



# ENVIRONMENTAL BULLETIN

A routine publication providing environmental-related guidance to NDOT District Staff and Contractors



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## New Construction Stormwater General Permit Issued

The Nebraska Department of Environment and Energy issued a new Construction Stormwater General Permit effective December 1, 2021. This permit applies to all new projects that will cause a land disturbance of equal to or greater than one acre. In addition, projects currently covered under an existing stormwater permit have been re-permitted and will need to implement the new 2021 permit.

The following information is a short list of some of the requirements in the 2021 stormwater permit that impact NDOT construction staff and contractors. It is highly recommended that anyone responsible for implementing this permit please take time to review and understand all of the requirements. It can be accessed at the following link and is also included in the project Stormwater Pollution Prevention Plan (SWPPP):

<http://deq.ne.gov/Publica.nsf/pages/WAT012>

### General Permit Requirements Applicable to NDOT Field Staff and Contractors

- **Posting of the Stormwater Permit** — For linear projects, a sign or other notice must be posted at a publicly accessible location near the active part of a construction project. The sign must contain the following information:
  - A copy of the completed CSW-NOI and;
  - A copy of the SWPPP, or, if the sign or notice does not contain a copy of the SWPPP, it must detail the name and telephone number of the contact person for obtaining access to the SWPPP, and the current location of the SWPPP.



- **Inspection Requirements** — Inspections are required every two weeks and within **24 hours of 1/4 Inch rainfall events**. This was a change from the previous permit.
- **Corrective Actions** — Corrective actions must be completed within seven (7) days or before the next rainfall event whichever is practicable.
  - If sediment discharges from the construction site boundaries, the offsite accumulations must be removed promptly to minimize the disturbance. In addition, the erosion and sediment controls for that portion of the project must be reviewed for adequacy of design and/or implementation to prevent reoccurrence with updates or modifications to the SWPPP as appropriate.
- **Stabilization Requirements (14 Day Rule)** — Stabilization measures must be initiated as soon as practicable but no later than fourteen (14) days in portions of the construction site that have temporarily or permanently ceased project work activities except as provided below:
  - Where snow or frozen ground conditions preclude stabilization within 14 days; or
  - When earth disturbing construction activities will resume within 14 days
- **Updating the SWPPP** — The SWPPP (temporary erosion and sediment control plan) must be updated within seven (7) days of practices changing on the site.
- **Scheduling of Permanent and Temporary Best Management Practices (BMPS)** — The SWPPP must include a schedule of when practices will be implemented. On NDOT projects, installation of permanent BMPs is specified on the Erosion Control Plan Sheets. Temporary BMPs are installed as directed by the Project Manager/Inspector throughout active construction. It is critical that NDOT staff and project contractors communicate frequently to establish a plan for the installation and maintenance of BMPs prior to, during, and immediately after work will be completed. It is recommended that all project partnering meetings include seeding and erosion control as an agenda item for discussion. Important items to consider during these meetings:
  - Are BMPs being installed and maintained throughout the project?
  - Are perimeter controls being installed prior to grading activities?
  - Are discharge points protected and regularly inspected?
  - Utilize flow control BMPs (aka ditch checks) to manage water velocity and to supplement perimeter controls.
  - Are disturbed areas being stabilized as required with the 14 days rule? In many cases this includes getting cover crop/temporary mulch installed to provide temporary cover until permanent seeding can be installed. The main goal here is stabilize as much of the disturbed area as possible before opening new ground to manage and mitigate your project erosion risks.
  - Are ECOD inspection reports going to the appropriate people?
  - Do we have a schedule/plan for when BMPs will be installed?

**FOR MORE INFORMATION**

Contact Roadside Development and Compliance Unit at 402-479-4499

## Wetlands — Section 404 Nationwide Permits Expiration: March 18, 2022

Projects with wetland impacts require a Section 404 Nationwide Permit (NWP) from the U.S. Army Corps of Engineers. The NWPs are re-issued every five years, and the current set of 2017 NWPs expired on March 18, 2022. Any NWPs obtained before March 18, 2022, will require a new permit unless the project is currently in construction or under contract, in which case an additional 12 months is added to the permit expiration (March 18th, 2023). The wetland environmental specialists will be assessing projects that may require a new NWP verification. If district staff or contractors have any project specific questions, please contact the project's wetland environmental specialist.



