



***STATE OF WISCONSIN DEPARTMENT OF
NATURAL RESOURCES***

**GENERAL PERMIT TO DISCHARGE UNDER THE WISCONSIN
POLLUTANT DISCHARGE ELIMINATION SYSTEM**

DRAFT WPDES Permit No. WI-S067831-7

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 start 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 _____
Jason Knutson P.E., Director
Bureau of Watershed Management

November XX, 2026
Date

PERMIT EFFECTIVE DATE: November XX, 2026 **EXPIRATION DATE:** November XX,
2031

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1 ADMINISTRATION: APPLICATION THROUGH TERMINATION

1.1 Initial Permit Coverage

- 1.1.1 **Electronic Notices of Intent (NOIs)** Except as provided in **Section 1.7.3**, a person required to obtain coverage under this permit (applicant) for storm water discharge from a construction site shall submit a completed Notice of Intent (NOI) to the department to apply for coverage under a construction storm water discharge permit in accordance with the requirements of subch. III of ch. NR 216, Wis. Adm. Code. The applicant shall submit the NOI electronically through the department's construction site electronic application process unless a temporary or permanent waiver from electronic reporting requirements is granted under s. NR 216.006, Wis. Adm. Code. The Notice of Intent requires applicants to provide information on the applicant, facility location, and relevant information pursuant to ss. NR 216.46 and NR 216.47, Wis. Adm. Code.
- 1.1.2 **Timelines for Review and Conferring of Coverage** 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. As part of conferring coverage, the Department will transmit a letter of permit coverage to the permittee with a certificate of coverage attached indicating the Start Date upon which permit coverage becomes effective at the site with instructions on where to download the permit from the Department website. A hard copy of the permit will be mailed to the landowner upon request.

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. Section NR 216.006, Wis. Adm. Code, outlines a process to apply for a temporary or permanent waiver from electronic reporting requirements. Waivers are not transferable. Submittal of the paper application must be accompanied by a letter from the department approving the waiver.

Note: The address to request a waiver under s. NR 216.006(7)(a), Wis. Adm. Code, has been updated. Requests for an electronic waiver should be submitted to: Wisconsin Dept. of Natural Resources, Attn Storm Water Program, PO Box 7921, Madison, WI, 53707-7921.

1.2 Submittals

- 1.2.1 **Erosion Control and Storm Water Management Plans** The applicant or permittee

shall submit erosion control and storm water management plans as described in **Section 5** of this permit to the department as required by s. NR 216.44(2), Wis. Adm. Code, with the NOI.

1.2.2 Identification of New or Increased Discharge The applicant or permittee shall identify one of the following within the NOI and the erosion control plan and storm water management plan:

1.2.2.1 The project creates a new discharge from the site. A new discharge means a point source storm water discharge to a surface water that has not been previously permitted by a WPDES permit issued under s. 283.33, Wis. Stats.

1.2.2.2 The project creates an increased discharge from the site. An increased discharge means that there is an actual or proposed change in area or site conditions that increases quantity or load of a pollutant discharged from a site that is currently or had previously been covered under a storm water WPDES permit associated with the category (e.g., construction, industrial, municipal) of point source.

Note: This may include modification of area of disturbance or a modification of a post-construction BMPs.

1.2.3 Identification of Receiving Waters The applicant or permittee shall, within the NOI and the erosion control and storm water management plans, identify and provide the designations of receiving waters, up to one quarter mile downstream that have the potential to receive storm water discharge from its construction or post-construction site or a portion thereof. The following receiving water designations shall be specifically identified:

Note: The sections below reference the official listings of water designations. There may be overlapping designations. The Storm Water, Waterway, and Wetland Permit Viewer has layers that can be turned on to depict various designations and is available at: <https://dnrmaps.wi.gov/H5/?viewer=SWPV>.

1.2.3.1 Outstanding resource water or exceptional resource water. A receiving water designated as an outstanding resource water (or ORW) or exceptional resource water (or 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>.

1.2.3.2 Cold Water Community. A receiving water that is designated as a cold water community. Section NR 102.04(3)(a), Wis. Adm. Code, includes surface waters identified as trout waters by the department of natural resources.

- 1.2.3.3 Great Lakes system. A receiving water that is designated as a Great Lakes system water. A Great Lakes system receiving water means all the surface waters within the drainage basin of the Great Lakes, including the waters of Lake Superior and Lake Michigan as defined under s. NR 102.03(1pr), Wis Adm. Code.
- 1.2.3.4 Impaired Waterbody. An impaired waterbody 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>.

- 1.2.3.5 Total Maximum Daily Load (TMDL). A receiving water that is included in a State and Federal approved Total Maximum Daily Load (TMDL).

Note: 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. The current State and Federal approved Final TMDLs may be found on the department's internet site at: <https://dnr.wisconsin.gov/topic/TMDLs>.

- 1.2.3.6 Fish and Aquatic Life Water. Fish and aquatic life receiving waters are categorized by the uses defined in s. NR 102.04(3), Wis. Adm. Code.

Note: Most receiving waters of the state are classified as fish and aquatic life waters unless they have received special surface waters classification of ORWs, ERWs, Great Lakes system waters and variance water identified within ss. NR 104.05 through 104.10, Wis. Adm. Code. The Department may be consulted if the applicant is not certain of a receiving waterbody's classification.

- 1.2.4 **Compliance with Water Quality Standards** An applicant or permittee with a new or increased discharge described under **Section 1.2.2.1 or 1.2.2.2**, shall demonstrate compliance with the general and specific receiving water requirements of **Section 3** in the site-specific erosion control and storm water management plans.

Note¹: The requirements contained in this permit are designed to prevent a lowering of water quality consistent with the state's antidegradation policy. A request for a new or increased discharge to an Exceptional Resource Water (ERW) that could result in a lowering of water quality of the ERW may be evaluated under an individual permit application consistent with ss. NR 102.045 and NR 216.008, Wis. Adm. Code. The individual permit must demonstrate that the lowering is necessary to prevent or correct contamination or a public health problem and meets the requirements of s. NR 216.008(8), Wis. Adm. Code.

Note²: New or increased discharges that would lower water quality in an ORW are not authorized under the antidegradation policy under ss. NR 102.045 and NR 216.008, Wis. Adm. Code. Applicants or permittees may still request discharges that lower water quality be evaluated through an application for an individual permit in accordance with ss. NR 102.045 and NR 216.008, Wis. Adm. Code.

Note³: An applicant proposing a new discharge that may require coverage under multiple general permits is encouraged to contact the department for planning purposes.

