

SECTION 637 - TEMPORARY POLLUTION CONTROL

This Section of the Standard Specifications is hereby deleted and the following substituted therefore:

DESCRIPTION

637.01.01 General. This work consists of the construction, installation, maintenance, and removal of temporary pollution control Best Management Practices (BMPs) in accordance with National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) requirements issued by the Nevada Division of Environmental Protection (NDEP) Bureau of Water Pollution Control (BWPC), and as directed. Unless noted otherwise, CGP shall refer to the NPDES CGP issued by NDEP BWPC. BMPs are intended to provide prevention, control, and abatement of water and air pollution to the maximum extent practicable from the first day of construction activities until relief of maintenance has been granted for the project.

Temporary pollution control and erosion control work shall conform to CGP requirements and NDOT's "Construction Site Best Management Practices (BMPs) Manual," hereinafter referred to as the Manual, and addenda thereto issued up to, and including, the date of advertisement of the contract. The Manual can be accessed on the NDOT website. Adhere to the Manual's minimum requirements for the selection and implementation of construction site BMPs. Know, understand, and fully comply with the provisions of the Manual, Federal, State, and local regulations governing stormwater and non-stormwater discharges from both the project site and areas of disturbance outside the project limits during construction.

For projects requiring procurement of a CGP for stormwater discharges, a Stormwater Pollution Prevention Plan (SWPPP) shall be developed and implemented. The Department furnished "Stormwater Pollution Prevention Plan (SWPPP) Template for Construction Activities," Form 018-002SWPPP may be used to develop the SWPPP. The template form can be accessed on the NDOT website under the Environmental section - Stormwater Program or by request.

Refer to the Manual fact sheets for individual BMP requirements. BMPs requiring sizing or design criteria in accordance with the CGP or the Manual shall be designed by a Nevada Registered Civil Professional Engineer (PE), pursuant to NRS Chapter 625, and shall be included as an addendum to the SWPPP.

Refer to the NDEP BWPC website for a copy of the CGP and information pertaining to SWPPP development. Refer to the Environmental Protection Agency (EPA) Region 9 stormwater permitting website for a copy of the EPA CGP and information pertaining to SWPPP development.

The CGP includes and covers stormwater discharges from Department furnished material sources for general fill material, aggregate, and/or staging of a temporary asphalt or concrete batch plant operation dedicated solely to a specific contract. Install, inspect, and maintain temporary pollution control BMPs for these areas and include these areas in the SWPPP.

Be responsible for water quality monitoring of effluent for any Department furnished material sources where groundwater or accumulated stormwater will be discharged. Provide water quality monitoring results for the parameter in Table I a minimum of once per year for the duration of the project for each outfall associated with the dewatering discharge(s).

TABLE I

Parameter	Effluent Limit	Sample Type
pH	6.0 – 9.0 S.U.	Grab

Submit water quality monitoring results within 24 hours from the time of sampling. Water quality monitoring results failing to meet the numeric effluent limitations in Table I shall be documented in an exceedance report. Water quality monitoring exceedance reports shall include the following:

1. Project name, project number and location and/or physical address;
2. Name of receiving water:
3. Monitoring data from the current and previous monitoring events, if applicable;

4. Explanation of the situation, including what actions have been completed or will be completed to correct the violation; and
5. Contact name, title, and phone number.

Submit water quality monitoring exceedance reports to the Department's Stormwater Division Compliance and Enforcement Supervisor at (775) 888-7771 within 24 hours from the time of sampling.

The SWPPP document, including diagrams, maps, and calculations, shall be completed and implemented prior to commencement of earth disturbing activities. The official SWPPP shall remain on the project site or at an easily accessible location from the first day of erosion and sediment control installation activities until relief of maintenance has been granted for the project. A copy of the official SWPPP shall be made immediately available upon request to NDEP, EPA, NDOT, FHWA, or any other State, Tribal, or local agency with jurisdiction of stormwater discharges.

This project is located within the Lake Tahoe Basin and all pollution control measures shall satisfy the requirements of the Tahoe Regional Planning Agency (TRPA) permit. On-site inspection by TRPA staff of installed BMPs is required prior to any construction or grading activity. Notify the TRPA when contract and Stormwater Pollution Prevention Plan BMPs have been installed. Schedule a pre-grade inspection with TRPA at least 48 hours prior to construction commencement to ensure BMP installations abide by the TRPA permit.

