



**STATE OF WISCONSIN DEPARTMENT OF  
NATURAL RESOURCES**

**GENERAL PERMIT TO DISCHARGE UNDER THE WISCONSIN  
POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WPDES Permit No. WI-S067831-6**

In compliance with the provisions of ch. 283, Wis. Stats., and chs. NR 151 and 216, Wis. Adm. Code, a landowner of a construction site engaging in land disturbing construction activities including clearing, grading and/or excavating, but excluding storm water discharges within Indian Country, that discharges

**STORM WATER ASSOCIATED WITH LAND DISTURBING CONSTRUCTION  
ACTIVITY**

is authorized to discharge storm water to waters of the state provided that the discharge is in accordance with the conditions set forth in this permit.

Unless notified in writing by the Department of Natural Resources (department) to the contrary, the effective date of coverage under this permit is 14 working days after an applicant's complete Notice of Intent has been received by the department.

Permit coverage continues until submittal of a Notice of Termination for a project and terminates upon written confirmation by the department. The maximum period of permit coverage for any project is limited to 3 years per Notice of Intent. Therefore, after 3 years of initial permit coverage, the permittee is no longer authorized to discharge under this permit unless another Notice of Intent for the original project including the application fee is submitted to retain coverage under this permit or a reissued version of this permit.

State of Wisconsin Department of Natural Resources  
For the Secretary

By   
Brian Weigel, Director  
Bureau of Watershed Management

September 30, 2021  
Date

**PERMIT EFFECTIVE DATE:** October 1, 2021      **EXPIRATION DATE:** September 30, 2026

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## 1. APPLICABILITY CRITERIA

### 1.1 Eligibility

**1.1.1** Subject to the provisions of sections 1.1.3, 1.1.4 and 1.2.1 through 1.2.6:

**1.1.1.1** Under the applicability criteria in s. NR 216.42, Wis. Adm. Code, this general Wisconsin Pollutant Discharge Elimination System (WPDES) permit is applicable to all new and existing storm water discharges from land disturbing construction activity occurring after the effective date of this permit until permit coverage is terminated in accordance with section 2.7 or automatically terminates under section 2.8. Construction activities eligible for coverage by this permit are those that involve land disturbing construction activity affecting or anticipated to affect one acre or more of land.

**1.1.1.2** The department may require the landowner of any storm water discharge associated with land disturbing construction activity to apply for and obtain a storm water discharge permit if the storm water discharge is contributing to the violation of a water quality standard or contributing significant pollution to waters of the state.

**1.1.2** This permit also authorizes pit and trench dewatering discharges at a construction site covered under this permit subject to the following conditions:

**1.1.2.1** Dewatering is from a trench or pit not meeting the definition of a well as defined under s. 281.34(1)(h), Wis. Stats., and regulated under ch. NR 812, Wis. Adm. Code.

**1.1.2.2** Dewatering discharge is treated in accordance with the department's sediment control dewatering technical standard 1061 or equivalent methodology.

**1.1.2.3** Dewatering is not from an area subject to remedial action operations or from an area containing contamination that would be subject to remedial action operations.

Note<sup>1</sup>: Examples of some dewatering activities that may be regulated by this permit include dewatering of construction pits, sewer extension construction, pipe trenches, and other similar operations. The department's sediment control dewatering technical standard 1061 is available at: [https://dnr.wi.gov/topic/stormwater/standards/const\\_standards.html](https://dnr.wi.gov/topic/stormwater/standards/const_standards.html).

Note<sup>2</sup>: Dewatering well systems with a combined pumping capacity of 70 gallons per minute or more may require temporary high capacity dewatering well approval. Dewatering well systems must meet the requirements of ch. NR 812, Wis. Adm. Code.

Note<sup>3</sup>: Discharges from dewatering well systems may require coverage under a wastewater general permit for dewatering operations. The wastewater permit for dewatering operations is available at: <https://dnr.wisconsin.gov/sites/default/files/topic/Wastewater/WI0049344permit.pdf>.

Note<sup>4</sup>: Dewatering discharges at construction sites or properties where there is environmental pollution and/or a discharge of a hazardous substance subject to regulation under chs. 289 or 292, Wis. Stats, may require additional approvals and be subject to the [Contaminated Groundwater from Remedial Action Operations General Permit \(WI-0046566-07-0\)](#). Chapter 292, Wis. Stats., defines "remedial action."

**1.1.3** This permit authorizes storm water discharges from land disturbing construction activities

that may become mixed with other storm water discharges. Subject to compliance with the terms and conditions of this permit, storm water discharges from temporary support activities such as portable concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow areas are authorized under this permit provided that the support activity is directly related to and part of the construction site covered under this permit. The erosion control plan required under section 3.1 of this permit shall include provisions to prevent and control the discharge of pollutants to waters of the state from any temporary support activity. This permit does not authorize a support activity that is a commercial operation serving multiple unrelated construction sites or that operates beyond the completion of the permitted construction site associated with the support activity. Other storm water or wastewater discharges that require coverage under another general or individual WPDES permit are not authorized under this permit such as wastewater discharges from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials; fuels, oils and other pollutants used in vehicle operation and maintenance; and soaps or solvents used in vehicle and/or equipment washing.

**1.1.4** Storm water discharges associated with industrial activity that are subject to an industrial storm water WPDES permit or which are issued an individual WPDES construction site storm water discharge permit are not authorized by this permit.

Note: For example, non-metallic mining is an industrial activity that includes land disturbance as a normal part of its operation and such land disturbance is regulated under an industrial stormwater permit for that activity. If an industrial facility underwent construction or expanded its operations and land disturbance is not a normal part of its operations, then coverage under this permit would be applicable.

**1.1.5** This general permit does not apply to construction sites otherwise eligible for this permit where the department determines, pursuant to s. NR 216.51(5), Wis. Adm. Code, that coverage under an individual WPDES storm water discharge permit is more appropriate. The department may require individual permit coverage for storm water discharge from a construction site otherwise eligible for coverage under this permit if any of the following occur:

**1.1.5.1** The storm water discharge from a construction site is determined to be a significant source of pollution and more appropriately regulated by an individual WPDES storm water discharge permit.

**1.1.5.2** The storm water discharge from a construction site is not in compliance with the terms and conditions of this general permit or subch. III of ch. NR 216, Wis. Adm. Code.

**1.1.5.3** A change occurs in the availability of demonstrated technology or best management practices (BMPs) for the control or abatement of pollutants from the storm water discharge.

**1.1.5.4** Effluent limitations or standards are promulgated for a storm water discharge from the construction site different from the conditions contained in ch. 216, Wis. Adm. Code.

## **1.2 Exclusions**

The following are not eligible for coverage under this permit:

### **1.2.1 Storm water discharges within Indian Country.**

Note: Indian Country is defined under 18 USC §1151 and includes all lands within the exterior boundaries of federally recognized Indian reservations and on lands held in federal trust status. Facilities that are located within Indian Country should contact the United States Environmental Protection Agency (USEPA) to apply for permit coverage. Dischargers that previously held permit coverage under previous versions of this permit are no longer eligible for coverage under this permit and must contact USEPA to apply.

