

# INSTRUCTIONAL MEMORANDUMS

## To Local Public Agencies



To: Counties and Cities	Date: June 29, 2018
From: Local Systems Bureau	I.M. No. 4.140
Subject: Storm Water Permits	

**Contents:** This Instructional Memorandum (I.M.) includes guidelines and procedures for a Local Public Agency (LPA) to comply with the National Pollution Discharge Elimination System (NPDES) regulations, as they apply to LPA construction projects.

### Introduction

The Environmental Protection Agency (EPA), through its storm water program, issues regulations to protect the water quality of the United States. These regulations implement the requirements of the Clean Water Act (CWA) of 1972. The EPA has taken a phased approach to implementing these regulations.

The EPA's regulations use the National Pollution Discharge Elimination System (NPDES) to govern storm water runoff from several activities. These activities include: (1) Municipal Separate Storm Sewer Systems (MS4s); (2) construction activities that disturb 1 acres of land or greater; and (3) ten categories of industrial activity.

These regulations have the potential to affect all cities and counties in Iowa. However, only the regulations that pertain to construction activities are relevant to the development of LPA transportation construction projects. Therefore, this I.M. will focus only on the necessary permits, processes, and procedures required for LPA transportation construction projects that are currently subject to EPA's storm water regulations.

### Which projects will require a storm water permit?

All construction projects that disturb greater than or equal to 1 acre of land will require a NPDES permit from the Iowa Department of Natural Resources (Iowa DNR).

Some LPA transportation projects are considered as maintenance under the NPDES regulations, and therefore do not require a permit if they disturb less than five (5) acres. Maintenance of transportation facilities would include activities that maintain the original grade, slope, or hydraulic capacity. Examples would include resurfacing projects that only involve work on the roadway and / or shoulders and maintain the original roadway and / or shoulder width. In other words, the original roadway and / or shoulder footprint remains the same. Another example would be ditch cleaning that only removes accumulated sediment and returns the ditch to the original slope.

Nevertheless, appropriate erosion control measures should always be used, even if a permit is not required. If the Iowa DNR observes a problem on a project that would not otherwise require a permit, it has the authority to require a permit and suspend work until a permit is obtained.

### Which permit is required?

The Iowa DNR uses NPDES General Permit No. 2 for construction activities subject to the EPA regulations. Most LPA transportation construction projects should be able to obtain coverage under General Permit No. 2. However, at its discretion, the Iowa DNR may require an individual permit. The Iowa DNR will notify the LPA if an individual permit is needed. If the project is located in an [Outstanding Iowa Waters \(OIW\) watershed](#), the project is required to be permitted under an individual NPDES permit.

### General Permit No. 2 Requirements

What follows is a summary of the steps that the LPA should follow to comply with terms and conditions of General Permit No. 2. For all projects let by the Iowa DOT, and for all Federal-aid projects let locally, the LPA shall not make the contractor responsible for obtaining the applicable permit or filing the appropriate notices. For more detailed guidance, the LPA should carefully read the terms and conditions of [Iowa DNR NPDES General Permit No. 2](#).

## 1. Prepare Project Plans

The Iowa DOT requires the following items for project plans let through the Iowa DOT:

Note: For projects that are let locally, the LPA should use the following list as a guide, since the NPDES storm water regulations will apply to any construction project that meets or exceeds the 1 acre threshold, regardless of funding source and regardless of how the contract is let or administered.

### A. Storm Water Permit Plan Note

Include a note on the title sheet indicating the project is subject to the conditions of Iowa DNR's NPDES General Permit No. 2. If an individual permit is required, specify the individual permit number instead.

An electronic copy of the individual permit shall be submitted with the Check or Final Plans. This note and the electronic copy are required because it is important that the bidders are aware of the project requirements with respect to storm water pollution prevention. It also notifies the Iowa DOT that the LPA has obtained the permit and the project is ready to proceed to letting. For the required text of this note, refer to [I.M. 3.700](#), Check and Final Plans, Attachment B.

General Permit No. 2 also requires that contractors and any applicable subcontractors sign a certification whereby they acknowledge that they understand and agree to comply with the terms and conditions of the General Permit No. 2. By signing such a certification, contractors and subcontractors become co-permittees along with the LPA. For projects let by the Iowa DOT, this certification will be included with the contract documents that are prepared by the Iowa DOT Contracts and Specifications Bureau. For projects not let by the Iowa DOT, the Contracting Authority will need to ensure that the Contractor submits the Co-Permittee Certification Statement ([Form 830215](#)). It is the Contractor's responsibility to obtain and provide signed certificates for the subcontractors to the project engineer. Co-permittee Certification Statements are not required for subcontractors who do not disturb a significant amount of soil or whose operations would not have a potential for discharging a pollutant (i.e. contract survey, material suppliers and traffic control). Contracts should not be executed until proper certification is obtained.