637.01.02 Water Pollution Control Manager. For projects requiring procurement of a CGP, designate a certified Water Pollution Control Manager (WPCM) who has successfully completed the "Water Pollution Control Manager" training class provided by the Associated General Contractors/Nevada Contractors Association. To register for this class, contact the Education and Training Director of the Associated General Contractors/Nevada Contractors Association Las Vegas. Submit a copy of the certificate demonstrating the WPCM's successful completion of the training class. The WPCM shall maintain current standing with the training from the date of contract award until relief of maintenance has been granted for the project. Failure to maintain current certification status may result in the ceasing of all operations not related to maintaining public safety until a WPCM with valid certification is assigned to the project. Working days will continue to be counted.

The WPCM shall be knowledgeable in the principles and practices of the installation and maintenance of erosion and sediment controls in accordance with the CGP, the Manual, and as identified in the current SWPPP. The WPCM shall be capable of identifying existing and predictable effects of the contractor's operations, and shall have complete authority to direct the contractor's personnel and equipment to implement the requirements described herein.

The WPCM shall be an employee under direct supervision of the Contractor, and shall be responsible for developing, implementing, and updating the SWPPP. The WPCM shall be responsible for updating the SWPPP in accordance with the requirements of the CGP.

The WPCM shall be responsible for stormwater inspections and ensuring the installation, maintenance, and removal of temporary pollution control BMPs comply with the requirements of the CGP and SWPPP. The WPCM shall serve as the primary contact for issues related to the SWPPP, permits, or their implementation and shall be available by phone 24 hours a day and shall be capable of being on-site within 24 hours of notification of a deficiency from the first day of activities until relief of maintenance has been granted for the project.

The WPCM shall be responsible for reporting all illicit discharges or illicit connections to the storm sewer system found within the project limits immediately upon discovery. Refer to the CGP and NDEP's Spill Prevention website, in-state hotline at (775) 687-9485, or out-of-state hotline at (888) 331-6337 for additional reporting requirements.

637.01.03 Permits. Not all projects require the permits discussed in this Subsection.

Prepare any applicable discharge permit applications, including any required modifications and amendments thereto, in accordance with Subsection 107.02.

Contact the Department's Stormwater Division at (775) 888-7771 a minimum of 7 days prior to submitting the Notice of Intent (NOI) to obtain coverage under a CGP. The Stormwater Division will provide documentation summarizing NOI requirements.

When submitting a NOI, reference the Department Engineer's name as the appropriate Owner (NDOT) contact, the appropriate District address, and reference NDOT's Contract Number in the Site Name of the NOI. Ensure billing information of the NOI reflects the Operator (Contractor) to receive the invoice for annual permit renewal.

Adhere to the additional requirements in Section 9 of the EPA CGP when performing construction activities within the Pyramid Lake Paiute Tribe reservation.

Construction activities may require simultaneous coverage under the CGP and the EPA CGP.

File a separate NOI with NDEP and/or EPA to apply for coverage under the appropriate CGP for land and earth disturbance areas outside of NDOT right-of-way and not displayed on the plans. Contractor furnished material sources, staging areas, plant sites, turnaround areas, or any other contractor caused ground disturbance outside the right-of-way and not shown on the plans are the Contractor's responsibility and shall be submitted under a NOI package separate from the ground disturbance within right-of-way and shown on the plan sheet details. As these separate CGPs are the sole responsibility of the Contractor, NDOT shall not be listed as an Owner or Operator. Submit a copy of all separate signed NOI certification statements. The Department is not responsible for delays caused by incomplete or inaccurate submittals to NDEP and/or EPA by the Contractor.

Upon notice of award initiate the procurement of permits and submit a copy of executed permits procured prior to commencement of earth disturbance activities requiring permitting.

Regardless of the permitting authority requirements, photograph and submit electronic color photo documentation of existing vegetation and pre-construction site conditions of the entire project, including areas outside of NDOT right-of-way subject to earth disturbance, prior to commencement of earth disturbing activities. Photograph and submit electronic color photo documentation of post-construction site conditions for all lands disturbed by construction activities, including areas outside of NDOT right-of-way, with the relief of maintenance request. All electronic photo documentation shall be date/time stamped.