USEPA's website contains information on the Construction General Permit: <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>. Proposed discharges within Indian country who are seeking coverage under the NPDES construction permit should verify eligibility for coverage under the general permit. Discharges not eligible may require individual permits from USEPA.

### **1.2.2 Land disturbing construction activity and associated storm water discharges that affect wetlands, unless the department determines that the land disturbing construction activity and associated storm water discharges comply with the wetland water quality standards provisions in ch. NR 103, Wis. Adm. Code. A landowner applying for permit coverage under section 2.1 shall provide information to the department with the application documenting whether wetlands are present in the project area and how the presence or absence of wetlands was determined. The storm water management plan in section 3.4.3 shall include the technical basis for the chosen BMPs and describe how the chosen practices do not cause adverse impacts to receiving water quality.**

Note: The department's wetland screening and delineation procedures are available at: <https://dnr.wi.gov/topic/stormwater/construction/>.

### **1.2.3 Land disturbing construction activity and associated storm water discharges that affect endangered and threatened resources, unless the department determines that the land disturbing construction activity and associated storm water discharges comply with the endangered and threatened resource protection requirements of s. 29.604, Wis. Stats., and ch. NR 27, Wis. Adm. Code.**

### **1.2.4 Land disturbing construction activity and associated storm water discharges that affect any historic property that is listed property, or on the inventory or on the list of locally designated historic places under s. 44.45, Wis. Stats., unless the department determines that the land disturbing construction activity and associated storm water discharges will not have an adverse effect on any historic property pursuant to s. 44.40(3), Wis. Stats.**

### **1.2.5 Storm water discharges that the department, prior to authorization of coverage under this permit, determines will cause or have reasonable potential to cause or contribute to an excursion above any applicable water quality standard. Where such determinations have been made prior to authorization, the department may notify the applicant that an individual permit application is necessary.**

### **1.2.6 Storm water discharges from transportation activity carried out under the direction and supervision of the Wisconsin Department of Transportation.**

Note: "Transportation activity" has the meaning given in s. 30.2022(1g), Wis. Stats. Section 283.33(4m)(b)1., Wis. Stats., directs the Department of Natural Resources to issue a distinct general permit that authorizes the Department of Transportation to discharge storm water from

the site of a transportation activity.

### **1.3 Authorization**

**1.3.1** A landowner planning a land disturbing construction activity of one acre or more shall submit a completed Notice of Intent (NOI) to the department in accordance with the requirements of section 2.1 of this permit to be authorized to discharge storm water under this permit.

**1.3.2** Only a landowner or person who becomes a qualified landowner, and who submits an NOI in compliance with section 2 of this permit is authorized to discharge storm water from a land disturbing construction activity of one acre or more under the terms and conditions of this permit.

### **1.4 More than One General Permit Can Apply**

This permit may be issued to existing holders of general or individual WPDES permits, resulting in multiple WPDES permits for some sites. Facilities having other permits which do not regulate storm water discharges from land disturbing construction activities shall be subject to this permit when construction activities will disturb one acre or more of land at the site. However, storm water discharges from land disturbing construction activity associated with the normal operation of an industrial facility do not require coverage under this permit when it is regulated under an industrial storm water permit pursuant to subch. II of NR 216, Wis. Adm. Code.

### **1.5 Transfers**

A permittee who does not intend to control the permitted activities on the site may transfer authorization under this permit to the person who will control the permitted activities. The transfer shall occur upon written notification, signed by both the current permittee and the proposed permittee and sent via certified or registered mail to the department. Unless the department notifies the permittee to the contrary, the department will recognize this permit coverage transfer upon receipt of written notification. The department may require additional information to be filed prior to granting the transfer of permit coverage. The department may, if appropriate, require an application for an individual WPDES storm water discharge permit.

Note: Transfer of permit coverage may not occur where the original landowner still owns a portion of the construction site that requires permit coverage. Where multiple landowners are required to have construction site permit coverage, each must file an NOI with the department. Multiple landowners may utilize the same erosion control and storm water management plans if the plans address the specific needs of the construction site that they own.

Note: The Transfer of Coverage form (Form 3400-222) is available on the department's website at: <https://dnr.wisconsin.gov/topic/Stormwater/construction/forms.html>.

### **1.6 Authorized Local Program**

Section NR 216.415, Wis. Adm. Code, establishes the requirements for a municipal authorized local program. The landowner of a construction site regulated by an authorized local program shall comply with this section 1.6.

Note: Currently, Waukesha County is the only municipality with an authorized local program conditionally-approved by the department. The department will not approve any other municipal authorized local program until revisions to the applicable sections of ch. NR 216, Wis. Adm. Code, are promulgated.

**1.6.1** Unless otherwise directed by the department, a landowner regulated by an authorized local program shall comply with the ordinances established by the authorized local program and reviewed by the department as part of the establishment and management of the authorized local program. For Waukesha County, the ordinances are contained in Chapter 14, article VIII of the County Code of Ordinances (available at:

<https://www.waukeshacounty.gov/globalassets/parks--land-use/land-conservation/stormwater/final-2005-storm-water-ordinance---waukesha-co-web-version.pdf>).

**1.6.2** Notwithstanding the establishment of an authorized local program, a landowner regulated by an authorized local program who has submitted a permit application in accordance with section 1.6.3 shall comply with this permit. The department may enforce against the landowner of a construction site for a violation of this permit.

**1.6.3** A landowner regulated by an authorized local program shall comply with the application requirements established by the authorized local program under s. NR 216.415(6), Wis. Adm. Code.

**1.6.4** If an authorized local program is terminated pursuant to s. NR 216.415(10), Wis. Adm. Code, the department will notify an affected landowner in writing with instructions on how to remain in compliance with this permit.

## **2. NOTICE OF INTENT, NOTICE OF TERMINATION, AND MINIMUM CONTROL REQUIREMENTS**

### **2.1 Application Procedures**

**2.1.1** Except as provided in section 1.6.3, a person required to obtain coverage under this permit (applicant) for storm water discharge from a construction site shall submit a completed NOI to the department in accordance with the requirements of subch. III of ch. NR 216, Wis. Adm. Code. At a minimum, the applicant shall submit the completed NOI to the department in accordance with the requirements of this section, at least 14 working days prior to beginning any land disturbing construction activities. The department may confer permit coverage within the 14 working days or may withhold permit coverage beyond 14 working days to request additional information or to review project compliance with erosion control, storm water management, wetland protection, endangered and threatened resources, or historic property requirements. In either case, the department will notify the applicant in writing. The applicant shall submit the NOI electronically through the department's construction site electronic application process. The Notice of Intent requires applicants to provide information on the applicant, facility location, and applicable information pursuant to ss. NR 216.46 and NR 216.47 Wis. Adm. Code.