- 1.2.5 **Prevention of Lowering of Water Quality** If an applicant, permittee, or the department identify that the project will create a new or increased discharge, the applicant or permittee shall submit information in the erosion control plan and storm water management plan that identifies the specific activities and conditions of the permit that will be used to prevent a lowering of water quality specific to the receiving water as identified in **Section 3** of this permit.
- 1.2.6 **Antidegradation Certification** The applicant or permittee shall certify that the proposed project meets the antidegradation requirements for the site's receiving waters as described in **Section 3** of this permit. If an applicant or permittee cannot certify that the proposed project meets the antidegradation requirements for the applicable receiving water, the submittal may be treated as an application for an individual permit.

Note: Applicants are encouraged to contact department storm water staff during project design if antidegradation requirements may not be met.

1.3 Industrial WPDES Applicability

- 1.3.1 **Identification of Industrial Permit Applicability** If a land disturbing construction activity requiring coverage under this permit and subch. III of ch. NR 216, Wis. Adm. Code, is also subject to industrial storm water permitting under subch. II of ch. NR 216, Wis. Adm. Code, the permittee or applicant shall do one of the following:
- 1.3.1.1 **New Industrial Facility.** For an industrial storm water operation regulated under subch. II of ch. NR 216, Wis. Adm. Code, that has not received authorization to discharge under a general or individual WPDES Storm Water Permit, Industrial NOI, or No Exposure Certification (NEC) for the industrial discharge, an application for industrial coverage shall be submitted concurrently with the NOI for the construction discharge.
- 1.3.1.2 **Existing Industrial or (NEC) Facility.** For an industrial storm water operation regulated under subch. II of ch. NR 216, Wis. Adm. Code, that has obtained coverage under an Industrial Storm Water General or Individual Permit or holds a current NEC, the facility shall do one of the following:

- 1.3.1.2.1 Existing Industrial Facility. Submit an amendment to the Storm Water Pollution Prevention Plan (SWPPP) concurrently with the construction NOI that includes any expansion, production increases, process modifications, changes in material handling or storage areas. Include a description of the new activities that contribute to the increased pollutant loading; planned source control activities that will be used to control pollutant loads; an estimate of the new or increased discharge of pollutants following treatment; and, when appropriate, a description of the effect of the new or increased discharge on existing storm water treatment facilities. Identify the source areas that may impact the infiltration areas under s. NR 151.124(3), Wis. Adm. Code.
- 1.3.1.2.2 Existing NEC Facility. For a facility that holds a valid NEC, submit a new “no exposure” certification to the department concurrently with the construction NOI. The construction erosion control plans shall contain sufficient detail to ensure that source areas as noted under s. NR 151.124(3), Wis. Adm. Code, will not be a source of storm water exposure in the developed condition.

Note¹: Information about submitting a NOI or NEC via the Department’s Water ePermitting System, the general permit, and other forms is available for download from the Department website at: <https://dnr.wi.gov/topic/stormwater/industrial/forms.html>.

Note²: Storm water discharges 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 ch. NR 216, Wis. Adm. Code. An example includes routine grading of graveled surfaces to maintain drivability.

- 1.3.2 **Potential Pollutants** The permittee or applicant shall identify the industrial activity and potential pollutants in the storm water management plan and the applicability of prohibitions under s. NR 151.124(3), Wis Adm. Code. If the facility is utilizing infiltration as a means to achieve compliance with these provisions, the application must provide information that demonstrates to the extent technically and economically feasible, the infiltration system minimizes the level of pollutants associated with industrial source areas and provide information the device shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code.
- 1.3.3 **Regional Treatment Infiltration Practices** If the actual industrial activity is not known at the time the construction NOI is submitted, then the anticipated type of industrial activity shall be identified within the storm water management plan for any area draining to an infiltration practice for the purposes of demonstrating compliance with s. NR 151.124, Wis. Adm. Code. The types of industrial activity that must be identified are described in s. NR 216.21, Wis. Adm. Code. The applicant shall demonstrate, to the extent technically and economically feasible, the infiltration system minimizes the level of pollutants associated with industrial sources or provide a regulatory mechanism to implement or enforce the prohibitions under s. NR 151.124(3), Wis. Adm. Code.

- 1.4 **Application Fee** The applicant shall submit the application fee to the department in

accordance with s. NR 216.43(2), Wis. Adm. Code. If an applicant applies for a permit after land disturbance has commenced or fails to submit a renewal in accordance with **Section 1.17** of this permit, the application fees under sub. (2) shall be doubled.

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

1.6 Existing Permit Coverage Unless the department makes a determination for an individual WPDES permit under **Section 1.15**, a permittee with coverage under WPDES Permit No. WI-S067831-6 at the time this permit becomes effective is automatically covered under this permit as of the Effective Date. For these permittees, their Start Date remains the same. If a permittee has not achieved final stabilization within 3 years of their Start Date, coverage will need to be renewed. A hard copy of the permit will be mailed to the landowner upon request.

1.7 Authorized Local Program Section NR 216.10, 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.

Note: Currently, Waukesha County is the only municipality with an authorized local program conditionally approved by the department.

- 1.7.1 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: [chapter-14-parks-and-land-use.pdf](#)).
- 1.7.2 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 1.7.3** shall comply with this permit. The department may enforce against the landowner of a construction site for a violation of this permit.
- 1.7.3 A landowner regulated by an authorized local program shall comply with the application requirements established by the authorized local program under s. NR 216.10(6), Wis. Adm. Code.
- 1.7.4 If an authorized local program is terminated pursuant to s. NR 216.10(10), Wis. Adm. Code, the department will notify an affected landowner in writing with instructions on how to remain in compliance with this permit.

1.8 Authorization

- 1.8.1 A landowner planning a land disturbing construction activity of one acre or more shall

submit a complete NOI to the department in accordance with the requirements of **Section 1.2** of this permit to be authorized to discharge storm water under this permit.

- 1.8.2 Only a landowner who submits an NOI in compliance with **Section 1.2** of this permit and meets the criteria under **Section 1.12** or receives a conveyance of coverage letter from the department 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.

1.9 Permit Coverage Transfers

A permittee who will no longer own or operate the permitted construction site may request that permit coverage be transferred to the person who will control the permitted construction site during the period of permit coverage. The transfer request shall be signed by both the permittee and the proposed permittee and sent electronically through the Department's Water ePermitting System. The Department may require additional information, including an NOI, to be filed prior to transferring permit coverage. Coverage is not transferred until the Department sends notification of transfer via a conveyance of coverage letter to the new permittee.

Note¹: 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.

