

SECTION 27 – NOTICE OF TERMINATION

27.1 NOTICE OF TERMINATION (NOT) *(Add. 01-21-14)*

Rule 5 requires the permit coverage for all projects to be terminated before final acceptance can be issued. In order to secure approval for permit termination, a Notice of Termination (NOT) form -51514 (available on the [IDEM Forms](#) page) must be submitted to the Indiana Department of Environmental Management (IDEM) for review.

27.1.1 NOT Eligibility Requirements

Once construction activity has been completed, the project site owner is required to terminate permit coverage. Eligibility to terminate a Rule 5 permit is based on the following criteria:

- Final stabilization of the entire project area, including removal of all temporary erosion and sediment control measures, has been completed. This includes any individual projects within the development area. All objects should be constructed with no additional land disturbance planned.

IDEM, in most situations, does not require individual construction sites within a multi-lot project to be permitted separately. The individual lots are permitted through the original project site owner's submittal of the Notice of Intent.

- The project has achieved 70% uniform vegetation density for turf areas.

27.1.2 Procedures for Acquiring NOT Certification

There are three (3) different scenario/contract types that need to be considered when obtaining an NOT.

Single Signature Contracts:

The majority of INDOT contracts are contracts that do not entail design/build, either by line item or by total contract. The following steps must be taken by the PE/S for single signature contracts:

Step 1:

- The PE/S will notify Environment Services, ES, or district erosion and sediment control, ESC, district coordinator of substantial completion.
- A site visit by INDOT district ESC or ES or appointed representative to review site for problem areas in developing turf and provide recommendations to correct the problems may be needed.

Step 2:

- The Contractor and PE/S will evaluate the project and agree 70% uniform vegetation density of permanent cover (turf or other) has been achieved or is close.
- The PE/S will document site conditions by:

- Written statement that both parties agree that the site meets the 70% vegetation density coverage of turf areas.
- Panoramic pictures of turf areas while making sure the least vegetated areas on site are captured (pictures in focus).
- 4 spot pictures from the least vegetated turf areas trying to capture the worst areas.

Pictures should be taken:

- a) Perpendicular to the ground
- b) In a standing position
- c) Using a digital camera (pictures in focus)

Step 3:

- The PE/S notifies ES of their desire to request NOT from IDEM by:
 - Emailing the request to the Storm Water Team Lead, and copying appropriate persons involved with the contract (PM, AE, ESC District Coordinator, etc.)
 - Attach documentation listed above (written statement and site pictures)
- The ES Manager or team lead will make a determination of the site's compliance with IDEM regulations based on PE/S and Contractor documentation, site visit, and other sources.
 - If documentation fails to confirm compliance then ES will schedule a field review with District Construction and Contractor to discuss work that needs to be completed or considered.
 - If documentation confirms compliance, ES will notify the PE/S and copy appropriate persons involved with the contract (PM, AE, ESC District Coordinator, etc.) of its decision to sign the NOT. ES will send the form on to IDEM for release.

Step 4:

If IDEM rejects the NOT request, ES will set up an immediate meeting with the IDEM representative, Contractor and PE/S to address rejection of NOT and to understand what corrections are needed to be made in order to be in compliance and gain acceptance.

Step 5:

When corrections have been completed, start again at step 3.

Step 6:

If IDEM accepts the NOT request:

- ES will provide a copy of IDEM's acceptance to the PE/S so final acceptance

of the contract can proceed.

- The Contractor shall remove any remaining temporary erosion control measures and repair any areas damaged during the removal.

Co-signature Contracts:

These are contracts are either design/build contracts or contracts with an item for Design/Build Erosion and Sediment Control. The following steps must be taken by the PE/S for co-signature contracts:

Step 1:

- PE/S will notify ES of substantial completion.
- Site visit by INDOT district ESC or ES or appointed representative to review site for problem areas in developing turf and provide recommendations to correct any problems.