Note: The department's construction site electronic application process webpage is available at: <http://dnr.wi.gov/topic/Stormwater/construction/forms.html>. For applicants with no computer capability, the department may accept a paper version of the NOI application on a case-by-case basis. The paper application must be obtained directly by contacting the department at 888-936-7463 or by writing to the Wisconsin DNR, Storm Water Program – WT/3, Box 7921, Madison, Wisconsin 53707-7921. Submittal of the paper application must be accompanied by a letter from the department approving its use.

**2.1.2** The applicant shall submit erosion control and storm water management plans as described in Section 3 of this permit to the department as required by s. NR 216.44(2), Wis. Adm. Code, with the NOI.

**2.1.3** The applicant shall submit the application fee to the department in accordance with s. NR 216.43(2), Wis. Adm. Code.

**2.1.4** The NOI form shall be signed in accordance with s. NR 216.43(3), Wis. Adm. Code.

### **2.2 Permit Certificate**

The permittee shall post the permit certificate (DNR Publication # WT-813 rev. 10/11) in a conspicuous place on the construction site. The department will provide the permit certificate to the permittee with the letter of permit coverage.

Note: The requirement to post the permit certificate in a conspicuous place on the construction site is intended to provide the public an easily accessible and viewable document with contact information for the construction site. The department recommends posting the certificate near each main entrance to the construction site in a location where it is legible from a public right-of-way. Permittees should consider providing sufficient weather protection to avoid the certificate from becoming unreadable.

### **2.3 Failure to Notify**

Persons who fail to notify the department of their intent to be covered under this permit and who discharge storm water to waters of the state associated with land disturbing construction activities of one acre or more, are in violation of ch. 283, Wis. Stats., ch. NR 216, Wis. Adm. Code. Failure to



obtain permit coverage may result in forfeitures of up to \$10,000 per day, pursuant to s. 283.91(2), Wis. Stats.

#### **2.4 Incomplete Notice of Intent**

Within 14 working days after the date the department receives the NOI, the department may require an applicant to submit data necessary to complete any deficient NOI or may require the applicant to submit a complete new NOI when the deficiencies are extensive or the appropriate application process has not been used.

#### **2.5 Date Coverage Effective**

Unless notified by the department to the contrary, applicants who submit a complete NOI in accordance with the provisions of subch. III of ch. NR 216, Wis. Adm. Code, are authorized to discharge storm water from land disturbing construction sites under the terms and conditions of this permit 14 working days after the date the department receives the NOI. The department may deny coverage under this permit and require submittal of an application for an individual WPDES permit based on a review of the completed NOI or other information.

#### **2.6 Use of Information**

All information contained in the NOI other than that specified as confidential by the department shall be available to the public. Confidential treatment will be considered only for information identified in documents submitted by the applicant separate from non-confidential information which meets the requirements of s. 283.55(2)(c), Wis. Stats., and for which written application for confidentiality has been made pursuant to s. NR 2.19, Wis. Adm. Code.

#### **2.7 Notice of Termination**

Permittees shall submit a Notice of Termination (NOT) to the department within 45 days after a construction site has undergone final stabilization, temporary sediment control practices have been removed and all land disturbing construction activities that required coverage under this permit have ceased. The NOT shall be submitted consistent with all of the following:

**2.7.1** The permittee shall submit the NOT on the electronic form available from the department.

Note: Electronic forms are available at <https://dnr.wisconsin.gov/topic/Stormwater/construction/forms.html>. For applicants with no computer capability, the department may accept a paper version of the NOT on a case-by-case basis. The paper form must be obtained directly by contacting the department at 888-936-7463 or by writing to the Wisconsin DNR, Storm Water Program – WT/3, Box 7921, Madison, Wisconsin 53707-7921. Submittal of the paper form must be accompanied by a letter from the department approving its use.

**2.7.2** The Permittee shall sign the NOT form in accordance with s. NR 216.43(3), Wis. Adm. Code.

**2.7.3** The department shall use the information submitted with the NOT as basis for confirming or denying termination of coverage.

**2.7.4** The department shall provide written confirmation of permit coverage termination to the permittee. Termination of coverage shall not be effective until the department provides confirmation to the permittee.

#### **2.8 Permit Coverage Renewal and Automatic Termination**

The maximum period of permit coverage for any project is limited to three years per NOI. After three years of initial permit coverage, the permittee is no longer authorized to discharge under this permit unless renewal of coverage is granted by the department. A permittee may request renewal of coverage under this permit or a reissued version of this permit by submitting an electronic form to the department and paying the application fee for the total area of project disturbance. Reapplication for coverage must occur prior to the end of the three-year period. Unless a permittee renews permit coverage, the department may automatically terminate the initial permit coverage after three years. The permittee is responsible for determining whether a renewal of permit coverage is necessary.

## **2.9 Minimum Control Requirements**

The permittee shall design, install, and maintain BMPs to meet the applicable performance standard in either s. NR 151.11, Wis. Adm. Code, for construction sites that are not transportation facilities or s. NR 151.23, Wis. Adm. Code, for transportation facility construction sites.

### **2.9.1 Evaluation and implementation of BMPs**

The permittee shall utilize the following BMPs:

**2.9.1.1** Limiting the size and duration of exposed soil areas subject to erosion via staging of land disturbance. This includes temporary stabilization of areas that will not be subject to further land disturbance during winter months.

**2.9.1.2** Develop a spill prevention and response plan.

**2.9.1.3** Encourage infiltration through maintaining natural buffers around surface waters and directing storm water to vegetated areas.

**2.9.1.4** Utilizing BMPs for which the department has developed technical standards or equivalent methodology.

Note: The storm water technical standards are available on the department's internet site at: <https://dnr.wi.gov/topic/stormwater/standards/>.

### **2.9.2 BMP Design**

The permittee shall consider all of the following factors when designing BMPs:

**2.9.2.1** The expected amount, frequency, intensity, and duration of precipitation.

**2.9.2.2** The nature of storm water runoff and run-on at the site. Factors such as expected flow from impervious surfaces, slopes, and site drainage features shall be considered. Best Management Practices shall be designed to meet the applicable requirements for erosion and sediment control and post- construction storm water management.

**2.9.2.3** The soil type and range of soil particle sizes expected to be present on the site.

**2.9.2.4** Both existing and proposed topography.

Note: Clearing, grubbing, and topsoil stripping are types of land disturbance that usually occur before mass grading. Therefore, temporary controls are needed for features that are present in existing topography that may not be present in proposed topography.

**2.9.2.5** The proposed construction schedule, if known.

**2.9.2.6** Good engineering design practices, including use of applicable technical standards or their or equivalent methodology.

### **2.9.3 Installation of BMPs**

The permittee shall install the following by the time each phase of construction activities has begun:

**2.9.3.1** Before land disturbing construction activities in any portion of the site begins, install and direct water to any erosion or sediment controls that prevent or treat discharges from the initial site clearing, grading, excavating, and other land disturbing construction activities.