*Note²: Information about submitting a Transfer of Coverage via the Department's Water ePermitting System is available on the Department website at:
<https://dnr.wi.gov/topic/stormwater/construction/forms.html>.*

Note³: Section NR 216.006, Wis. Adm. Code, outlines a process to apply for a temporary or permanent waiver from electronic reporting requirements. Waivers are not transferable. Requests for an electronic waiver should be submitted to: Wisconsin Dept. of Natural Resources, Attn Storm Water Program, PO Box 7921, Madison, WI, 53707-7921.

- 1.10 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., and 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.

- 1.11 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.

- 1.12 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.

1.13 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.

1.14 Amendments

- 1.14.1 The permittee shall amend the erosion control and/or storm water management plans if any of the following occurs:
 - 1.14.1.1 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.
 - 1.14.1.2 There is a change in the sequence, schedule, or phasing of construction at the construction site which has reasonable potential to cause an exceedance of the 5 tons per acre per year sediment performance standard.
 - 1.14.1.3 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.
 - 1.14.1.4 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 subch. III of ch. NR 216, Wis. Adm. Code, or the conditions of a permit issued pursuant to this subchapter.

- 1.14.2 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.

1.15 Department Actions

- 1.15.1 The department may require the landowner of any storm water discharge associated with land disturbing construction activity to apply for, obtain, and comply with 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.
- 1.15.2 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 timeframe 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.
- 1.15.3 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.
- 1.15.4 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.
- 1.15.5 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:

- 1.15.5.1 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.
- 1.15.5.2 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.
- 1.15.5.3 A change occurs in the availability of demonstrated technology or BMPs for the control or abatement of pollutants from the storm water discharge.
- 1.15.5.4 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.
- 1.15.6 Any person may submit a written request to the department that it take action under **Section 1.15.5** above.

1.16 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:

- 1.16.1 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 via an electronic waiver. Requests for an electronic waiver should be submitted to: Wisconsin Dept. of Natural Resources, Attn Storm Water Program, PO Box 7921, Madison, WI, 53707-7921.

- 1.16.2 The Permittee shall sign the NOT form in accordance with s. NR 216.43(3), Wis. Adm. Code.
- 1.16.3 The department shall use the information submitted with the NOT as a basis for confirming or denying termination of coverage.
- 1.16.4 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.

1.17 Permit Coverage Renewal and Automatic Termination

- 1.17.1 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.

- 1.17.2 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.
- 1.17.3 The application fee for a renewal shall be based on the disturbed area for the original NOI plus additional area added for amendments.
- 1.17.4 Renewals extend coverage for up to three additional years. Reapplication for coverage must occur at least 14 working days prior to the end of the three-year period.
- 1.17.5 Unless a permittee renews permit coverage, the department may automatically terminate the initial permit coverage after three years under s. NR 216.55(6), Wis. Adm. Code.
- 1.17.6 The permittee is responsible for determining whether renewal of permit coverage is necessary.
- 1.17.7 The permittee shall submit an updated schedule and an updated estimate of sediment discharge from the site with the renewal.

2 APPLICABILITY CRITERIA

2.1 Authorized Discharges

- 2.1.1 Under the applicability criteria in s. NR 216.42, Wis. Adm. Code, this general 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 1.16** or automatically terminates under **Section 1.17**. 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 and activities requiring coverage under **Section 1.15.1**.
- 2.1.2 This permit also authorizes pit and trench dewatering discharges at a construction site covered under this permit subject to the following conditions:
- 2.1.2.1 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.
- 2.1.2.2 Dewatering discharge is treated in accordance with the department's sediment control dewatering technical standard 1061 or equivalent methodology.
- 2.1.2.3 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.

Note¹: 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.

Note²: 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.

Note³: 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>.

Note⁴: 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." Examples may include areas of known PFAS opened or closed sites or areas surrounding land uses where fire suppression foam containing PFAS has been used.

2.1.3 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 all of the following are true:

2.1.3.1 The support activity is directly related to and part of the construction site covered under this permit.

2.1.3.2 The support activity is included in the erosion control plan required under **Section 5.1** of this permit along with provisions to prevent and control the discharge of pollutants to waters of the state.

*Note: If the support activity location is not known at the time of permitting, the erosion control plan may be amended to include the support activity as described under **Section 1.14** of this permit.*

2.1.3.3 The support activity is not a commercial operation serving multiple unrelated construction sites or that operates beyond the completion of the permitted construction site associated with the support activity.

*Note: 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, 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. Refer to **Section 2.2.3 and 2.2.9** for unauthorized discharges.*

2.2 Unauthorized Discharges The following are not authorized under this permit:

2.2.1 **Hazardous Substances** Discharges of hazardous substances that are required to be reported under ch. NR 706, Wis. Adm. Code.

2.2.2 **Contaminated Groundwater** Construction dewatering discharges from an area subject to remedial action operations or from an area containing contamination that would be subject to remedial action operations are not eligible for coverage under this permit. Discharges may be eligible for coverage under the Contaminated Groundwater from Remedial Action Operations General Permit (WI-0046566-07-0).

2.2.3 **Separate Permit Required** Storm water or wastewater discharges such as wastewater discharges from washout and cleanout of concrete, 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 that require coverage under another general or individual WPDES

permit are not authorized under this permit.

Note: The concrete products operations general permit is applicable where concrete washout will occur to groundwater or surface water. If a project follows EPA guidance on concrete washout and will not have a groundwater or surface water discharge coverage is not required: <https://www.epa.gov/sites/default/files/2020-02/documents/concretewashout.pdf>

- 2.2.4 **Wetland Impacts** 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 1.1** 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. Where a land disturbing construction activity requires separate wetland authorization, the storm water application shall include a copy of the permit approval or coverage authorizing wetland impacts. The storm water management plan in **Section 5.4.3** shall include the technical basis for the chosen BMPs and describe how the chosen practices do not cause adverse impacts to receiving water quality.
- 2.2.5 **Threatened and Endangered Species Impacts** Land disturbing construction activity and associated storm water discharges that adversely 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.
- 2.2.6 **Historic Property Impacts** Land disturbing construction activity and associated storm water discharges that adversely 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.
- 2.2.7 **Water Quality Standard Exceedances** 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 surface water quality standard or groundwater standard. Where such determinations have been made prior to authorization, the department may notify the applicant that an individual permit application is necessary. However, the Department may authorize coverage under this permit where the erosion and sediment control and storm water management plans required under this permit are amended to include appropriate controls and implementation procedures designed to bring the storm water discharge into compliance with water quality standards.

- 2.2.8 Department of Transportation Projects** Storm water discharges eligible for coverage under the Transportation Construction Site General Permit (WI-S066796).

Note: 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.

- 2.2.9 Industrial Activity** 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.

