

Memorandum

FEMA Environmental / Historic Preservation Section (EHP)
U.S. Department of Homeland Security ~ FEMA Region VIII
Denver Federal Center, Building 710, Box 25267, Denver, Colorado 80225-0267

To: Tyler Steen, SD-OEM
From: Charles A. Bello
CC: Gary Brand (FEMA DR-4440 PA)
Steven Hardegen (FEMA RVIII EHP)
Richard Myers (FEMA RVIII EHP)
Date: November 27, 2019
Re: FEMA EHP - South Dakota DR-4440; -4448; -4463; -4467; -4469
Project Worksheet EHP Corrugated Metal Pipe (CMP) Culvert Disposition Guidance

This memorandum provides guidance to Applicants, SD State OEM, and FEMA Public Assistance/EHP staff in complying with disposition of damaged culverts.

SD-Department of Environment & Natural Resources (DENR) (Steve Kropp, POC) informed EHP in a phone conversation (11/04) that leaving damaged CMP culverts in the field or burying them in the road/ditch/other locations is not in compliance with South Dakota Administrative rule ARSD-74-27 (<https://sdlegislature.gov/Rules/DisplayRule.aspx?Rule=74:27>).

CMP culverts fall within South Dakota Codified Law 34a-6-1.3 (https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=34A-6) definitions for solid waste.

Please note that concrete culverts are not regulated in the same way. Clean (contaminate- and rebar-free) concrete can be re-used, as we have stated in EHP's concrete rip-rap guidance document.

According to SD-DENR policy, CMPs can be disposed of in the following manner:

- Recycled (commercially) or taken to a county/township/other stockpile for re-use.
- Permitted landfill.
- Taken and disposed by a contractor in compliance with state law.

The following circumstances may result in non-compliance of the project:

- CMPs crushed and buried in roadway/ditch/other location.
- CMPs left at the project site.
- CMPs moved to or left (as displaced by the event) on an adjacent private property.

Applicants may offer a CMP to a private property owner for agriculture/ranching re-use. However, if re-installed as a culvert (by a private entity, and without FEMA funding), the work must still comply with all Federal, State, and local regulations. It is recommended that the USACE and Local Floodplain Manager be contacted for the re-use.

General Notes:

- Applicant/Contractor is required to identify a site for the disposal of a damaged CMP. The location must be referenced in Grants Manager.
- Construction/demolition debris may not be disposed of within the ROW.
- The waste disposal site(s) shall be managed and reclaimed in accordance with the General Permit for Highway, Road, and Railway Construction/Demolition Debris Disposal Under the South Dakota Waste Management Program issued by the Department of Environment and Natural Resources.

Failure to comply with the requirements stated above may result in civil penalties in accordance with South Dakota Solid Waste Law, SDCL 34A-6-1.31, and otherwise may jeopardize FEMA funding.

Respectfully, Charlie

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