Note: The requirement to install BMPs prior to each phase of construction activities for the site does not apply to the land disturbance associated with the actual installation of these BMPs. The permittee shall take all reasonable actions to minimize the discharges of pollutants during the installation of storm water BMPs.

**2.9.3.2** Following the installation of these initial controls, install and direct water to all BMPs needed to control discharges prior to subsequent land disturbing activities.

### **2.9.4 Maintenance of BMPs**

The permittee shall ensure that all BMPs are maintained and remain effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness. The permittee shall:

**2.9.4.1** Follow any specific maintenance requirements for the BMPs used to comply with this permit.

**2.9.4.2** Initiate any needed maintenance work so that it is completed by the close of the next business day. The permittee shall repair or replace storm water BMPs as necessary within 24 hours of an inspection performed in accordance with section 4.5 of this permit or after notification by the department that repair or replacement is needed.

Note: A permittee's operator may assist a permittee to comply with these provisions where the operator has a contract or other agreement with the permittee to meet these requirements.

### **2.9.5 Corrective Actions**

If a selected BMP is ineffective in meeting the requirements of this permit, the permittee shall comply with the corrective action requirements in section 3.3.

### **2.9.6 Compliance with Runoff Management Performance Standards**

The permittee shall comply with the construction site performance standards in s. NR 151.11(6m), (7) and (8), Wis. Adm. Code, for construction sites that are not transportation facilities or s. NR 151.23(4m), (5) and (6), Wis. Adm. Code, for transportation facility construction sites. The BMPs installed to meet the performance standards shall be maintained to meet the control and/or treatment capability of the practice. In accordance with section 3.2.6 of this permit, the permittee shall ensure that any permanent structures installed to meet a post- construction performance standard in ss. NR 151.121 to 151.128, Wis. Adm. Code, or ss. NR 151.241 to 151.248, Wis. Adm. Code, are maintained to meet the treatment capability as designed.

### **2.9.7 Unauthorized Discharges**

This permit authorizes storm water discharges from land disturbing construction activities that may become mixed with other storm water discharges. Other storm water or wastewater discharges that require coverage under another general or individual WPDES permit are not authorized under this permit such as wastewater discharges from washout and cleanout of concrete, paint, form release oils, curing compounds and other construction materials; fuels, oils and other pollutants used in vehicle operation and maintenance; and soaps or solvents used in vehicle and/or equipment washing.

### 3. EROSION CONTROL AND STORM WATER MANAGEMENT PLANS

#### 3.1 Erosion Control Plan Requirements

The landowner or applicant shall develop a site-specific construction site erosion control plan for each construction site regulated under subch. III of ch. NR 216, Wis. Adm. Code. The erosion control plan shall include all of the following:

**3.1.1** Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a USGS 7.5-minute series topographical map or equivalent.

Note: The map requirement can be met for applicants using the department's electronic permit submittal process that includes an outline of the disturbed area on the surface water data viewer, or submits a shape file with the outline as required in the application process.

**3.1.2** Description of the intended timing and sequence of major land disturbing construction activities for major portions of the construction site, such as grubbing, excavating, or grading.

Note: The department encourages inclusion of a staging map, dividing sites into smaller areas with proposed dates for start of land disturbance in each area, start of temporary stabilization, and final stabilization for each area on the map. This staging map is strongly encouraged for all projects expected to have more than 50 acres of land disturbance or land disturbance extending more than 24 months from initial disturbance to final stabilization.

**3.1.3** Estimates of the total area of the construction site and the total area that is expected to be disturbed by construction activities.

**3.1.4** Available data describing the surface soil as well as subsoils.

**3.1.5** Name of immediate named receiving water from the USGS 7.5-minute series topographic maps or department surface water data viewer, and whether the receiving water is an outstanding resource water (ORW), exceptional resource water (ERW), or an impaired water. See Section 4.2 to 4.4 for additional requirements related to designated surface waters.

Note: ORWs and ERWs are listed in ss. NR 102.10 and 102.11, Wis. Adm. Code, respectively. Also, a list of ORWs and ERWs may be found on the department's internet site at: <https://dnr.wi.gov/topic/surfacewater/orwerw.html>.

**3.1.6** Description of BMPs and actions that together meet the applicable performance standard in either s. NR 151.11, Wis. Adm. Code, for construction sites that are not transportation facilities or s. NR 151.23, Wis. Adm. Code, for transportation facility construction sites. If BMPs cannot be designed and implemented to meet the sediment reduction performance standard, the construction site erosion control plan shall include a written and site-specific explanation of why the performance standard is not attainable.

Note: Department-approved erosion and sediment control technical standards can be obtained through the department's storm water internet site at: [https://dnr.wi.gov/topic/stormwater/standards/const\\_standards.html](https://dnr.wi.gov/topic/stormwater/standards/const_standards.html).

**3.1.7** The construction site erosion control plan shall include a description of appropriate erosion and sediment control BMPs that will be installed and maintained at the construction site to prevent or reduce pollutants from reaching waters of the state. The construction site erosion control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. Erosion and sediment control BMPs shall be implemented in accordance with either s. NR 151.11(8), Wis. Adm. Code, for construction sites that are not transportation facilities or s. NR 151.23(6), Wis. Adm. Code, for transportation facility construction sites. The description of erosion and sediment control BMPs shall include the following minimum requirements:

- 3.1.7.1** Description of interim and permanent stabilization practices, including a schedule for implementing the practices. The construction site erosion control plan shall ensure that existing vegetation is preserved where feasible and that disturbed portions of the construction site are stabilized as soon as practicable.
- 3.1.7.2** Description of any structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the construction site.
- 3.1.7.3** Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
- 3.1.7.4** Trapping of sediment in channelized flow.
- 3.1.7.5** Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
- 3.1.7.6** Protection of downslope drainage inlets where they occur.
- 3.1.7.7** Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
- 3.1.7.8** Prevent the discharge of sediment as part of site de-watering.
- 3.1.7.9** Protect separate storm drain inlet structures from receiving sediment.
- 3.1.7.10** Clean up of off-site sediment deposits.
- 3.1.7.11** Stabilization of drainage ways.
- 3.1.7.12** Prevent the discharge of sediment eroding from soil stockpiles existing for more than 7 days.
- 3.1.7.13** Prevent the transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
- 3.1.7.14** Installation of permanent stabilization practices as soon as possible after final grading.
- 3.1.7.15** Description of erosion and sediment control practices put in place for the winter to prevent soil from leaving the construction site during periods of winter and spring thaw and rains.

**3.1.7.16** Description of the expected level of sediment control on the construction site that achieves compliance with s. NR 151.11 or 151.23, Wis. Adm. Code, where applicable. The construction site erosion control plan shall document compliance with the 5 tons per acre per year sediment performance standard using the procedures provided by the department to estimate soil loss and sediment discharge from sheet and rill erosion and measures to limit sediment discharge from concentrated flows and steep slopes. This requirement is in addition to providing the minimum control measures in subsections of 3.1.7 of this permit and is not intended to result in reduction of erosion and sediment control measures.