For project requiring procurement of a CGP, submit a request for relief of maintenance only after completion of an inspection of the sediment and erosion control measures conducted during the final inspection in accordance with Subsection 105.16. Include a copy of the Notice of Termination request or request to transfer full CGP responsibilities to the Department with the relief of maintenance request. When requesting to transfer full CGP responsibilities to the Department, submit a copy of the final SWPPP documenting current field conditions with the relief of maintenance request. Adhere to all permit requirements until relief of maintenance has been granted for the project.

637.01.04 Noxious Weed Management. Develop and follow a Noxious Weed Management Plan to prevent the establishment and spread of Nevada State listed noxious weeds per NRS 555 (available at http://agri.nv.gov/Plant/Noxious_Weeds/Noxious_Weeds_Home/).

Submit a copy of the Noxious Weed Management Plan for review and approval at the pre-construction conference.

The management plan shall include a physical survey of noxious weeds, mapping of existing noxious weed populations, appropriate eradication/control methods based on weed type, location, applicator certification, monitoring, and retreatment as necessary. Include methods for keeping equipment, personnel, staging areas, construction and excavation sites, and roadways clear of noxious weed plants and seeds. The plan shall also address the treatment of weeds in topsoil salvage material.

Equipment leaving noxious weed infested areas shall be cleaned prior to moving to areas free from noxious weeds. Equipment coming into or leaving the project area shall be cleaned and the cleaning area kept clear of plant material and contaminated dirt to prevent weed spread. The cleaning method shall be as approved.

CONSTRUCTION

637.03.01 General. For projects requiring procurement of a CGP, furnish, install, and maintain in proper working condition a minimum of one rain gauge for every 10 miles or portion thereof within the project limits to determine the precipitation total for storm events. Install the rain gauges at a location within the project limits to be determined by the Contractor and approved by the Engineer. The WPCM shall inspect each rain gauge prior to anticipated storm events to verify the condition and ensure proper operation. The WPCM shall inspect each rain gauge and record rain gauge totals following each storm event. Following storm events, the WPCM shall perform construction site stormwater inspections in accordance with CGP requirements.

Installed rain gauges shall remain in place as permanent monitoring devices or be removed as directed.

Be responsible throughout the duration of the project for installing, constructing, inspecting, maintaining, replacing, removing, and disposing of the BMPs specified in the SWPPP, Temporary Working in Waterways Permits, and any other applicable permit. Installed BMPs shall perpetuate natural flow patterns and conveyances such that flooding or ponding is not caused inside or outside of the right-of-way or that may pose a hazard to motorists, pedestrians, or any other user.

For projects requiring procurement of a CGP and SWPPP development, perform a stormwater inspection of the construction site prior to the commencement of earth disturbing activities to ensure construction site BMPs are installed in accordance with the current SWPPP and adhere to the Manual's minimum requirements for the selection and implementation of construction site BMPs.

For projects requiring procurement of a CGP, perform and document stormwater inspections in accordance with the CGP requirements and as directed. The Contractor and Engineer shall perform simultaneous stormwater inspections when directed by the Engineer.

Repairs and/or placement of temporary erosion and sediment control measures, or correction of any CGP deficiency identified during a stormwater inspection, shall be conducted in accordance with the CGP requirements.

If failure to comply with CGP requirements results in a violation where fines, penalties, and/or any other monetary impacts are incurred by the Department or Contractor, penalties will be assessed in the amount of the incurred fines, penalties, and/or monetary impacts resulting from the violation in accordance with Subsection 107.01. The Department will deduct the amount of said penalties from any monies due.

Failure to comply with the temporary pollution control requirements contained herein may be considered a stormwater deficiency. Stormwater deficiencies will be assessed demerits according to the following schedule.

Stormwater Deficiency Category	Demerits
Failure to submit a copy of executed NOI documentation	1
Failure to make SWPPP easily accessible or make the SWPPP available upon request	1
Failure to properly submit the NOI to NDEP/EPA	1
Failure to contact NDOT before submitting NOI for CGP coverage	5
Failure to submit an active SWPPP document when requesting to transfer full CGP responsibilities to the Department	5
Failure to install and maintain a rain gauge (if applicable)	5
Failure to submit required pre- or post- construction photo documentation (included in SWPPP upon transferring to the Department)	10
Failure to perform a construction site stormwater inspection prior to the commencement of earth disturbing activities	10
Failure to provide a WPCM with current certification status	20
Failure to submit a copy of a separate NOI for areas outside of right-of-way	20
Failure to obtain CGP Coverage	50

Pursuant to NRS 408.441 through 408.451, the Director may issue an order for compliance, commence a civil action, request the Attorney General to commence a criminal action, or seek injunctive relief.

