

**State of Wisconsin
Department of Natural Resources**

**Responses to Comments
Erosion Control Notes
Guidance #3800-2015-03**

April 2015

The Wisconsin Department of Natural Resources (Department) issued a public notice on proposed “Erosion Control Notes” guidance for a 21 (elapsed) day public comment from January 20 to February 8, 2015. The Department received several comments on the proposed guidance. This document represents the Department’s response to the written comments on the guidance. Comments are in italics. To facilitate the responses, the Department may have paraphrased, rephrased, condensed, or consolidated comments. Thank you to all reviewers for taking the time to review and comment on the proposed guidance.

PUBLIC COMMENTS

Comments by Ayres Associates

Comment 1: I think all the proposed notes are well written, and are sensible requirements of which to make the Contractor aware. However, for projects with formal construction specifications, most if not all the notes belong in the specifications. While the guidance instructions indicate that the notes are not mandatory, I would like to see some acknowledgement in the final guidance that these notes can either appear on the drawings or as part of written specifications for the work. Without this I fear that the design and regulatory community will decide (by rule or practice) that the notes can only appear on the drawings. This is contrary to what the construction industry is trying to achieve by defining the proper role of drawings and specifications as part of a set of construction documents.

*Response: Typically, drawings are most readily referred to in the field and that the erosion control notes would most likely be read and followed on the drawings (rather than specifications). The following note was added in the introductory paragraph: *The following erosion control notes are examples for design use and may be edited for use on construction drawings or specifications.**

Comments by Baudhuin Incorporated

*Comment 1: Note 13. *State that a DNR wet pond can be used as sediment trap/basin during construction with removal of accumulated sediments to plan grade upon final stabilization of the site.**

Response: The Department agrees with the comment and added “OR WET PONDS” to number 13 in the guidance.

Comment 2: Note 18. *Should state silt fence shall be placed along the down slope side of a topsoil stockpile rather than surrounding. Need to leave the upslope area open for truck/equipment access. Silt fence along the uphill side doesn't do any good.*

Response: In general this is a true statement. However, in some instances a steep stockpile could have erosion to the uphill side with flow around the pile to the downslope side. Additional text was added to note stockpiles are to have erosion control “*AS NEEDED*” to number 18.

Comment 3: Note 20. *Should read: Stabilize all disturbed areas within 7 days of reaching final grade.*

Response: The Department agrees and added “*OF REACHING FINAL GRADE*” to number 20.

Comments by IIW, P.C.

Comment 1: *I think the Erosion Control Notes are good and very much similar to standard notes I've used in other states (CA). In general, I believe jargon should be avoided where possible, so I would caution against the term “frac out” in the last note, or clarify the statement as – an inadvertent discharge of drilling fluids (if that in fact is what is meant).*

Response: The term “frac out” was defined in number 31 in the guidance: “*AN INADVERTANT DISCHARGE OF DRILLING FLUIDS (“FRAC OUT”)*”.

Comments by Northeast Wisconsin Stormwater Consortium

Comments:

Please add the following sentence to the guidance document: “The following erosion control notes are merely examples. This guidance document does not require permit applicants to use these notes on their erosion control plans.”

Response: The introductory note was modified to read: “The following erosion control notes are examples for design use on construction drawings or specifications. This guidance document does not require the engineer/architect to use these notes on drawings or specifications.”

Please replace the phrase “rock construction entrance” with the phrase “tracking pad” throughout the guidance document.

Response: The term “tracking pad” was added to number 8 in the guidance.

Note 6 (page 2) – Please delete the phrase “on slopes of 20% or more”. Also, the word “construction” is misspelled.

Response: NR 151.11(6)(6m)(c)3, Wis. Adm. Code, states preventative measures include “Minimization of land disturbing construction activity on slopes of 20% or more”. The spelling error was also corrected.

Note 13 (page 3) – Please also reference the Sediment Trap Technical Standard.

Response: The Sediment Trap technical standard 1063 was referenced in the guidance.

Note 20 (page 3) – Please add the following phrase to the end of the sentence “of topsoil placement”.

Response: The text “OF REACHING FINAL GRADE” was added to the guidance.