### FOR MORE INFORMATION

Contact Jeff Hartman at 402-479-4768 or [jeff.hartman@nebraska.gov](mailto:jeff.hartman@nebraska.gov)

## Threatened and Endangered (T&E) Species Updates

NDOT is currently in the process of renewing the T&E Programmatic Agreement (PA) with the Nebraska Game and Parks Commission (NGPC), the U.S. Fish and Wildlife Service (USFWS), and the Federal Highway Administration (FHWA). Through the PA, NDOT has developed great relationships with our agency partners and is able to coordinate implementation of T&E species conservation conditions on our construction projects across the state.

### Northern Long-eared Bat (NLEB)

The USFWS proposed a rule on March 23, 2022, to reclassify Northern Long-eared Bat (NLEB) from threatened to endangered. A USFWS assessment found that white-nose syndrome has spread to nearly 80 percent of the species range and it will affect 100 percent of the range by 2025. The proposed rule will likely be implemented by December 2022. Construction projects not completed by December 2022 will likely require re-evaluation under the new listing, and the Environmental section will be developing a list of projects that will require re-evaluation and USFWS/NGPC consultation for NLEB.

### American Burying Beetle (ABB)

The American Burying Beetle (ABB) is a federally listed threatened species that is found in Sandhills and Loess Canyon areas in Nebraska. The ABB range includes 28 counties that span District 3, 4, 5, 6, 7, and 8. Current conservation conditions include utilizing the ABB Conservation Measures Protocol for mowing, carrion removal, and lighting.

In November 2020, the USFWS reclassified ABB from endangered to threatened with a 4(d) rule to tailor protections and recovery of ABB populations in Nebraska. The 4(d) rule would prohibit the incidental "take" of ABB, when in suitable habitat, due to any soil disturbances. Suitable habitat within the species range includes anything that is not urban, paved, or in row crop agriculture. Recent coordination with the USFWS indicates that projects with soil disturbances > 3.85 acres in suitable habitat would result in a potential "take" of ABB. This will likely require NDOT to obtain permits for incidental "takes" in suitable habitat or pursue ABB



mitigation. NDOT will continue to work closely with the federal agency partners on the proposed 4(d) rule and ABB mitigation and will distribute information when it becomes available.

More information on this species can be found at the USFWS website:  
<https://www.fws.gov/midwest/angered/insects/ambb/index.html>



**FOR MORE INFORMATION**

Contact Jeff Hartman at (402) 479-4768 or [jeff.hartman@nebraska.gov](mailto:jeff.hartman@nebraska.gov) or Zach Horstman (Districts 1, 4, 7 & 8) at (402) 479-4419 or [zach.horstman@nebraska.gov](mailto:zach.horstman@nebraska.gov)

## Limiting Soil Disturbance is a Best Management Practice

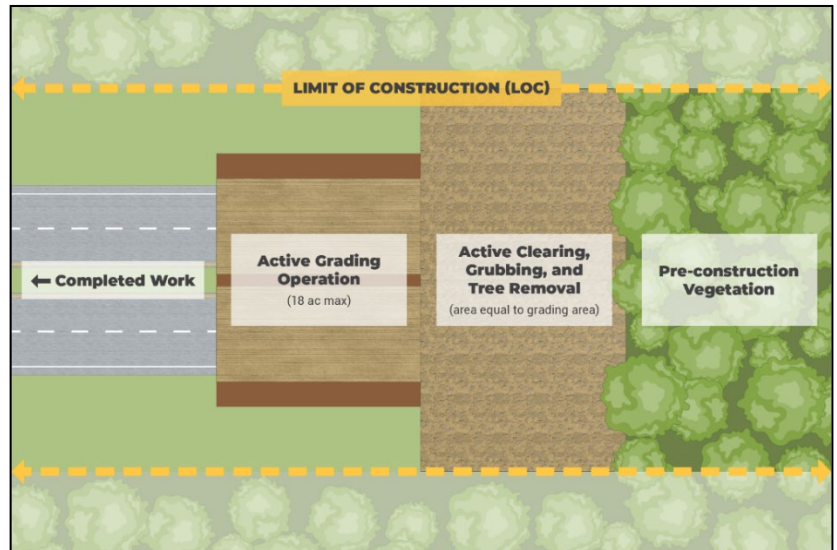
The product of the Revised Universal Soil Loss Equation (RUSLE), which can be used to estimate soil loss from a particular slope, is given in units of tons per acre per year (t/ac/yr), or mass per area of disturbance per duration of disturbance. To cause the amount of sediment trying to leave a slope to be reduced, one must also reduce the area and/or the duration of disturbance. Both are achievable on NDOT construction projects.

One of the most effective practices available for the management of construction stormwater is the protection and retention of existing vegetation and soil cover. The next most effective practice may be the effort to return to a state of stabilization as soon as possible.