Liquidated damages will be assessed for non-compliance with temporary pollution control requirements contained herein in accordance with Subsection 109.02. Failure to achieve and maintain compliance with temporary pollution control requirements may result in the ceasing of all operations not related to achieving compliance or maintaining public safety. Working days will continue to be counted and liquidated damages will be assessed during such cessation.

The Contractor is solely liable for any suspension of work and/or enforcement actions resulting from CGP violations. CGP non-compliance may result in termination of this Contract in accordance with Subsection 108.10.

Do not remove BMPs addressing stormwater discharge from areas subjected to earth disturbing activities until final stabilization per the CGP has been achieved or as directed. This may require BMPs be left in-place following the completion of construction activities. Properly maintain such BMPs, as specified in the Manual, and as directed, until relief of maintenance is granted for the project.

Land disturbance areas beyond those depicted in the contract documents resulting from Contractor construction activities shall undergo final stabilization at the Contractor's expense. These include, but are not limited to, staging areas, turnaround areas, employee parking areas, and areas of ingress and egress. Submit final stabilization plans for review and approval.

637.03.02 Dust Control. Develop, obtain, and pay for all State and local entity permits and fully comply with the terms specified therein. Furnish and apply water or chemical dust palliative for controlling dust on the areas designated and according to permit conditions. Use equipment and obtain water as specified in Subsection 107.21.

Control dust originating from traffic, plant, or construction operations either inside or outside the right of way at all times according to EPA, State, and local laws, ordinances, and regulations.

Consult the Manual fact sheets for appropriate dust palliative product selection. The use of dust palliatives containing cationic treatment chemicals is prohibited.

Mix and apply dust palliative as recommended by the manufacturer. Prepare the soil for application of dust palliative according to manufacturer instructions. Apply additional applications of dust palliative to control dust or as required by air quality regulating authorities.

Maintain all disturbed areas in a condition to prevent wind erosion and particulate emissions 24 hours a day, 7 days a week until the construction site is completely stabilized as shown on the plans and as required.

For contracts in Washoe or Clark Counties, provide a copy of the applicable Air Quality Management "Dust Control Permit" for construction activity prior to beginning work. Provide a copy of the final inspection and release from the applicable Air Quality Management "Dust Control Permit" upon completion of construction activities.

The geology in the project area may support erionite minerals (a fibrous mineral with similar health risk to asbestos). The applicable Air Quality Management "Dust Control Permit" for construction activity application requires the development of a Dust Control Mitigation Plan (DCMP). The fact that there may be erionite in soil and rock material in the area must be considered during the development and implementation of the DCMP and during health and safety planning. If, based on the scope of the project, no "Dust Control Permit" is required, the contractor is still required to prepare and follow a DCMP for this project. The DCMP must be designed to prevent visible dust due to project activities.

Immediate notification will be given in writing for failure to maintain adequate dust control and may result in immediate suspension of construction operations. If failing to remedy unsatisfactory dust control within 1 hour after receipt of such notice, the Engineer may immediately proceed to take necessary action to maintain dust control and the entire cost of this maintenance will be deducted from money due or to become due.

METHOD OF MEASUREMENT

637.04.01 Measurement. Temporary pollution control will be measured by the lump sum.

BASIS OF PAYMENT

637.05.01 Payment. The accepted quantities, measured as provided above, will be paid for at the contract price bid per unit of measurement for the pay items listed below that are shown in the proposal. Payment will be full compensation for the installation, ongoing maintenance, and removal of the work in accordance with stormwater requirements or as directed as prescribed in this Section.

Partial payments for temporary pollution control will be made as the work progresses. The Engineer will determine the reasonable payment percentage for each payment cycle. When requested, furnish invoices and receipts for actual costs. The amount paid on the next progress payment will be 50% of the amount determined.

A maximum amount of 5% of the contract amount will be paid for temporary pollution control during the progress of the work. Upon completion of all work on the project, payment of any amount bid for temporary pollution control in excess of 5% of the contract amount will be paid.