Comments by WisDOT Environmental Services Section

Comments by note number:

1. *Include text to identify party responsible for posting WDNR Certificate of Permit.*

Response: The Notice of Intent is a separate document.

2. *Include text to identify party responsible for providing current erosion control plan. Clarify if plan is to be on site 24/7 or just during construction activities. Issues may arise at any time so WDNR staff needs access.*

Response: The Notice of Intent requirements are included in ch. NR 216, Wis. Adm. Code.

3. *Identify where modifications are to be sent. Recommend submittal to office that provided permit coverage. Does this conflict with #28? If you install measures as needed or as instructed, is an amendment needed and then 5 days for approval?*

Response: Erosion control modifications are typical as the construction project proceeds. NR 216.50, Wis. Adm. Code, outlines site changes amendment procedures.

4. *Again, are reports to be kept on site 24/7? Are there any required qualifications for the responsible party such as PE, construction site erosion control certification from NASECA? Include requirement for repair timeline? Is the responsible person identified here the same as referenced in all notes throughout? If not, need to clarify responsible person/provide guidance as to who responsible person should be in each note.*

Response: Erosion control requirements are included in ch. NR 216, Wis. Adm. Code.

5. *Who determines if site has been stabilized? Should criteria required for acceptable stabilization be included here or just reference “as outlined on permit” etc? Define what is required for site to be accepted as stabilized.*

Response: The Notice of Termination requirements are included in s. NR 216.55, Wis. Adm. Code.

7. *Recommend identifying/referencing specific technical standards that are pertinent to specific project. Edit “TECHNICAL STANDARDS FOR STORMWATER CONSTRUCTION” to reflect correct title “STORMWATER CONSTRUCTION TECHNICAL STANDARDS”. Ensure that all tech standard*

titles are correct in this and all other notes. Recommend referencing once instead of repeating same information with a note similar to this: "Install and maintain all BMPs in accordance with WDNR Technical Standards. Include all necessary information in the plan documents as required by the Technical standard. Each Tech Std used should be referenced as WDNR Technical Standard <title> #1234." A section like this would cover #s 8, 9, 12, 14, 15, 16, 17, 25 and 26.

Response: The technical standard title was corrected. The erosion control notes are intended to provide a starting point for designers to provide key information to the contractor. The erosion control notes are to be modified for the specific project.

- 8 *Edit to read "INSTALL PERIMETER CONTROLS AND PROTECTION AT CONSTRUCTION ENTRANCES...." Tech Standard 1057 could require (n)either or both tracking pad and tire wash so let the designer figure that out through the Tech Standard instead of confusing the issue by telling them a "rock construction entrance" is needed here when that may not be appropriate according to the Tech Std. Need to clarify per specific project. See #7 comments.*

Response: Erosion control notes are examples and need to be edited for specific projects.

9. *Please use same terminology as in the Technical Standards; "tributary area" should be "contributing drainage area" or can be confusing for construction field staff. Recommend fill in text to reference specific detail on erosion control plan and/or construction plans. See #7 comments.*

Response: The guidance text was modified to "CONTRIBUTING DRAINAGE". Erosion control notes are examples and need to be edited for specific projects.

10. *Delete. Tech Standard 1067 only addresses erosion practices during grading; it does not describe how to do rough grading.*

Response: The guidance text was modified to use the term "TEMPORARY GRADING".

11. *Need to address additional permit required for dewatering in known area of soil and/or groundwater contamination. Groundwater in these areas may require treatment prior to discharge to surface water or sanitary system.*

Response: The erosion control notes cover the topic from a general/preliminary standpoint.

- 13 *Reference NR 528 for sediment basin maintenance and sediment disposal on permanent basins.*

Response: The guidance was modified to reference ch. NR 528, Wis. Adm. Code.

- 14 *Should request that document or detail where bioinfiltration protection requirements are addressed be referenced under this note. Redundant, this info is in the Tech Standard and is not a part of every (or likely most) projects. See #7 comments.*

Response: The erosion control notes cover the topic from a general/preliminary standpoint. A reference was added to the Department Technical Standard Bioretention for Infiltration # 1004.