- 2.2.10 Injection Wells** Storm water discharges directly into a well or other direct conduit to groundwater that do not comply with the regulation of injection wells under ch. NR 815, Wis. Adm. Code.

Note: Subsurface dispersal of storm water into unsaturated material is regulated as a Class V injection well. Information about the Department's injection well program may be found at: <https://dnr.wi.gov/topic/wells/uiw.html>.

2.3 Exclusions The following are not eligible for coverage under this permit:

- 2.3.1** 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.

- 2.3.2 Non-storm water discharges** covered under an individual or general WPDES permit, including contact cooling water, non-contact cooling water, other process wastewaters or sewage.

- 2.3.3 Bioaccumulative Chemicals of Concern** In accordance with ss. NR 102.12, and NR 216.008(8)(b), Wis. Adm. Code, an applicant or permittee may not establish a new or increased discharge of Bioaccumulative Chemical of Concern (BCC) to Great Lakes system waters.

Note: A new or increased discharge of a BCC to a Great Lakes Water requires an antidegradation review following the procedures under s. NR 216.008(8), Wis. Adm. Code.

2.4 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 ch. NR 216, Wis. Adm. Code.

3 WATER QUALITY STANDARDS

- 3.1 Purpose of Conditions** 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 and NR 140, Wis. Adm. Code. For the term of this permit, compliance with water quality standards will be addressed by adherence to general storm water discharge limitations under **Section 3.2**, specific conditions related to the water quality standards for the receiving water in **Sections 3.3 through 3.6**, compliance with the applicable performance standards of subchs. III or IV of ch. NR 151, Wis. Adm. Code, and implementation of the erosion control and storm water management plans and BMPs.

- 3.1.1** Compliance with the applicable performance standards of subchs. 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, unless specific conditions related to the water quality standards for a receiving water are noted in this permit, or notified by the department in writing.

3.2 General Storm Water Discharge Limitations

In accordance with s. NR 102.04, Wis. Adm. Code, practices attributable to municipal, industrial, commercial, domestic, agricultural, land development or other activities shall be controlled so that all surface waters meet the following conditions at all times and under all flow and water level conditions:

- 3.2.1** Substances that will cause objectionable deposits on the shore or in the bed of a body of water shall not be present in such amounts as to interfere with public rights in waters of the state.

- 3.2.2 Floating or submerged debris, oil, scum, or other material shall not be present in such amounts as to interfere with public rights in waters of the state.
- 3.2.3 Materials producing color, odor, taste, or unsightliness shall not be present in such amounts as to interfere with public rights in waters of the state.
- 3.2.4 Substances in concentrations or combinations which are toxic or harmful to humans shall not be present in amounts found to be of public health significance, nor shall substances be present in amounts which are acutely harmful to animal, plant, or aquatic life.

3.3 Specific Requirements for Cold Water Communities

For new or increased discharges to a cold water community, the applicant shall propose or modify a BMP to prevent temperature increases in discharges to cold water communities.

Note: Methods to reduce thermal impacts include practices that promote or maximize infiltration, transfer thermal mass, or discharge from lower in the water column. Practices may include permeable pavement, buffer strips, maximizing infiltration, disconnecting impervious surfaces or methods that utilize subsurface cooling such as detention vaults, rock gabions at outfalls, or modifications to pond outlet structures that discharge cooler water from ponds.

3.4 Specific Requirements for Outstanding and Exceptional Resource Waters

- 3.4.1 Construction Discharges. For a site with a new or increased discharge to an outstanding resource water or exceptional resource water, that do not qualify as a temporary discharge under **Section 3.4.1.1**, the requirements of **Sections 3.4.1.2** through **3.4.1.10** apply:
 - 3.4.1.1 Any construction site that qualifies as a temporary discharge shall implement all best management practices applicable to the specific nature and location of the discharge. For purposes of this section, a temporary discharge associated with a construction site is a site where the planned land disturbing construction activity from initial construction to final stabilization will be less than 90 days. A construction site that qualifies under this section is subject to the following:
 - 3.4.1.1.1 The erosion control plan shall include the provisions of **Sections 3.4.1.2** through **3.4.1.10**.
 - 3.4.1.1.2 When a site subject to **Section 3.4.1.1** does not achieve final stabilization within 90 days from initial land disturbance, the permittee shall as soon as practical, but no later than 48 hours, comply with the erosion control plan provisions of **Sections 3.4.1.2** through **3.4.1.10**.

3.4.1.2 The site shall limit bare soil exposure time to the maximum extent practical through project scheduling and temporary stabilization. Bare soil exposure must be no more than 90 days per receiving water.

3.4.1.3 Temporary stabilization shall commence when land disturbing construction activities will not resume for a period exceeding 7 days.

Note: Temporary stabilization includes implementing erosion and sediment control BMPs to intercept precipitation and stabilize soils to prevent soil detachment. Methods include, but aren't limited to, dormant seeding in conjunction with anchoring mulch, land application of polymers, and/or installation of erosion control mat.

3.4.1.4 Permanent stabilization practices shall be completely installed no later than 7 days after final grade has been achieved for any area draining to an ERW or ORW. Where final grade is achieved outside of the growing season, the permittee shall implement temporary stabilization as described in **Section 3.4.1.5**. Final stabilization shall commence as soon as conditions allow at the beginning of the growing season.

Note: Installation includes placement of seed, plugs, or other vegetation and mulch or erosion control mat. It does not include reaching final stabilization for this provision. For impervious surfaces, placement of gravel base material is considered installation.

3.4.1.5 Erosion and sediment control BMPs shall be installed around topsoil stockpile areas immediately upon creation, except where access is needed to add or remove material at a working face.

3.4.1.6 Topsoil stockpiles shall be temporarily stabilized or completely covered with weatherproof material within 7 days of placement.

Note: This requirement includes seeding and providing appropriate cover such as polyacrylamides, anchored mulch or other equivalent level of stabilization.

3.4.1.7 Land disturbing construction activity within 75 feet of an ORW or ERW shall be avoided, except where necessary to cross a receiving water or install a storm water BMP.

3.4.1.8 Drainage areas that discharge to an ORW or ERW without passing through a sediment trap or basin, shall provide signage identifying the receiving waters and its designation as an ORW or ERW.

3.4.1.9 The site shall install redundant perimeter controls in areas that discharge to an ORW or ERW.

3.4.1.10 Dewatering discharges shall implement applicable BMPs, be limited to the maximum extent practical, and shall not exceed 90 consecutive days per ORW or ERW.

Note: The dewatering technical standard, Dewatering Practices for Sediment Control 1061, provides several options to limit impacts to receiving waters.