Note: The department developed the Construction Site Soil Loss and Sediment Discharge Calculation Guidance, dated September 2017. This guidance document establishes a procedure to document compliance with the 5 tons per acre per year sediment performance standard for construction sites. The guidance is available on the department's internet site at: <https://dnr.wi.gov/topic/stormwater/publications.html>.

**3.1.7.17** Use and storage of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period to prevent their transport by runoff into waters of the state.

**3.1.7.18** Minimization of dust to the maximum extent practicable.

**3.1.7.19** Minimization of soil compaction and preservation of topsoil.

**3.1.7.20** Minimization of land disturbing construction activity on slopes of 20% or more.

**3.1.7.21** Spill prevention and response procedures.

**3.1.7.22** Additional items necessary to address site-specific conditions.

**3.2 Erosion Control Map** The construction site erosion control plan shall include a site map with the following items:

**3.2.1** Existing topography and drainage patterns, roads and surface waters.

Note: Contour maps at 1- or 2-foot intervals are preferred. Many counties have topographic information available in geographic information system format.

**3.2.2** Boundaries of the construction site.

**3.2.3** Drainage patterns and approximate slopes anticipated after major grading activities.

Note: Proposed contour maps at 1- or 2-foot intervals are preferred.

**3.2.4** Areas of soil disturbance.

**3.2.5** Location of erosion and sediment control BMPs identified in the construction site erosion control plan.

**3.2.6** Location of areas where stabilization practices will be employed.

**3.2.7** Areas that will be vegetated following land disturbing construction activities.

**3.2.8** Area and location of wetland acreage on the construction site and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.

**3.2.9** Areas that will be used for infiltration of post-construction storm water runoff.

**3.2.10** A method of referencing locations within the site, such as an alphanumeric or equivalent coordinate system for the entire construction site.

**3.2.11** Additional items necessary to depict site-specific conditions.

Note: The department encourages inclusion of notes communicating erosion and sediment control requirements to those working on the construction site. The department has a list of recommended notes at:

<https://dnr.wi.gov/topic/stormwater/documents/WTErosionControlNotes.pdf>.

### **3.3 Erosion and Sediment Control Plan Implementation Requirements**

The permittee or the permittee's representative shall implement and maintain, as required by this permit and subch. III of NR 216, Wis. Adm. Code, all BMPs specified in the construction site erosion control plan from the start of land disturbing construction activities until final stabilization of the construction site. Implementation shall include all of the following:

**3.3.1** Sediment control BMPs shall be constructed and placed in operation prior to runoff entering waters of the state.

Note: While regional treatment facilities are appropriate for control of post-construction pollutants they should not be used for construction site sediment removal.

**3.3.2** No solid materials, including building materials, may be discharged in violation of chs. 30 and 31, Wis. Stats., or 33 USC 1344 or a U.S. Army Corps of Engineers Section 404 permit issued under 33 USC 1344.

**3.3.3** Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a watercourse so that the natural physical and biological characteristics and functions of the watercourse are maintained and protected.

**3.3.4** Sediment basins and traps used for sediment removal shall be constructed and operated in accordance with good engineering practices and design standards.

Note: The department maintains technical standards for sediment basin and traps:  
[https://dnr.wisconsin.gov/topic/Stormwater/standards/const\\_standards.html](https://dnr.wisconsin.gov/topic/Stormwater/standards/const_standards.html).

**3.3.5** All maintenance shall be done in accordance with technical standards developed pursuant to subch. V of ch. NR 151, Wis. Adm. Code, and the erosion control plan. Where measures are not in accordance with the technical standards, a description of the procedures used to maintain effective operating conditions of vegetation, erosion and sediment control BMPs and other protective measures shall be identified in the erosion control plan.



Note: The storm water technical standards are available on the department's internet site at: [https://dnr.wi.gov/topic/stormwater/standards/const\\_standards.html](https://dnr.wi.gov/topic/stormwater/standards/const_standards.html).

### **3.4 Storm Water Management Plan Requirements**

**3.4.1** A storm water management plan shall be developed to address pollution caused by storm water discharges from the site after construction is completed, including rooftops, parking lots, roadways and maintained landscaped or grassy areas. A storm water management plan shall be developed prior to submitting a NOI to the department.

Note: The requirements of sections 4.2 to 4.4 of this permit apply to erosion control and storm water management plans for all construction sites regulated under this permit.

**3.4.2** The storm water management plan shall meet the applicable performance standards in ch. NR 151, Wis. Adm. Code, as follows:

**3.4.2.1** For construction sites that are not transportation facilities, meet the applicable performance standards in ss. NR 151.121 through NR 151.128, Wis. Adm. Code.

**3.4.2.2** For transportation facility construction sites, meet the applicable performance standards in ss. NR 151.241 through NR 151.249, Wis. Adm. Code.

**3.4.3** The storm water management plan shall include a description of the BMPs that will be installed during the construction process to control total suspended solids and peak flow, enhance infiltration, maintain or restore protective areas and reduce petroleum in runoff that will occur after construction has been completed. The storm water management plan shall include an explanation of the technical basis used to select the BMPs

Note: Storm water management post-construction technical standards developed per Subch. V NR 151, Wis. Adm. Code, can be obtained at: [https://dnr.wisconsin.gov/topic/Stormwater/standards/postconst\\_standards.html](https://dnr.wisconsin.gov/topic/Stormwater/standards/postconst_standards.html). For final stabilization after construction is completed the establishment of a perennial vegetative cover the procedures for permanent seeding in accordance with the department's seeding technical standard 1059 or equivalent methodology shall be followed.

**3.4.4** When permanent infiltration systems are used, appropriate on-site testing shall be conducted to determine if seasonal high groundwater elevation or top of bedrock is within 5 feet of the bottom of the proposed infiltration system.

**3.4.5** Storm water BMPs shall be adequately separated from wells to prevent contamination of drinking water, and the following minimum separation distances shall be met:

**3.4.5.1** Storm water infiltration systems and ponds shall be located at least 400 feet from a well serving a community water system unless the department concurs that a lesser separation distance would provide adequate protection of a well from contamination.

**3.4.5.2** Storm water BMPs shall be located with a minimum separation distance from any well serving a non-community or private water system as listed within s. NR 812.08, Wis. Adm. Code.

Note: Chapter NR 815, Wis. Adm. Code, regulates injection wells including storm water injection wells. Construction or use of a well to dispose of storm water directly into groundwater is prohibited under s. NR 815.11(5), Wis. Adm. Code.

**3.4.6** For any permanent structures, provisions shall be made for long-term maintenance with the municipality or other responsible party. For an NOI submitted to the department, a copy of the signed long-term maintenance agreement shall be submitted to the department with the NOI unless the department agrees that it may be submitted by an alternative date prior to termination of permit coverage. The department may withhold permit coverage until the long-term maintenance agreement is submitted to the department.

