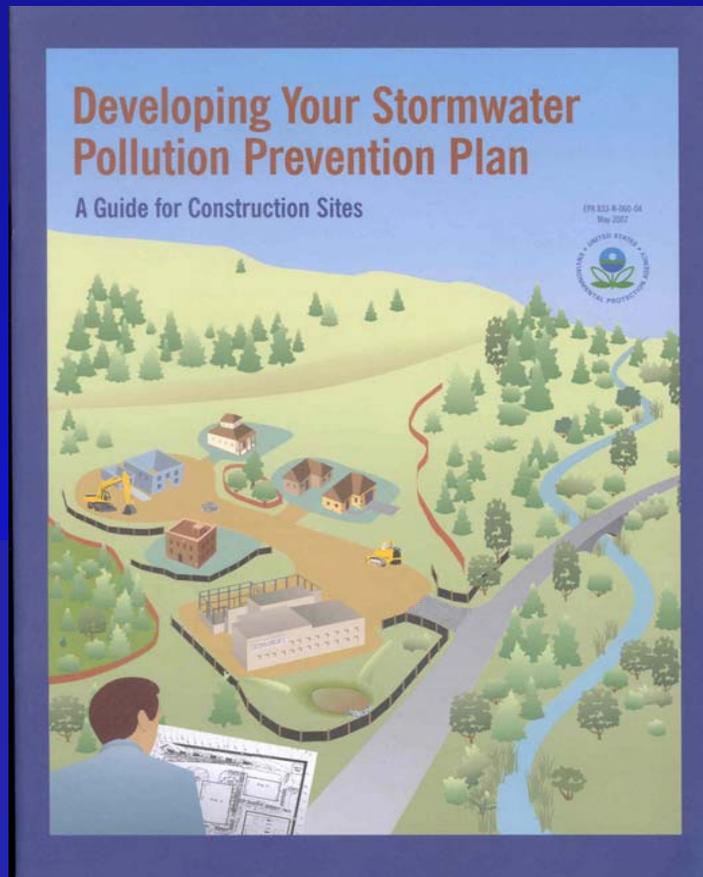


3.12 Site Inspections

◆ Inspection Requirements

- ❖ Once every 7 days
- ❖ Within 24 hours after storm that is 0.5 inches or greater
- ❖ Keep records
- ❖ Inspections can be reduced to monthly in the winter, **IF site has been properly stabilized**
- ❖ Revise SWPPP if you find problems

4.0 Storm Water Pollution Prevention Plan



<http://cfpub.epa.gov/npdes/stormwater/swppp.cfm>

4.1 Deadlines for Plan

- ◆ SWPPP must be developed before submitting NOI
 - ❖ Must be implemented before construction begins

4.2 Contents of Plan

◆ Site Description

- ❖ Description of project and sequence of soil disturbing activities
- ❖ Size of total project and area disturbed
- ❖ Description of soil types
- ❖ Surface waters that may receive discharges from the site
- ❖ Site map

4.2 Contents of Plan

- ◆ Site map must contain:
 - ❖ Drainage patterns and final slopes
 - ❖ Areas of soil disturbance
 - ❖ Location of controls used on the site
 - ❖ Areas where stabilization is expected to occur
 - ❖ Location of surface waters
 - ❖ Location of any spills

4.2 Contents of Plan

- ◆ Control measures (BMPs) that will be used
- ◆ Control measures will be implemented/installed
- ◆ Name of person responsible for implementation

4.3 Keeping Plans Current

- ◆ SWPPP must be kept up-to-date with current site conditions
- ◆ DENR can notify you the plan does not meet the requirements
- ◆ SWPPP must also be amended if it is ineffective

5.0 Special Conditions

5.1 Unauthorized Release of Regulated Substances

- ◆ Cannot discharge “regulated substances”
- ◆ Notify within 24 hours and submit written report to DENR within 14 days
 - ❖ Notify DENR Ground Water Quality Program (773-3296) or Emergency Management (773-3231)
- ◆ Include spill information within SWPPP, along with measures to prevent spills



5.2 Larger Common Plan of Development

- ◆ Original property owner must initially get permit coverage
- ◆ Coverage under the permit can be transferred to new owners as lots are sold
 - ❖ New owner is a co-permittee
 - ❖ Each new owners become responsible for stabilization of their lot
 - ❖ Each owner can terminate coverage for their lot when it reaches final stabilization

5.3 Post Construction

- ◆ EPA rules state that during construction you should consider ways to manage the storm water runoff from the site after construction is complete
- ◆ Permittees are not responsible for maintenance of post-construction controls

5.4 Qualified Local Program

◆ Qualified Local Programs (QLP)

- ❖ Cities that are approved as a QLP will be authorized to do inspections and enforcement
- ❖ DENR will still issue the permits