### B. Storm Water Pollution Prevention Plan (PPP)

The project plans shall include a PPP that meets the requirements of [Iowa DNR NPDES General Permit No. 2](#). There are several resources that provide guidance in preparing an adequate PPP. Designers should consider the following documents when developing a PPP:

- [A Brief Guide to Developing Pollution Prevention Plans and Best Management Practices – Summary Guidance](#), published by the Iowa DNR.
- Chapter 7 of the Iowa Statewide Urban Design and Specifications (SUDAS) [Design Manual](#) provides an excellent guide to erosion and sediment control measures that should be considered as part of the PPP.
- Iowa DOT Standard Tabulation [110-12L](#) is a PPP specifically for Local Public Agencies. The Iowa DOT Design Bureau has developed a PPP to be used for Primary projects, which is Iowa DOT Standard Tabulation [110-12](#). The designer should carefully examine the needs of each project and modify the language of the standard tabulation, as appropriate. The LPA assumes all responsibility for the accuracy and adequacy of the PPP shown on the project plans. The PPP must be signed by a public agency official, either the principal executive officer (such as the city administrator, public works director, city engineer, or county engineer), or the ranking elected official (such as the mayor). For small cities that have no professional staff, the city clerk, if authorized by the city council, may sign on behalf of the city. LPAs may also require the engineer responsible for preparation of the PPP to sign the PPP.
- The Iowa DOT has also developed instructions for preparing a PPP, which are contained in [Section 10D-1](#) of the Iowa DOT Design Manual. When referring to these instructions, keep in mind they are written for Iowa DOT staff use, and as such they reflect “in-house” procedures.

Nevertheless, the instructions related to preparation of the PPP may be helpful for LPA project designers.

- Topsoil preservation is required, unless infeasible. This means topsoil from any areas of the site where the surface of the ground for the permitted construction activities is disturbed shall remain within the area covered by the applicable General Permit No. 2 authorization. "Infeasible" shall mean not technologically possible, or not economically practicable and achievable in light of the best industry practices.
- For certain projects, General Permit No. 2 has a recommendation that 3600 cubic feet of storage volume for each drained acre disturbed. Refer to the Iowa DOT Design Manual [Section 10C-2](#) for more information on this recommendation, including standard tabulations. The Iowa DOT [Road Design Details](#) and the Microsoft Excel [English Index](#) tabulations will automatically calculate total volume of silt storage.

#### C. Bid Items for Erosion Control Measures

The project plans shall include the appropriate bid items needed to carry out the contractors' obligations under the PPP. For projects that will be let by the Iowa DOT, refer to Sections [2601](#) and [2602](#) of the Iowa DOT Standard Specifications for the appropriate bid items corresponding to the various erosion control measures specified by the PPP.

#### D. Plan Details

The project plans shall include tabulations, details, and plan sheets, as required by the complexity of the project, to show the erosion control measures specified by the PPP.

The amount of detail necessary will vary with each project. However, enough detail must be provided so that bidders can accurately estimate the cost of work required by the PPP. Insufficient detail in the plans can lead to inadequate control of soil erosion, disputes, claims for additional compensation, and costly project delays.

### 2. Give Public Notice

Before applying for a permit, give public notice of intent to seek coverage under General Permit No. 2. This public notice must be published for at least one day in at least one newspaper with the largest circulation in the project area. The Iowa DNR has developed a sample [Public Notice of Storm Water Discharge](#) that may be used as a guide in preparing the required public notice.

### 3. Apply for Permit

Application for General Permit No. 2 is made by submitting a [Notice of Intent](#) (NOI) form, proof of public notification, and the applicable fees to the Iowa DNR.

### 4. Implement the PPP

The PPP must be carried out from time construction begins until the site has reached final stabilization. This includes making any necessary modifications to the PPP, inspection, and maintenance of the erosion control measures.

Use of the Iowa DOT inspection form, Storm Water Site Inspection ([Form 830214](#)) is required. Note: The NPDES General Permit No. 2 no longer requires the inspections after a ½ inch rain event. For additional guidance regarding inspection procedures, refer to the Iowa DOT Construction Manual [Section 10.30](#).

### 5. Submit Notice of Discontinuation

After the project site has reached final stabilization, the Iowa DNR must be notified by submitting a [Notice of Discontinuation](#) (NOD) to the Iowa DNR.

## Resource Information for Storm Water Regulations

- [Iowa DNR, Storm Water Program Home Page](#). A directory of the Iowa DNR's on-line information relating to storm water regulations. Contains links to general information about storm water permits in Iowa, forms, permits, and guidance documents.
- [EPA Storm Water Program Home Page](#). Gives an overview of the types of activities that are regulated by EPA's Storm Water Program as implemented by the NPDES permitting system. Contains links to more information on the Phase I and Phase II regulations.
- [EPA Storm Water Phase II Final Rule Fact Sheet Series Index](#). These fact sheets give helpful summaries of all aspects of the EPA regulations. Refer to [Fact Sheet 1.0](#) for an overview of the EPA regulations. Refer to [Fact Sheet 3.0](#) for information specific to construction activities.