*Delaying soil disturbance* can be achieved by evaluating the scope and the contractor’s sequencing of the work and requiring or choosing delayed clearing and soil disturbance until necessary to carry out the work. This practice can reduce project costs and effort in other areas by minimizing construction stormwater Best Management Practice maintenance and decreasing environmental risks.

*Limiting soil disturbance* involves clearing and disturbing only the areas necessary to accomplish the work. Unnecessary disturbances increase construction costs, require additional resources to manage, and increase risks to the contractor, NDOT, and the environment. Limiting soil disturbance also involves the re-establishment of nonerodable surfaces as quickly as possible.

Contractors should be encouraged to adopt the goal of “continuous pursuit of permanent stabilization.” In practice, this may look like the contractor not beginning a clearing operation until grading equipment are onsite and ready to go. Once grading starts, it does not stop until final required elevations are reached so that stable surfaces, including vegetation, non-erodible base courses, and other hard surfaces can be applied before or as additional acreage is disturbed



**Section 204.02 of NDOT Specifications - The maximum exposed surface area for the Contractor's operations in excavation, borrow, and embankment is 18 acres (72,800 m<sup>2</sup>) plus an equal area of clearing and grubbing/large tree removal. A written request for an increase in the maximum exposed surface area may be approved by the Engineer. This approval will be based on the soil, moisture, seasonal conditions, the Contractor's operation, or other conditions.**



**FOR MORE INFORMATION**

Contact Gabe Robertson at (402) 479-4685 or [gabe.robertson@nebraska.gov](mailto:gabe.robertson@nebraska.gov)

## Personnel Changes

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Below is a list of personnel changes within the NDOT environmental team. Please update your contacts accordingly.

### **New Hire: Lauris Hollis, Wetlands Environmental Specialist**

Lauris Hollis was hired in November 2021 to backfill the vacant wetlands environmental specialist position. Lauris most recently worked at the National Academies of Sciences and the U.S. Army Corps of Engineers in Texas, working on wetland mitigation planning and monitoring. Lauris is responsible for wetland delineations, Section 404 permitting, and wetland mitigation and monitoring for Districts 3 and 6. As a wetlands biologist, Lauris is also available to conduct bird and T&E surveys throughout the state.

*Lauris Hollis (Districts 3 & 6)*

[lauris.hollis@nebraska.gov](mailto:lauris.hollis@nebraska.gov)

402-479-3812

### **New Hire: Zach Horstman, Threatened and Endangered (T&E) Species Environmental Specialist**

Zach Horstman was hired for the vacant T&E species environmental specialist position in December 2021. Zach was most recently at Nebraska Game and Parks Commission, where he was a conservation technician working in the rivers and streams program. Zach is responsible for T&E species surveys and coordination in Districts 1, 4, 7, and 8. Zach will continue to work with and assist District Environmental Coordinators that are assisting the Environmental Section by completing species surveys work within their districts. Additionally, any Environmental Section wetland biologists are available to conduct bird and T&E surveys throughout the state at any time of the year.

*Zach Horstman (Districts 1, 4, 7 & 8)*

[zach.horstman@nebraska.gov](mailto:zach.horstman@nebraska.gov)

402-479-4419

### **New Hire: Mitch Renteria, Threatened and Endangered (T&E) Species Environmental Specialist**

Mitch Renteria was hired as our new T&E species environmental specialist, replacing Jon Soper who left NDOT in April 2022. Mitch comes to NDOT from Wyoming where he worked as a senior game warden for the Wyoming Game and Fish Department. Mitch will be responsible for T&E species surveys and coordination in Districts 2, 3, 5, and 6, and his first day is May 20, 2022. We will continue to work with and assist District Environmental Coordinators that are assisting the Environmental Section by completing species surveys work within their districts. Additionally, any Environmental Section wetland biologists are available to conduct bird and other T&E surveys throughout the state at any time of year.

*Mitch Renteria (Districts 2, 3, 5, 6)*

[mitch.renteria@nebraska.gov](mailto:mitch.renteria@nebraska.gov)

402-479-3546

### **New Hire: Amber Ybarra, Vegetation Specialist**

Amber Ybarra was hired as our new Vegetation Specialist, replacing Carol Wienhold who retired in March. Amber comes to NDOT from Benesch, where she had been working with District 1 as a stormwater inspector for the Lincoln South Beltway Project. She will continue assisting District 1 with stormwater inspections throughout the year while she transitions to our statewide program. Amber's first day as an NDOT employee was May 9, 2022. Since Amber will continue to assist with the Beltway project, Nick Soper (Districts 1,4,7,8) and Brian Anderson (Districts 2,3,5,6) are also available to assist with any seeding related questions.