- 3.4.2 **Post-Construction Discharges:** This section is applicable to sites that require post-construction storm water management. A post-construction site means a construction site subject to regulation under ch. NR 151, Wis. Adm Code, after construction is completed and final stabilization has occurred. A post-construction site that discharges to an ORW or ERW is subject to the requirements of **Sections 3.4.3** through **3.4.5**, except for the following:
- 3.4.2.1 Sites that meet the exemption from post-construction performance standards in ss. NR 151.121 (2)(a) and (c) and NR 151.241 (2)(a), Wis. Adm. Code.
- 3.4.2.2 Agricultural practices subject to the performance standards in subch. II of ch. NR 151 Wis. Adm. Code.
- 3.4.2.3 Reconditioning, reconstruction, resurfacing, and minor reconstruction of roads that do not increase impervious surface associated with the post-construction site that discharges to an ERW or ORW. For these sites, the post-construction condition must retain existing storm water BMPs or replace them with BMPs that provide the same level of treatment.

Note: Where minor reconstruction, reconstruction or reconditioning increases the amount of impervious surface or replaces a post-construction BMP it is necessary to ensure that the proposed condition will not increase the baseline loading condition from the preconstruction condition.

- 3.4.3 **Redevelopment and Maintenance of Effort.** For a redevelopment site where the redevelopment is replacing older development that was subject to post-construction performance standards of ch. NR 151, Wis. Adm. Code, in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of ss. NR 151.122 to 151.125, Wis. Adm. Code, whichever are more stringent.
- 3.4.4 **Transportation Highway Reconstruction.** For non-highway transportation facility redevelopment sites and highway reconstruction where the redevelopment or reconstruction will be replacing older development or highway that was subject to post-construction performance standards on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or highway, or meet the redevelopment or highway reconstruction standards of ss. NR 151.242 to 151.249, whichever are more stringent.
- 3.4.5 **New or Increased Discharges.** A post-construction site with a new or increased discharge to an ORW or ERW that is not exempt under **Section 3.4.2.1** through **Section 3.4.2.3** shall do all of the following:

- 3.4.5.1 Use of Maximum Extent Practicable. The applicant or permittee must fully meet the performance standards in ss. NR 151.122-123, ss. NR 151.125-126, ss. NR 151.242-243, and ss. NR 151.245-249, Wis. Adm. Code without claims of maximum extent practicable for a new or increased discharge to an ORW and ERW unless the applicant can demonstrate that the proposed discharge will not lower water quality in the receiving water.
- 3.4.5.2 The applicant or permittee shall evaluate the average total sediment (TSS) and total phosphorus (TP) baseline pollutant loads associated with the pre-construction conditions using Table 1 of Appendix A. In lieu of utilizing the baseline pollutant loading rates found in Table 1 of Appendix A, those submitting applications for coverage under the construction site general permit may conduct their own analysis of TSS and TP loads using SPARROW, Snap-Plus, WinSLAMM, or equivalent methodology to quantify baseline pollutant loads.

Note: The baseline pollutant load of Appendix A is spatially consistent with the model output from SnapPlus, WinSLAMM, and RUSLE2, and is generally higher than a delivered load since it does not account for fate and transport mechanisms. Use of WinSLAMM for development of baseline loads should be limited to existing urban conditions and existing impervious surfaces.

- 3.4.5.2.1 “Preconstruction conditions” means any new development, existing development, or redevelopment where land disturbing construction activity will occur. New development, existing development, and redevelopment are defined under s. NR 151.002, Wis. Adm. Code.

Note¹: For a redevelopment site with existing urban land use, the calculated baseline pollutant loading rate must account for existing BMPs. WinSLAMM can be used to calculate the existing baseline pollutants loads for existing urban or redevelopment land uses. All existing BMPs must be modeled to demonstrate the pollutant loading condition.

Note²: For sites with a combination of new development and redevelopment or existing development a permittee may calculate a weighted average baseline pollutant load.

- 3.4.5.3 The permittee shall demonstrate that the proposed post-construction BMPs achieve average annual pollutant loads that are equal to or less than the TSS and TP baseline pollutant loads from the site under the pre-construction conditions.

Note: If a permittee is unable to demonstrate that the proposed post-construction BMPs achieve average annual pollutant loads that are equal to or less than the TSS or TP baseline pollutant loads associated with the pre-construction condition, the permittee may modify one or more post-construction to BMPs to demonstrate that post-construction BMPs have lowered the proposed average annual TSS and TP pollutant loads to less than or equal to the preconstruction condition baseline load.

- 3.4.5.4 A permittee that is unable to demonstrate compliance with **Section 3.4.5.3**, in addition to demonstrating the minimum performance standards under ss. NR 151.121-128 and NR 151.241-249, Wis. Adm. Code are achieved, shall implement alternative measures and demonstrate the modifications are sufficient to achieve preconstruction discharge loads for TSS and TP.

Note: Where infiltration is limited or not feasible, the permittee may increase the area of disconnected impervious surfaces, modify the amount of impervious surface, capture and reuse runoff, propose to infiltrate roof runoff, or propose a combination of these practices sufficient to achieve preconstruction pollutant discharge loads for TSS and TP.

3.5 Specific Requirements for Fish and Aquatic Life Waters

For a new or increased discharge to a fish and aquatic life water, the following requirements apply:

- 3.5.1 An applicant may not establish a new storm water discharge of pollutants to a fish and aquatic life water if the discharge will result in a lowering of water quality. A lowering of water quality is one that would result in designated or existing uses no longer being attained.
- 3.5.2 A permittee that has an existing storm water discharge to a fish and aquatic life water may not increase the discharge of pollutants if the increased discharge would result in a lowering of water quality. A lowering of water quality is one that would result in designated or existing uses no longer being attained.
- 3.5.3 If a discharge under **Section 3.5.1 or 3.5.2** will result in a lowering of water quality, the procedures of s. NR 216.008(7), Wis. Adm. Code, apply unless a permittee amends their plans to prevent a lowering of water quality. Amended plans shall be provided pursuant to ss. NR 216.50 and NR 216.51, Wis. Adm. Code.
- 3.5.4 If a fish and aquatic life receiving water has been identified by the department as being high quality for a specific parameter, the department will notify the applicant in writing that additional documentation is required under s. NR 216.008(8)(c), Wis. Adm. Code. There shall be no lowering of water quality due to a new or increased discharge with respect to that parameter.
- 3.5.5 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.