Step 2:

- Contractor and PE/S will evaluate the project and agree 70% uniform vegetation density of permanent cover (turf or other) has been achieved.
- Contractor and PE/S shall document site conditions by:
 - Written statement that both parties agree that the site meets the 70% vegetation density coverage of turf areas.
 - Panoramic pictures of turf areas while making sure the least vegetated areas on site are captured (pictures in focus).
 - 4 spot pictures from the least vegetated turf areas trying to capture the worst areas.

Pictures should be taken:

- a) Perpendicular to the ground
- b) From standing position
- c) Using a digital camera

Step 3:

- The Contractor sends notification to the Storm Water Team Lead of their desire to request the NOT from IDEM by:
 - Emailing a request for determination of the site's compliance and willingness to sign NOT to the ES Manager and Permit Coordinator. The Contractor shall copy appropriate persons involved with the contract (PE/S, PM, ESC District Coordinator, AE, etc.).
 - Attach documentation listed above (written statement and site pictures).
- The ES Manager or the Storm Water Team Lead will make a determination of

site compliance with IDEM regulations based on Contractor and PE/S documentation, site visit and other sources.

- If documentation fails to show compliance, then ES will schedule a field review with the PE/S and Contractor to discuss work that needs to be completed.
 - When additional work (if required) is completed, start over at the beginning of this step.
- If the documentation confirms compliance, ES will notify the Contractor of its decision to sign the NOT.
 - The Contractor will prepare and sign the NOT form.
 - The Contractor delivers the signed form to ES for signature.
 - The Contractor will then deliver the form to IDEM in order to obtain final compliance.
 - The Contractor will have the document time-date stamped and provide a hard copy to ES.

Step 4:

If IDEM rejects the NOT request, the contractor will set up an immediate meeting with the IDEM representative, PE/S and ES representative to address the rejection of the NOT and to understand what corrections needed to be made in order to be in compliance and gain acceptance.

Step 5:

When corrections are made the process will start again at the beginning of step 3.

Step 6:

If IDEM approves the request:

- The Contractor will provide the PE/S and ES a copy of the NOT response by IDEM so final acceptance of the contract can proceed.
- The Contractor shall remove any remaining temporary erosion control measures and repair any areas damaged during the removal.

Local Public Agency, (LPA) contracts:

On local agency contracts you will need to follow the appropriate process based on the type of contract you have (per above). The exception will be that the LPA's "Person in Responsible Charge" or its designee will fulfill the role of ES.

Please note that if all other work is complete on a contract, but final acceptance is pending the NOT certification, the Contractor may take down permanent signs and bring out temporary signs to complete any needed work at a later date. **Once the PE/S is successful in getting the NOT**, the Contractor may take down the remaining signs and

accept the contract.

If the project is determined not to meet the requirements for termination of the Rule 5 permit, then the following may need to occur:

- Report preparation will need to continue until a NOT is obtained.
- The erosion and sediment control devices will need to remain in place in areas where the density has not been attained and in areas where sediment may leave the project or enter waterways.
- If it is deemed that the Contractor performed the work as required by the specifications, then additional costs will be considered for payment.
- Additional costs will be reviewed for payment on a case by case basis. These costs may include, but are not limited to, document preparation on projects that go beyond the completion date for the reason of the NOT, additional seeding or work needed for erosion and sediment control items, etc.
- For unhealthy vegetation areas, soil mitigation measures may be considered by INDOT.
- Costs and potential costs should be discussed with the AE, especially if the magnitude of the costs will be high as INDOT may wish to consider additional options.
- If obtaining the NOT causes contract time to overrun, a time extension will not be required. It is our intent that the time it takes to get the NOT after the completion date be covered by a Final Inspection Time Waiver similar to when extra work is added to a contract at the final inspection.
- When the PE/S receives a copy of the NOT from either ES or the AE, enter it into the SiteManager Correspondence Log and attach a copy of the NOT document to the Correspondence Log.

27.2 FEDERAL-AID CONTRACTS (Rev. 09-30-09)

The DCD should take appropriate action to ensure that the FHWA representative receives an invitation to the pre-final and final inspection on oversight contracts.

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