Payment will be made under:

Pay Item	Pay Unit
Temporary Pollution Control	Lump Sum
Carded 12/30/2019	

SECTION 109 - MEASUREMENT AND PAYMENT

109.01 Measurement of Quantities. The eighth paragraph of this Subsection of the Standard Specifications is hereby deleted and the following substituted therefore:

When water meters are required, the accuracy of the meters will be checked by comparing the actual mass of approximately 4,000 L (1,000 gal), or 4 m³ (125 ft³), as metered with the calculated mass using as a reference density 1.00 kg/L (8.345 lb/gal) or 1,000 kg/m³ (62.4 lb/ft³). Unless otherwise specified, provide water meters accurate to within 1.5% of the indicated amount. The frequency of checking water meters will be determined.

109.02 Scope of Payment. The cost of the asphalt product for the double asterisk note in the demerit table on page 68 of the Standard Specifications is as follows:

Cost of the cutback asphalt, Type MC-800 or SC-800, will be ~~\$\$\$~~.00 per ton. *(Delete first sentence if cutback asphalt is a bid item, or not on contract.)* Cost of the emulsified asphalt (diluted) will be ~~\$\$\$~~.00 per ton.

Section 637 pay items are subject to the following requirements:

It is agreed by the parties to the contract that (a) in case the temporary pollution control implementation does not conform to the requirements set forth in Section 637, damage will be sustained by the Department, and that (b) it is extremely difficult to ascertain the actual damage which the Department will sustain; therefore, it is agreed the Contractor shall pay to the Department as liquidated damages or the Department, at its option, may deduct from any money due or to become due the Contractor from the Department an amount set forth in the following schedule:

Liquidated damages are assessed at \$350 per demerit per day plus additional damages for 21 or more demerits as indicated. Liquidated damages are cumulative per violation.

Number of Demerits From Section 637	Additional Liquidated Damage
21-30	5% of contracted amount of temporary pollution control items
31-40	10% of contracted amount of temporary pollution control items
* 41 or more.....	Potential action by the Director, value and deduct to be determined

* Pursuant to NRS 408.441 through 408.451, the Director may issue an order for compliance, commence a civil action, request the Attorney General commence a criminal action, or seek injunctive relief.

Nothing herein prevents the Nevada Division of Environmental Protection, Environmental Protection Agency, or other state, federal, or local agencies from assessing penalties and fines against the Contractor due to the Contractor's failure to comply with applicable laws, regulations, and ordinances, or any combination thereof.

109.04 Asphalt Escalation. The Asphalt Escalation Clause is not in effect for this contract, therefore this Subsection of the Standard Specifications is hereby deleted. *Delete if more than 500 tons of total asphalt on contract*

109.05 Fuel Escalation. The Fuel Escalation Clause is not in effect for this contract, therefore this Subsection of the Standard Specifications is hereby deleted. *Delete for construction estimate greater than \$250,000*

(a) Fuel Factor Percentage (Ffp). The Department has established a "Fuel Factor Percentage" of ~~XX.X~~% for this contract.

109.06 Partial Payment. The fourth sentence of the first paragraph of this Subsection of the Standard Specifications is hereby deleted.

The word "adjusted" in two places in the fifth sentence of the first paragraph of this Subsection of the Standard Specifications is hereby deleted.

The fifth full paragraph, including subparagraphs (a) and (b), on page 76 of the Standard Specifications is hereby deleted.

The third and fourth sentences of the second to last indented paragraph from the bottom of page 76 of the Standard Specifications are hereby deleted.

The word "original" in two places in the last indented paragraph at the bottom of page 76 of the Standard

Specifications is hereby deleted.

The word “original” in five places in subparagraph (c) Mobilization on the middle of page 77 of the Standard Specifications is hereby deleted.

109.08 Payments to Subcontractors. The second paragraph of this Subsection of the Standard Specifications is hereby deleted and the following substituted therefore:

Report payments made to each subcontractor and each DBE/SBE supplier via B2GNow reporting software by the 15th day of each month following payment. Access to the software is provided at no cost. Ensure that subcontractors report their payments to lower-tier subcontractors via B2GNow. Ensure that Enterprise Subcontractors verify payments made to them via B2GNow. If subcontractors do not confirm payments via the B2GNow system, proof of payment may be required. Reporting via B2GNow is considered a necessary portion of the work and partial payments as set forth under Subsection 109.06 may not be forthcoming until this requirement is complied with.

Carded 12/16/2019