3.6 Specific Requirements for Impaired Water Bodies and Total Maximum Daily Load Requirements

- 3.6.1 **Impaired Waters:** For a new or increased discharge to an impaired waterbody 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), the following requirements apply:

- 3.6.1.1 A permittee that will discharge a pollutant of concern via storm water to an impaired waterbody shall identify any pollutants that may contribute to the impairment.
- 3.6.1.2 For identified pollutants that may contribute to the impairment, a permittee or applicant 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 waterbody and explain why these control measures and management practices were chosen as opposed to other alternatives.
- 3.6.1.3 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.

Note: Impaired waters are those waters that are not meeting applicable water quality standards.

- 3.6.2 **State and Federal approved Total Maximum Daily Load (TMDL) Waters:** For a new or increased discharge to a waterbody included in a State and Federal approved TMDL, the following requirements apply:

- 3.6.2.1 A permittee or applicant 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: TMDLs set aside a group allocation that covers construction discharges. TMDLs contain information on the group wasteload allocation for construction discharges.

- 3.6.2.2 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 and implement 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.

Note: Where the construction site discharges to a municipal separate storm sewer system (MS4) covered under an MS4 Storm Water permit which has been assigned TMDL

wasteload allocations, the municipality may require more stringent pollutant controls to meet the TMDL requirements of their permit.

4 MINIMUM CONTROL REQUIREMENTS

4.1 Permit Certificate The permittee shall post the permit certificate (DNR Publication # WT-813 rev. 10/11) near each main entrance to the construction site in a location where it is legible from the public right-of-way. The permittee should provide sufficient weather protection to maintain the posted certificate in legible condition. The department will provide the permit certificate to the permittee with the letter of permit coverage.

4.2 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.

4.2.1 Erosion and Sediment Control Practices Implement and maintain erosion and sediment control BMPs to prevent or reduce all of the following during all phases of land disturbing construction activity:

4.2.1.1 The deposition of soil from being tracked onto streets by vehicles.

4.2.1.2 The discharge of sediment from disturbed areas into on-site storm water inlets.

4.2.1.3 The discharge of sediment from disturbed areas into adjacent waters of the state.

4.2.1.4 The discharge of sediment from drainage ways that flow off the site.

4.2.1.5 The discharge of sediment by dewatering activities.

4.2.1.6 The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

4.2.1.7 The discharge of sediment from erosive flows at outlets and in downstream channels.

4.2.1.8 The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this requirement.

4.2.1.9 The transport, by runoff into waters of the state, untreated wash water from vehicle and wheel washing.

4.2.2 Sediment Performance Standards If the BMPs required in **Section 4.2.1** do not, by design, reduce the sediment discharge from the site to no more than 5 tons per acre per

year from initial grading to final stabilization, the permittee shall implement more effective or additional BMPs to reduce the sediment discharge from the site to no more than 5 tons/acre/year to the maximum extent practicable. Permittees that discharge to an ORW or ERW water shall comply with the prescriptive performance measures of **Sections 3.4.1.2 through 3.4.1.10.**

*Note: BMPs to control erosion and sediment in **Section 4.2.1** are required even if not needed to meet the sediment discharge performance standard.*

4.3 Evaluation and implementation of BMPs

The permittee shall utilize the following BMPs:

- 4.3.1 **Limit Soil Disturbance** Limit 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.
- 4.3.2 **Spill Prevention and Response Plan** Develop a spill prevention and response plan.
- 4.3.3 **Infiltration** Encourage infiltration through maintaining natural buffers around surface waters and directing storm water to vegetated areas.
- 4.3.4 **BMP Selection** Evaluate and select BMPs for which the department has developed technical standards or equivalent methodology. Select BMPs appropriate for site-specific conditions.

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

- 4.3.5 **BMP Implementation** The permittee shall consider all of the following factors when implementing BMPs:
 - 4.3.5.1 The expected amount, frequency, intensity, and duration of precipitation.
 - 4.3.5.2 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.
 - 4.3.5.3 The soil type and range of soil particle sizes expected to be present on the site.
 - 4.3.5.4 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.

- 4.3.5.5 The proposed construction schedule, if known.
- 4.3.5.6 Good engineering design practices, including use of applicable technical standards or their or equivalent methodology.

4.4 Installation of BMPs

The permittee shall install and make operational erosion and sediment control BMPs before starting each phase of construction activities in accordance with the following:

- 4.4.1 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 BMPs, with the exception of installation of sediment basins and sediment traps. At minimum, perimeter control shall be installed prior to installing sediment basins and sediment traps. The permittee shall take all reasonable actions to minimize the discharges of pollutants during the installation of storm water BMPs.

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

4.5 Maintenance of BMPs

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

- 4.5.1 **Maintenance Requirements** Follow any specific maintenance requirements for the BMPs used to comply with this permit.
- 4.5.2 **BMP Repair or Replacement Requirements** Initiate any maintenance work needed 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 6.1** of this permit or after notification by the department that repair or replacement is needed.

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

- 4.5.3 **Corrective Actions** If a selected BMP is ineffective in meeting the requirements of this permit, the permittee shall comply with the amendment requirements in **Section 1.14**.
- 4.5.4 **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 5.4.8** 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.

5 EROSION CONTROL AND STORM WATER MANAGEMENT PLANS

5.1 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:

- 5.1.1 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 requires outlining the disturbed area on the surface water data viewer or submitting a shape file with the outline.

- 5.1.2 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.

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

- 5.1.4 Available data describing the surface soil, as well as subsoils.

- 5.1.5 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 designation(s) of **Section 1.2.3** is an outstanding resource water (ORW), exceptional resource water (ERW), or an impaired water. See **Section 3.3** to **3.6** for additional requirements related to designated surface waters.

- 5.1.6 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. BMPs are required to address all of the performance standards in all phases of land disturbing construction activity. Different BMPs may be required in each phase if topography and drainage patterns will be changed. Except as provided for in **Section 3** for discharges to ORWs and ERWs, 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.

- 5.1.7 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:
- 5.1.7.1 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.
 - 5.1.7.2 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.
 - 5.1.7.3 Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
 - 5.1.7.4 Trapping of sediment in channelized flow.
 - 5.1.7.5 Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
 - 5.1.7.6 Protection of downslope drainage inlets where they occur.
 - 5.1.7.7 Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
 - 5.1.7.8 Prevent the discharge of sediment as part of site de-watering.
 - 5.1.7.9 Protect separate storm drain inlet structures from receiving sediment.

- 5.1.7.10 Clean up of off-site sediment deposits.
- 5.1.7.11 Stabilization of drainage ways.
- 5.1.7.12 Prevent the discharge of sediment eroding from soil stockpiles existing for more than 7 days.
- 5.1.7.13 Prevent the transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
- 5.1.7.14 Installation of permanent stabilization practices as soon as possible after final grading.
- 5.1.7.15 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.
- 5.1.7.16 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 minimum control measures in **Section of 4.2.1**, or additional control measures specific to ORW/ERWs under **Section 3** of this permit. This requirement may not be used to justify reducing 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>. The department is currently developing a new technical standard to replace this guidance document. When completed, the new technical standard will be available on the department's internet site at: https://dnr.wisconsin.gov/topic/Stormwater/standards/const_standards.html.