Note: The long-term maintenance agreement is an important requirement and the department wants to ensure that appropriate steps are being taken to secure the agreement. The department encourages the landowner to obtain a municipal agreement for long-term maintenance of regional treatment structures. Long-term storm water BMPs should be maintained after permit termination in accordance with the maintenance agreement and NR 216.005, Wis. Adm. Code.

### **3.5 Amendments**

**3.5.1** The permittee shall amend the erosion control and/or storm water management plans if any of the following occurs:

**3.5.1.1** There is a change in design, construction, operation or maintenance at the construction site, which has the reasonable potential for the discharge of pollutants and has not otherwise been addressed in the erosion control and storm water management plans.

**3.5.1.2** There is a change in the sequence, schedule, or phasing of construction at the construction site which has a reasonable potential to cause an exceedance of the 5 tons per acre per year sediment performance standard.

**3.5.1.3** The actions required by the erosion control and storm water management plans fail to reduce the impacts of pollutants carried by construction site storm water runoff.

**3.5.2** For construction sites for which there has been earlier department review of the erosion control and storm water management plans, if the permittee identifies changes needed in either plan, the permittee shall notify the department regional storm water contact at least 5 working days prior to making the changes in the plan.

Note: Land disturbance outside the limits depicted in plans submitted to the department, an increase in proposed impervious area, or changes to the design of post-construction site treatment practices typically require changes to the erosion control or storm water management plans. The department may require a permittee to file a new notice of intent if the amended site requires resource screening of additional area, the amended site no longer meets an exemption from post-construction performance standards under ss. NR 151.121 to 151.125, Wis. Adm. Code, the plans do not meet one or more requirements of sub. III of NR 216, Wis. Adm. Code, or the conditions of a permit issued pursuant to this subchapter.

**3.5.3** The department may, upon request of a permittee or upon finding of just cause, modify the compliance and reporting schedules or any requirement of a storm water discharge permit.

## **4. WATER QUALITY STANDARDS, MONITORING, AND RECORDS**

### **4.1 Water Quality Standards**

This permit specifies the conditions under which storm water may be discharged to waters of the state for the purpose of achieving water quality standards contained in chs. NR 102 through 105, NR 140, and NR 207, Wis. Adm. Code. For the term of this permit, compliance with water quality standards will be addressed by adherence to general narrative-type storm water discharge limitations, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, and implementation of the erosion control and storm water management plans and BMPs. A permittee with a construction site covered under this permit shall select, install, implement and maintain BMPs as necessary to meet applicable water quality standards. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed as stringent as necessary to ensure that storm water discharges covered by this permit do not cause or contribute to an excursion above any applicable water quality standard.

### **4.2 Outstanding and Exceptional Resource Waters**

**4.2.1** Before beginning land-disturbing construction activity, the permittee shall determine whether any part of its construction or post-construction site storm water will discharge to an outstanding resource water (ORW) or exceptional resource water (ERW). ORWs and ERWs are listed in ss. NR 102.10 and 102.11, Wis. Adm. Code, respectively.

Note: The department recommends that an applicant for permit coverage check for ORWs and ERWs during project planning prior to submitting an NOI. A list of ORWs and ERWs may be found on the department's internet site at: <https://dnr.wi.gov/topic/surfacewater/orwerw.html>.

**4.2.2** The permittee may not establish a new storm water discharge of pollutants directly to an ORW or an ERW unless the discharge of pollutants is equal to or less than existing levels of pollutants immediately upstream of the discharge site. The erosion control and storm water management plans required under section 3 of this permit shall include BMPs designed to meet this requirement for a new storm water discharge.

**4.2.2.1** "New storm water discharge" means a storm water discharge that would first occur after the permittee's start date of coverage under this permit to a surface water to which the construction site or post-construction site did not previously discharge storm water.

**4.2.3** The permittee's erosion control and storm water management plans required under this permit shall be designed to prevent the discharge of sediment and other pollutants to any ORW or ERW in excess of the background level within the water body. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed in compliance with the requirements of this section. If the department has sufficient site-specific data to determine that the permittee's construction or post-construction site storm water will discharge a pollutant in excess of the background level within an ORW or ERW, then the department shall notify the permittee in writing that the permittee shall include a written section in the erosion control and storm water management plans that discusses and identifies the management practices and control measures the permittee will implement to prevent the discharge of any pollutant in excess of the background level within the water body. This section of the permittee's plans shall specifically identify control measures and practices that will collectively be used to prevent the discharge of a pollutant in excess of the background level within the water body.

Note: Reducing or eliminating surface water discharges to an ORW or ERW by infiltrating runoff is a method to help prevent the discharge of pollutants to an ORW or ERW in excess of background levels. It is expected that post-construction storm water management practices will be designed to maintain or increase infiltration rates for the site as compared to pre-development infiltration rates for areas that discharge to any ORW or ERW. However, prohibitions, exclusions, or exemptions from infiltrating runoff may apply to runoff from potential sources of contamination or into areas that are prone to groundwater contamination as identified in s. NR 151.12(5)(c)5. and 6., Wis. Adm. Code, or s. NR 151.124(3) and (4), Wis. Adm. Code. Infiltration systems shall be designed to comply with the groundwater quality standards contained in ch. NR 140, Wis. Adm. Code.

**4.2.4** Protective areas of at least 75 feet shall be maintained adjacent to any ORW and ERW as required under ss. NR 151.12 (5)(d), NR 151.125, 151.24(6), or NR 151.245, Wis. Adm. Code.

### **4.3 Fish and Aquatic Life Waters**

**4.3.1** Before beginning land-disturbing construction activity, the permittee shall determine if the site will have a storm water discharge to a fish and aquatic life water as defined in s. NR 102.13, Wis. Adm. Code.

Note: The department recommends that an applicant check for fish and aquatic life waters during project planning prior to submitting an NOI. Most receiving waters of the state are classified as a fish and aquatic life water and this classification includes all surface waters of the state except ORWs, ERWs, Great Lakes system waters and variance water identified within ss. NR 104.05 to 104.10, Wis. Adm. Code. The department may be consulted if the applicant is not certain of the classification.

**4.3.2** The permittee may not establish a new storm water discharge of pollutants to a fish and aquatic life water if the discharge will result in the significant lowering of water quality of the fish and aquatic life water. Significant lowering of water quality is defined within ch. NR 207, Wis. Adm. Code. If discharges result in the significant lowering of water quality, the procedures of s. NR 207.04 (c) 1., Wis. Adm. Code may apply, and the permittee shall include this as additional information pursuant to s. NR 216.48 (3), Wis. Adm. Code. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed in compliance with the requirements of this section. "New storm water discharge" has the meaning given in section 4.2.2.1 of this permit.