6.0 Standard Permit Conditions



6.1 Duty to Comply

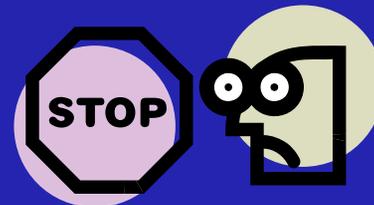
- ◆ You must comply with all conditions of the permit
 - ❖ Noncompliance = violation of SD Water Pollution Control Act and federal Clean Water Act
- ❖ Noncompliance can be grounds for:
 - ◆ Fines
 - ◆ Termination of Permit Coverage
 - ◆ Denial of Permit Renewal

6.2 Continuation of the Expired General Permit

- ◆ The current permit continues to be in effect until a new permit is issued
- ◆ DENR has sent out the Reauthorization Form to all permitted sites
- ◆ Submit Reauthorization Form to continue coverage

6.3 Need to Halt or Reduce Activity Not a Defense

- ◆ You have an obligation to comply with the permit
 - ❖ Even if construction has to stop to address violations



6.4 Duty to Mitigate

- ◆ If sediment or any other pollutant is discharged, you must clean it up

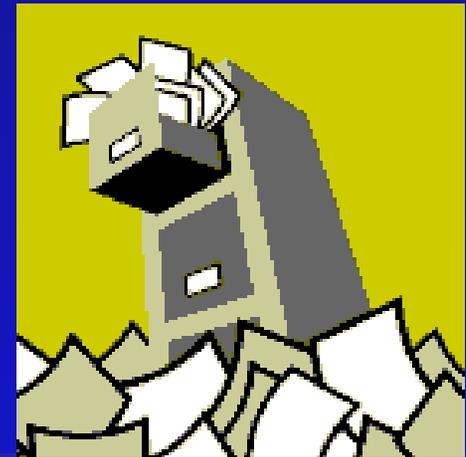


6.5 Removed Substances

- ◆ You must properly dispose of any sediment you remove from silt fences, sediment basins, etc.
- ◆ Don't put it in waters of the state!

6.6 Duty to Provide Information

- ◆ You must furnish copies of records required to be maintained by the permit or other information as requested by DENR
- ◆ This includes your SWPPP



6.7 Other Information



- ◆ If incorrect or incomplete information is submitted to DENR, you must submit corrected or complete information as soon as information is discovered

6.8 Retention of Records

- ◆ The SWPPP and authorization letter must be kept on site
- ◆ All records (inspection reports, SWPPP, data used to fill out NOI/NOT) must be kept for at least 3 years
- ◆ DENR can request copies of reports and documents at any time

6.9 Signatory Requirements

- ◆ All NOIs and NOTs must be signed and certified by a “signatory official”
 - ❖ Responsible corporate officer
 - ❖ General partner or proprietor (owner)
 - ❖ Principal executive officer or ranking elected official

6.9 Signatory Requirements

- ◆ All SWPPPs, inspection reports, or other information must be signed and certified by a signatory official or by a "duly authorized representative"
- ❖ Signatory authority must identify authorized representative and submit written authorization letter to DENR

6.9 Signatory Requirements

- ◆ All NOIs, NOTs, SWPPPs, inspection reports, and other information must include the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

6.10 Oil and Hazardous Substance Liability

- ◆ EPA has authority to implement additional requirements for oil spills or hazardous substance releases



6.11 Property Rights

- ◆ The storm water permit does not give any property rights to damage or use private property
- ◆ If you damage private property from actions taken under this permit, you can be held responsible

6.12 Severability

- ◆ If any section of this permit is found void or is challenged, the other sections will still remain in effect

6.13 Requiring an Individual Permit

- ◆ DENR can deny permit coverage or require an “individual” permit for:
 - ❖ Non-compliance with general permit
 - ❖ Changes in BMP technology
 - ❖ Limits are developed for discharges covered by the permit
 - ❖ Discharge is a significant contributor of pollution

6.14 Proper Operation and Maintenance

- ◆ BMPs must be properly operated and maintained at all times



GOOD



NOT SO GOOD

6.15 Inspection and Entry

- ◆ You must allow DENR, EPA, or operator of MS4 to:
 - ❖ Enter and inspect your site
 - ❖ Have access to records
 - ❖ Copy records (if requested)
 - ❖ Collect samples at any location

6.16 Permit Actions

- ◆ DENR has right to change the permit if needed

Examples:

- ❖ If additional monitoring requirements are needed
- ❖ If additional legal language was unintentionally left out

Timeline

- ◆ Draft permit is available on DENR's website

[http://denr.sd.gov/des/sw/newstormwaterpermi
t.aspx](http://denr.sd.gov/des/sw/newstormwaterpermi
t.aspx)