- 5.1.7.17 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.
- 5.1.7.18 Minimization of dust to the maximum extent practicable.
- 5.1.7.19 Minimization of soil compaction and preservation of topsoil.
- 5.1.7.20 Minimization of land disturbing construction activity on slopes of 20% or more.

5.1.7.21 Spill prevention and response procedures.

5.1.7.22 Additional items necessary to address site-specific conditions.

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

5.2.1 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.

5.2.2 Boundaries of the construction site.

5.2.3 Drainage patterns and approximate slopes anticipated after major grading activities.

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

5.2.4 Areas of soil disturbance.

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

5.2.6 Location of areas where stabilization practices will be employed.

5.2.7 Areas that will be vegetated following land disturbing construction activities.

5.2.8 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. A landowner applying for permit coverage under **Section 1.2** shall provide information to the department with the application documenting the presence or absence of wetlands within and adjacent to the construction site and how the presence or absence of wetlands was determined. If wetlands are present, wetland location information shall be provided in the application and on the erosion control map.

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

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

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

5.2.11 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://apps.dnr.wi.gov/water/wsSWIMSDocument.ashx?documentSeqNo=115999347>.

5.3 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 ch. 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:

- 5.3.1 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.

- 5.3.2 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.

- 5.3.3 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 receiving water so that the natural physical and biological characteristics and functions of the receiving water are maintained and protected.

- 5.3.4 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.

- 5.3.5 Temporary stabilization shall commence when land disturbing construction activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

- 5.3.6 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.

5.4 Storm Water Management Plan Requirements

- 5.4.1 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.
- 5.4.2 The storm water management plan shall meet the applicable performance standards in ch. NR 151, Wis. Adm. Code, as follows:
 - 5.4.2.1 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.
 - 5.4.2.2 For transportation facility construction sites, meet the applicable performance standards in ss. NR 151.241 through NR 151.249, Wis. Adm. Code.
- 5.4.3 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 of ch. NR 151, Wis. Adm. Code, can be obtained at: https://dnr.wisconsin.gov/topic/Stormwater/standards/postconst_standards.html. For final stabilization after construction is completed, follow the procedures for permanent seeding in the department's seeding technical standard 1059 or equivalent methodology for establishment of a perennial vegetative cover. Technical Standard 1059 is on the construction technical standard page.

- 5.4.4 Where a post-construction site discharges to a receiving water identified in **Section 1.2** with specific requirements in **Section 3**, the post-construction plans shall demonstrate compliance with the specific conditions designed to prevent a lowering of water quality.
- 5.4.5 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.

Note: Soil pits provide more complete information for the design of permanent infiltration systems.

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

- 5.4.6.1 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.

Note: Where infiltration systems and ponds are located within 400 feet from a community water system well, the DNR's Drinking and Groundwater Program may require additional testing for the well.

- 5.4.6.2 Storm water BMPs shall be located outside of 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.

- 5.4.7 Where a regional BMP will be used to satisfy any of the post-construction performance standards and that BMP is owned by an entity other than the landowner applying for the permit, the landowner shall obtain a letter of permission from the BMP owner or other documentation that the owner has agreed to the use of their BMP.

Note: The department may request additional information to confirm that the regional BMP was designed for the proposed use.

- 5.4.8 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 s. NR 216.005, Wis. Adm. Code. Where recording of the long-term maintenance agreement with the registrar of deeds is required, the applicant or permittee is advised to follow s. 59.43, Wis. Stats to avoid delays.

5.5 Compliance with Other Applicable Regulations

- 5.5.1 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.

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

Note: 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.; s. 281.36, Wis. Stats., and corresponding regulations; and federal permits may be applicable.

6 MONITORING AND RECORDS

6.1 Inspections and Maintenance The permittee shall:

6.1.1 Conduct the following construction site inspections:

6.1.1.1 Weekly inspections of erosion and sediment control BMPs.

6.1.1.2 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.

Note¹: Precipitation may fall as rain or snow. One half an inch of rain is generally equivalent to 5 inches of snow. Therefore, inspections should occur after snowmelt events of 5 inches or greater in a 24-hour period.

Note²: More frequent visual monitoring is recommended for activities such as dewatering and trackout.

6.1.2 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.

6.1.3 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.

6.1.4 Include the following documentation on weekly inspection reports:

6.1.4.1 The date, time and exact location of the inspection.

6.1.4.2 The name of the individual who performed the inspection.

6.1.4.3 An assessment of the condition of erosion and sediment control BMPs.

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

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

6.1.4.6 Photos taken to document completion of repair, replacement, or other maintenance identified during the inspection shall also be appended to the inspection report.

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>.

- 6.1.5 Submit the information maintained in accordance with **Section 6.2** to the department upon request.

6.2 Records

- 6.2.1 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. 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.

Note: The storm water management plan and long-term maintenance agreement should be kept as long as necessary to document proper maintenance of long-term storm water best management practices in accordance with subchs. III and IV of ch. NR 151.

- 6.2.2 The erosion control and storm water management plans and any amendments to either plan, shall be retained at the construction site until permit coverage is terminated.
- 6.2.3 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.
- 6.2.4 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 receiving waters that require additional protection such as outstanding or exceptional resource waters, or other sensitive water resources.

7 GENERAL CONDITIONS

This general permit incorporates, where applicable, the conditions contained within ch. NR 205, Wis. Adm. Code.

Note¹: Chapter NR 205 is available at the following website:
https://docs.legis.wisconsin.gov/code/admin_code/nr/200.

Note²: 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/or federal permits may be applicable.

7.1 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).

7.2 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.

7.3 Submitting Records

Unless otherwise specified, any reports submitted to the department in accordance with this permit shall be submitted electronically to the appropriate department regional storm water contact.

Note: If a waiver from electronic reporting has been issued under s. NR 216.006, Wis. Adm. Code, then reports may be mailed to the contact identified in the waiver request acceptance.

7.4 Recording of results

For each measurement or sample taken, the permittee shall record the following information.