### **4.4 Impaired Water Bodies and Total Maximum Daily Load Requirements**

**4.4.1** "Pollutant(s) of concern" means a pollutant that is contributing to the impairment of a water body.

**4.4.2** Before beginning land-disturbing construction activity, the permittee shall determine whether any part of its construction or post-construction site storm water will discharge to an impaired water body listed in accordance with Section 303(d)(1) of the federal Clean Water Act, 33 USC §1313(d)(1)(C), and the implementing regulation of the US Environmental Protection Agency, 40 CFR §130.7(c)(1). Impaired waters are those that are not meeting applicable water quality standards.

Note: The list of Wisconsin impaired surface water bodies may be obtained by contacting the department or by searching for keyword "impaired waters" on the department's internet site. The department updates the list approximately every two years. The updated list is effective upon

approval by the USEPA. The current list may be found on the department's Internet site at: <https://dnr.wisconsin.gov/topic/SurfaceWater/ConditionLists.html>.

**4.4.3** A permittee that will discharge a pollutant of concern via storm water to an impaired water body shall include a written section in the erosion control and storm water management plans that specifically identifies control measures and management practices that will collectively be used to reduce, with the goal of eliminating, the storm water discharge of pollutant(s) of concern that contribute to the impairment of the water body and explain why these control measures and management practices were chosen as opposed to other alternatives. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.

**4.4.4** The permittee may not establish a new storm water discharge of a pollutant of concern to an impaired water body or increase an existing discharge of a pollutant of concern to an impaired water body unless the new or increased discharge causes the receiving water to meet applicable water quality standards, or the discharge is consistent with a USEPA approved total maximum daily load (TMDL) allocation for the impaired water body. Unless notified by the department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section. "New storm water discharge" has the meaning given in section 4.2.2.1 of this permit.

**4.4.5** Before beginning land-disturbing construction activity, the permittee shall determine whether any part of its construction or post-construction site storm water will discharge a pollutant of concern via storm water to a water body included in a State and Federal approved TMDL. If so, the permittee shall assess whether the TMDL wasteload allocation for the facility's discharge will be met through the existing erosion control and storm water management plans and compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, or whether changes to the plans are necessary.

Note: The department recommends that an applicant for permit coverage check for approved TMDLs during project planning prior to submitting an NOI. State and Federal approved TMDLs can be identified by contacting the department, or by searching for keyword "TMDL" on the department's internet site at [dnr.wi.gov](http://dnr.wi.gov). The current State and Federal approved Final TMDLs may be found on the department's internet site at: <https://dnr.wisconsin.gov/topic/TMDLs>.

**4.4.6** After determining whether the construction or post-construction site storm water discharge is included in a USEPA approved TMDL and determining that any TMDL wasteload allocation for the construction or post-construction site's discharge is not being met, the permittee shall amend the erosion control and storm water management plans. The amended plans shall include the necessary control measures to meet the requirements of the USEPA approved TMDL wasteload allocation for the construction or post-construction site. If a specific wasteload allocation has not been assigned to the construction or post-construction site under a TMDL, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, and this permit shall be deemed to be compliance with the TMDL.

## **4.5 Inspections and Maintenance**

The permittee shall:

### **4.5.1** Conduct the following construction site inspections:

**4.5.1.1** Weekly inspections of erosion and sediment control BMPs; and

**4.5.1.2** Inspections of erosion and sediment control BMPs within 24 hours after a rainfall event of 0.5 inches or greater. A “rainfall event” may be considered to be the total amount of rainfall recorded in any continuous 24-hour period.

Note: More frequent visual monitoring is recommended for activities such as dewatering and trackout.

**4.5.2** Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification indicating that repair or replacement is needed.

**4.5.3** Maintain, at the construction site or via an internet site, weekly written reports of all inspections conducted by or for the permittee. If an internet site method is used, the landowner shall provide the internet address to the department prior to its use. Weekly inspection reports shall include all of the following:

**4.5.3.1** The date, time and exact location of the inspection.

**4.5.3.2** The name of the individual who performed the inspection.

**4.5.3.3** An assessment of the condition of erosion and sediment control BMPs.

**4.5.3.4** A description of any erosion and sediment control installation or maintenance performed in response to the inspection.

**4.5.3.5** A description of the present phase of construction at the site and any schedule modifications that may increase sediment discharge.

Note: The department has developed an inspection report form that includes the above items and it is available through the department’s storm water Internet site at:  
<https://dnr.wisconsin.gov/topic/Stormwater/construction/forms.html>.

**4.5.4** Submit the information maintained in accordance with section 4.5.3 to the department upon request.

## **4.6 Records**

**4.6.1** The permittee shall retain records of all construction site inspections, copies of all reports and plans required by this permit, and records of all data used to obtain coverage under this permit. Minimum periods of retention are as follows:

**4.6.1.1** If there is a secure location, such as a construction site trailer, the erosion control and storm water management plans and amendments to the erosion control and storm water management plans shall be retained at the construction site until permit coverage is terminated.

**4.6.1.2** All reports required by subch. III of ch. NR 216, Wis. Adm. Code, or information submitted to obtain coverage under this permit, including the erosion control and storm water management plans, amendments, and background information used in their preparation, shall be kept by the permittee for a period of at least 3 years from the date of termination of permit coverage.

**4.6.2** A landowner operating a construction site under approved municipal erosion and sediment plans, grading plans, or storm water management plans shall also submit signed copies of the NOI to the local agency approving the plans. If storm water from the construction site discharges to a municipal separate storm sewer system that is operating pursuant to a municipal storm water discharge permit issued pursuant to subch. I of ch. NR 216, Wis. Adm. Code, then a signed copy of the NOI shall also be sent to the operator of the system.

**4.6.3** Upon request by the department the permittee shall provide a copy of the erosion control and storm water management plans, construction site inspections and any additional data requested, within 5 working days to the department, to the operator of the municipal storm sewer system that receives the discharge, and any municipal agency approving erosion and sediment plans, grading plans or storm water management plans. Additional information may be requested by the department for resource waters that require additional protection such as outstanding or exceptional resource waters, or other sensitive water resources.

#### **4.7 Compliance with Other Applicable Regulations**

**4.7.1** The erosion control and storm water management plans shall document other applicable municipal regulatory provisions, compliance with which will also meet the requirements of this permit. Subject to the requirements for uniform statewide standards established by the department under s. 281.33(3), Wis. Stats., if these municipal provisions are more stringent than those provisions appearing in this permit issued pursuant to subch. III of ch. NR 216, Wis. Adm. Code, the erosion control and storm water management plans shall also include a description of how compliance with the municipal provisions will be achieved.

**4.7.2** The erosion control and storm water management plans shall comply with applicable state plumbing regulations.

#### **4.8 Department Actions**

**4.8.1** The department may notify the permittee at any time that the erosion control and storm water management plans do not meet one or more of the minimum requirements of subch. III of ch. NR 216, Wis. Adm. Code, or this permit, for reducing and preventing the discharge of pollutants. The notification shall identify those provisions that are not being met by the erosion control and storm water management plan and identify which provisions of the plan require modification in order to meet the requirements. Within the time frame identified by the department in its notification, the permittee shall make the required changes to the erosion control and storm water management plans, perform all actions required by the revised plans, and submit to the department a written certification that the requested changes have been made and implemented, and such other information the department requires. The department may revoke coverage under this permit for failure to comply with this section or it may take action under s. 283.89, Wis. Stats., or both. The landowner of a construction site where the department has revoked coverage under this permit may not discharge storm water to waters of the state from the construction site unless an individual WPDES permit for storm water discharge is issued to the landowner.