15 *First sentence states what is in Tech Standard #1056. Combine into one sentence. Recommend combining Note 15, 16 & 17 into one note. See #7 comments.*

Response: The guidance text was modified: “**AND MAINTAIN SILT FENCING PER WDNR TECHNICAL STANDARD SILT FENCE #1056. REMOVE SEDIMENT FROM BEHIND SILT FENCES AND SEDIMENT BARRIERS BEFORE SEDIMENT REACHES A DEPTH THAT IS EQUAL TO ONE-HALF OF THE FENCE AND/OR BARRIER HEIGHT**”.

18 *This action is a requirement in NR151, not just guidance. Reference exact sections in Sub III and IV for both > and < 1 acre disturbance. Here is one of the 4 references: NR 151.225(3)(f).*

Response: The erosion control notes cover the topic from a general/preliminary standpoint.

19 *Check regulations on the first sentence; believe this is either a rule or CG permit requirement. If so cite. May need to edit the Oct 15 end date to earlier in the northern part of the state. Do not recommend oats for fall planting. Recommend only allowing winter wheat adapted to Wisconsin climate for fall/winter planting. UWEX winter wheat performance test A3868 is a good reference for wheat. If area will be disturbed in spring, dormant seed is not necessary since it will not germinate to protect from erosion.*

Response: The guidance text was edited to include: “*AS APPROPRIATE FOR REGION AND SOIL TYPE*”.

20 *Check Regulations believe this is NR 151 so not guidance.*

Response: The guidance text was edited to read: “*OF REACHING FINAL GRADE*”.

21 *Need to address all material, not just sediment. Need to address all material, not just due to construction activities or storm events. First sentence says “sweep ... sediment” then separate swept materials (soil and trash). Need to use same terminology, this reads that sediment is composed of soil and trash.*

Response: The guidance text was edited to include “*TRASH*”.

22 *Is this a different person than the other RPs? See RP note in #4.*

Response: Each project is unique and it is up to the engineer/architect to identify responsible parties.

23 *Burning of material should not be allowed.*

Response: The guidance starts with “PROPERLY DISPOSE OF ALL WASTE_...”. The guidance does not identify specific requirements. Details are typically handled in the specifications.

24 *Please clarify note. Should note read “...OR CONSTRUCTION DEBRIS THAT WILL BE HAULED OFF SITE FOR DISPOSAL.”? Are perimeter controls all that are needed at waste sites?*

Response: The guidance text was edited.

References waste sites none of the notes reference borrow sites. Is this covered clearly elsewhere? If not should address waste and borrow sites together whenever possible. Is there additional guidance or reference(s) for waste and borrow sites that can be added?

Response: Erosion control notes are for reference and are to be edited for specific projects.

25 *Remove reference to WDOT facilities development manual. Should be WisDOT Product Acceptability List. See #7 comments.*

Response: The guidance text was corrected to reference the WisDOT Product Acceptability List (PAL).

26 *Same as Note 25. See #7 comments.*

Response: The guidance text was corrected to reference the WisDOT Product Acceptability List (PAL).

27 *Please clarify what is meant by make provisions for watering. Contractor needs to know what is required such as how much water should be applied. i.e. 0.5.” Also, should this be edited from first 8 weeks to a minimum of 8 weeks and until vegetation has been established as approved by (enter authorized agent/agency)?*

Response: The erosion control notes are to be edited for specific projects.

28 *What provides guidance as to additional measures? Are changes to approved plan required and how are changes implemented? May create an issue as to how contractor will be paid that needs to be addressed in contract documents.*

Response: The guidance text was edited to include “WATTLES” and “AS NEEDED” was removed.

30 Note whether this is required on all plans or if not describe which ones.

Response: A spill plan is required if there is the potential to discharge contaminants to waters of the state.

31 Same as #30.

Response: A spill plan is required if there is the potential to discharge contaminants to waters of the state.

Recommend requiring all tech standards used on project have a copy available somewhere such as binder containing inspection reports so construction staff has access. Field documents should be a standalone document. Referencing a standard doesn't provide the required guidance if the field staff does not have available access. Recommend adding a note describing the responsible party and if it must always be the same person/entity or if there can be multiple RPs; one for each aspect requiring an RP.

Response: The specific project construction contract documents typically state the requirements for field documents.

The final guidance was approved on April 2, 2015.

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