- ◆ DENR is accepting informal comments on the permit until September 25, 2009

Timeline

- ◆ Formal public notice period will begin on October 1, 2009
 - ❖ All comments must be in writing
 - ❖ DENR has an obligation to respond to all comments during the formal PN period
- ◆ Permit will be public noticed for 30 days

Timeline

- ◆ Following the 30-day PN, DENR will review all comments
 - ❖ We can make changes to the permit in response to the comments
 - ❖ If the changes are substantial, it may be necessary to re-PN
- ◆ People will have the opportunity to request a hearing on the permit

Timeline

- ◆ We hope to have the final permit issued yet this year
 - ❖ Final issuance date will depend on the comments and/or if there is a hearing

Proposed **Effluent
Guideline (EPA)**

Proposed Effluent Guideline (EPA)

- ◆ EPA was sued, courts required effluent limits for construction sites
- ◆ November 28, 2008 = Published in Federal Register
 - ❖ Public comment period of 60 days.

Proposed Effluent Guideline (EPA)

◆ Proposed Requirements:

- ◆ Projects \geq 30 acres **AND** soil is \geq 10% clay **AND** the erosivity index is \geq 50
 - ◆ Erosivity Index is based on **RUSLE** equation = Revised **U**niversal **S**oil **L**oss **E**quation)
 - ◆ Turbidity limit = 13 NTU (*Nephelometric Turbidity Unit*)

Would require active treatment!

Proposed Effluent Guideline (EPA)

TURBIDITY OF SUSPENDED CLAY



0 NTU's



2 NTU's



10 NTU's



40 NTU's



80 NTU's



400 NTU's

Proposed Effluent Guideline (EPA)

- ◆ EPA is required to finalize the effluent guidelines by December 1, 2009.
- ◆ We expect the final guidelines will have a numeric limit, but will likely be higher than 13 NTUs

MS4 Contact Information

- ◆ Aberdeen: Robin Bobzien
 - ❖ Phone (605) 626-7017
 - ❖ Email eng1.coa@midconetwork.com
- ◆ Brookings: Jackie Lanning
 - ❖ Phone (605) 692-6629
 - ❖ Email jlanning@cityofbrookings.org
- ◆ Huron: Mike Wever
 - ❖ Phone (605) 353-8510
 - ❖ Email mwever@huronsd.com

MS4 Contact Information

◆ Mitchell: Tim McGannon

- ❖ Phone (605) 995-8433

- ❖ Email

 - tmcgannon.cityofmitchell@midconetwork.com

◆ North Sioux City: Greg Meyer

- ❖ Phone (712) 258-4202

- ❖ Email greg.meyer@northsiouxcity-sd.gov

◆ Pierre: Tracy Painter

- ❖ Phone (605) 773-7341

- ❖ Email tracy.painter@ci.pierre.sd.us

MS4 Contact Information

- ◆ Rapid City: Robert Ellis
 - ❖ Phone (605) 394-4154
 - ❖ Email robert.ellis@rcgov.org
- ◆ SDDOT: Joan Bortnem Clarke
 - ❖ Phone (605) 773-3098
 - ❖ Email joan.bortnemclarke@state.sd.us
- ◆ Sioux Falls: Bob Kappel
 - ❖ Phone (605) 367-8277
 - ❖ Email bkappel@siouxfalls.org
- ◆ Spearfish: Tom Callaway
 - ❖ Phone (605) 642-1333
 - ❖ Email tomc@city.spearfish.sd.us

MS4 Contact Information

◆ Sturgis: Bob Kaufman

❖ Phone (605) 347-4424

❖ Email engin@rushmore.com

◆ Vermillion: Bill Welk

❖ Phone (605) 677-7083

❖ Email williamw@cityofvermillion.com

◆ Watertown: Sarah Caron

❖ Phone (605) 882-6204

❖ Email scaron@watertownsd.us

MS4 Contact Information

◆ Yankton: Kevin Kuhl

❖ Phone (605) 668-5250

❖ Email kkuhl@cityofyankton.org

◆ Meade County: Rod Nelson

❖ Phone (605) 347-3818

❖ Email 911addressing@meadecounty.org

◆ Pennington County: Dale Tech

❖ Phone (605) 394-2166

❖ Email dalet@co.pennington.sd.us

SDDENR Contact Information

- ◆ Got Storm Water Questions? Contact the following:
 - ❖ Dale Healey (Pierre office) at 1-800-SD-STORM; email Dale.Healey@state.sd.us
 - ❖ Al Spangler (Pierre office) at (605) 773-3351; email Albert.Spangler@state.sd.us
 - ❖ Jill Riedel (Sioux Falls office) at (605) 362-3543; email Jill.Riedel@state.sd.us
 - ❖ Doug Baldwin (Rapid City office) at (605) 394-2229; email (Douglas.Baldwin@state.sd.us)