**4.8.2** The department shall withdraw a construction site from coverage under this permit and issue an individual WPDES permit upon written request of the discharger. This permit authorizing storm water discharges from the construction site remains in effect until the department acts on such a request and issues a specific individual WPDES permit.

**4.8.3** The department may deny coverage under this permit and require submittal of an application for an individual WPDES storm water discharge permit based on a review of the completed NOI or other relevant information. The landowner of a construction site denied or revoked coverage under this permit may not discharge storm water to waters of the state from the construction site until an individual WPDES permit for storm water discharge is issued to the landowner.

**4.8.4** The department may require the landowner of any storm water discharge covered by this permit, to apply for and obtain an individual WPDES storm water discharge permit if any of the following occur:

**4.8.4.1** The storm water discharge is determined to be a significant source of pollution and more appropriately regulated by an individual WPDES storm water discharge permit.

**4.8.4.2** The storm water discharge is not in compliance with the terms and conditions of subch. III of ch. NR 216, Wis. Adm. Code, or of this permit.

**4.8.4.3** A change occurs in the availability of demonstrated technology or BMPs for the control or abatement of pollutants from the storm water discharge.

**4.8.4.4** Effluent limitations or standards are promulgated for a storm water discharge that is different than the conditions contained in subch. III of ch. NR 216, Wis. Adm. Code.

**4.8.5** Any person may submit a written request to the department that it take action under section 4.8.4 above.



## 5. GENERAL CONDITIONS

The general conditions in s. NR 205.07(1), (3), and (5), Wis. Adm. Code, are hereby incorporated by reference into this permit, except for s. NR 205.07(1)(n) and(3)(b), Wis. Adm. Code. Under s. NR 205.08(9), Wis. Adm. Code, dischargers covered under a storm water general permit are not required to submit an application for reissuance unless directed to do so by the department under s. NR 216.22(9), Wis. Adm. Code. The requirements for spill reporting are in section 5.5 below.

Note<sup>1</sup>: Chapter NR 205 is available at the following website:  
[https://docs.legis.wisconsin.gov/code/admin\\_code/nr/200](https://docs.legis.wisconsin.gov/code/admin_code/nr/200).

Note<sup>2</sup>: Activities performed in wetland areas, in floodplains, or near shorelands may require permits or approvals through applicable state law, state regulations, or county or local ordinances. Additionally, state permits and/or contracts required by chs. 30, 31 and 87, Wis. Stats. and s. 281.36, Wis. Stats. (or Wisconsin Administrative Code promulgated under these laws), and federal permits may be applicable.

**5.1 Continuation of the Expired General Permit** As provided in s. NR 205.08(9), Wis. Adm. Code, and s. 227.51, Wis. Stats., the terms and conditions of this general permit shall continue to apply until this general permit is reissued or revoked or until an individual permit is issued for the discharge to which the general permit applied.

**5.2 Liabilities under Other Laws** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the federal Clean Water Act (33 USC s. 1321), any applicable federal, state, or local law or regulation under authority preserved by Section 510 of the Clean Water Act (33 USC s. 1370).

**5.3 Severability** The provisions of this permit are severable, and if any provisions of this permit or the application of any provision of this permit to any circumstance is held invalid the remainder of this permit shall not be affected thereby.

**5.4 Spill Reporting** The permittee shall notify the department immediately of any release or spill of a hazardous substance to the environment in accordance with s. 292.11, Wis. Stats., and ch. NR 706, Wis. Adm. Code.

Note: The 24-hour toll free spills hotline number is (800) 943-0003. Information about hazardous substance spills is available from the department's website at:  
<https://dnr.wisconsin.gov/topic/Spills>.

**5.5 Submitting Records** Unless otherwise specified, any reports submitted to the department in accordance with this permit shall be submitted to the appropriate department regional storm water contact or to the Wisconsin DNR, Storm Water Program – WT/3, Box 7921, Madison, WI 53707-7921.

**5.6 Enforcement** Any violation of s. 283.33, Wis. Stats., ch. NR 216, Wis. Adm. Code, or this permit is enforceable under s. 283.89, Wis. Stats.

**5.6.1** Upon becoming aware of any permit noncompliance that may endanger public health or the environment, the permittee shall report this information by a telephone call to the Department regional storm water specialist within 24 hours. A written report describing the noncompliance shall be submitted to the Department regional storm water specialist within 5 days after the permittee became aware of the noncompliance. The Department may waive the written report on a case-by-case basis based on the oral report received within 24 hours. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the steps

taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and if the noncompliance has not been corrected, the length of time it is expected to continue.

**5.7 Petition to Move to Individual Permit Coverage** Any person may submit a written request to the department to withdraw coverage under this general permit and to replace it with an individual storm water permit under s. NR 205.08(5), Wis. Adm. Code.

## 6. DEFINITIONS

Definitions for some of the terms found in this permit are as follows:

**6.1 Authorized Local Program** means a municipality that has received a conditional approval from the department pursuant to s. NR 216.415, Wis. Adm. Code.

**6.2 Best Management Practices or BMPs** means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

**6.3 Construction Site** means an area upon which one or more land disturbing construction activities occur that in total will disturb one acre or more of land, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan such that the total disturbed area is one acre or more.

**6.4 Department** means the State of Wisconsin Department of Natural Resources.

**6.5 Erosion** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

**6.6 Final Stabilization** means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70% of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.

**6.7 Infiltration** means the entry and movement of precipitation or runoff into or through soil.

**6.8 Infiltration System** means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

**6.9 Land Disturbing Construction Activity** means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes, but is not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

**6.10 Landowner** means any person holding fee title, an easement or other interest in property that allows the person to undertake land disturbing construction activity on the property.

**6.11 Municipality** means any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, storm water or other wastes.

**6.12 Performance Standard** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**6.13 Permittee** means a person who has applied for and received WPDES permit coverage for storm

water discharge under NR 216, Wis. Adm. Code, and this permit.

**6.14 Sediment** means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

**6.15 Stabilize** means the process of making a site steadfast or firm, minimizing soil movement by the use of practices such as mulching and seeding, sodding, landscaping, paving, graveling or other appropriate measures.

**6.16 Storm Water** means runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

**6.17 Storm Water Management Plan** means a comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.

**6.18 Waters of the State** means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

**6.19 Working Day** means any day except Saturday and Sunday and holidays designated in s. 230.35(4)(a), Wis. Stats.

**6.20 WPDES Permit** means a Wisconsin Pollutant Discharge Elimination System permit issued pursuant to ch. 283, Wis. Stats.