- 7.4.1 The date, exact place, method and time of sampling or measurements;
- 7.4.2 The individual who performed the sampling or measurements;
- 7.4.3 The date the analysis was performed;
- 7.4.4 The individual who performed the analysis;

7.4.5 The analytical techniques or methods used; and

7.4.6 The results of the analysis.

7.5 Duty to Comply

The Permittee shall comply with all conditions of the permit. Any act of noncompliance with this permit is a violation of this permit and is grounds for enforcement action, permit revocation or modification, denial of a permit reissuance application, or issuance of an individual permit. If a permittee violates any terms of the permit, the permittee is subject to the penalties established in ch. 283, Stats. If the Permittee files a request for an individual WPDES permit or a notification of planned changes or anticipated noncompliance, this action, by itself, does not relieve the Permittee of its obligations under this permit.

7.6 Enforcement Action

The Department is authorized under s. 283.89 and 283.91, Wis. Stats., to utilize citations or referrals to the Wisconsin Department of Justice to enforce the conditions of this permit. Violation of a condition of this permit is subject to a fine of up to \$10,000 per day of the violation.

7.7 Noncompliance

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.

7.8 Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent the likelihood of any adverse impacts to public health, the waters of the state, or the environment resulting from noncompliance with the permit.

7.9 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>.

7.10 Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit, the erosion and sediment control plan, the storm water management plan, and the long-term maintenance agreement.

7.11 Duty to Halt or Reduce Activity

Upon failure or impairment of storm water management practices identified in the storm water management program, the Permittee shall, to the extent practicable and necessary to maintain permit compliance, modify or curtail operations until the storm water management practices are restored, or an alternative method of storm water pollution control is provided.

7.12 Removed Substances

Solids, sludges, filter backwash or other pollutants removed from or resulting from treatment or control of storm water shall be stored and disposed of in compliance with all applicable federal, state, and local regulations and in a manner to prevent any pollutant from the materials from entering the waters of the state.

7.13 Monitoring

If a Permittee monitors storm water discharges or receiving waters for any pollutant, the results of that monitoring shall be reported to the department within 5 business days of collection, or as agreed upon with the department.

7.14 Inspection and Entry

The Permittee shall allow authorized representatives of the department, upon the presentation of credentials, to:

- 7.14.1 Enter upon the premises where a regulated facility or activity is located or conducted, or where records are required to be maintained under the conditions of the permit.
- 7.14.2 Have access to and copy, at reasonable times, any records that are required under the conditions of the permit.
- 7.14.3 Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under the permit.
- 7.14.4 Sample or monitor any substances or parameters at any location and at reasonable times to assure permit compliance.

7.15 Duty to Provide Information

The permittee shall furnish the department, within a reasonable time, any information which the department may request to determine whether cause exists for modifying, terminating, suspending revoking or reissuing the permit or to determine the permittee's compliance with the permit. The permittee shall give advance notice to the department of any planned changes to the

erosion and sediment control plan or storm water management program which may result in noncompliance with permit requirements. The permittee shall also furnish the department, upon request, with copies of records required to be kept by the permittee.

7.16 Property Rights

The permit does not convey any property rights of any sort, or any exclusive privilege. The permit does not authorize any injury or damage to private property or an invasion of personal rights, or any infringement of federal, state or local laws or regulations.

7.17 Other Information

If the permittee discovers that it failed to submit any relevant facts in its permit application or submitted incorrect information in any plan or report sent to the department, it shall promptly submit such facts or correct information to the department.

7.18 Records Retention

The permittee shall retain records of all monitoring information, copies of all reports required by the permit, and records of all data used to complete the notice of intent for coverage for a period of at least 3 years from the date the notice of termination was accepted.

7.19 Permit Actions

Pursuant to s. 283.35, Wis. Stats., the department may withdraw a permittee from coverage under this general permit and issue an individual permit for the permittee if: (a) The permittee is a significant contributor of pollution; (b) The permittee is not in compliance with the terms and conditions of the general permit; (c) A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants from the permittee; (d) Effluent limitations or standards are promulgated for a point source covered by the general permit after the issuance of that permit; or (e) A water quality management plan containing requirements applicable to the permittee is approved. In addition, as provided in s. 283.53, Wis. Stats., after notice and opportunity for a hearing, this permit may be suspended, modified or revoked, in whole or in part, for cause. If the Permittee files a request for a permit modification, termination, suspension, revocation and reissuance, or submits a notification of planned changes or anticipated noncompliance, this action by itself does not relieve the Permittee of any permit condition.

7.20 Signatory Requirements

All applications, reports or information submitted to the Department shall be signed in accordance with s. NR 216.43(3), Wis. Adm. Code.

7.21 Attainment of Water Quality Standards after Authorization At any time after authorization, the Department may determine that the discharge of storm water from a Permittee's construction site may cause, have the reasonable potential to cause, or contribute to an excursion of any applicable water quality standard. If such determination is made, the Department may require the Permittee to do one of the following:

7.21.1 Develop and implement an action plan to address the identified water quality concern to the

satisfaction of the Department.

- 7.21.2 Submit valid and verifiable data and information that are representative of ambient conditions to demonstrate to the Department that the receiving water or groundwater is attaining the water quality standard.
- 7.21.3 Submit an application to the Department for an individual storm water discharge permit.

7.22 Continuation of the Expired General Permit

The Department's goal is to reissue this general permit prior to its expiration date. However, 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.

7.23 Need to Halt or Reduce Activity not a Defense

It is not a defense for a Permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

7.24 Permit as Enforcement Shield

Compliance with a permit during its term constitutes compliance for purposes of enforcement with 33 USC 1311, 1312, 1316, 1317, 1328, and 1345 (a) and (b), except for any toxic effluent standard or prohibition, and standards for sewage sludge use or disposal. If a new or revised toxic effluent standard or toxic prohibition becomes effective during the term of the permit, the permittee may be subject to enforcement action if the discharge exceeds the new or revised effluent standard for the toxic pollutant even though the discharge is in compliance with the existing permit. The permittee may also be subject to enforcement action standards for sewage sludge use or disposal. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in ch. 283, Stats., and ch. NR 203.

8 DEFINITIONS

Definitions for common terms found in this permit are as follows:

- 8.1 Authorized Local Program** means a municipality that has received conditional approval from the department pursuant to s. NR 216.10, Wis. Adm. Code.
- 8.2 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.
- 8.3 Bioaccumulative chemical of concern (BCC)** is any substance that has the potential to cause adverse effects which, upon entering the surface waters, accumulates in aquatic organisms by a human health or wildlife bioaccumulation factor greater than 1000.
- 8.4 Cold water communities** This subcategory includes surface waters capable of supporting a community of cold water fish and other aquatic life, or serving as a spawning area for cold water fish species. This subcategory includes, but is not restricted to, surface waters identified as trout water by the department of natural resources (Wisconsin Trout Streams, publication 6-3600 (80)).
- 8.5 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. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.
- 8.6 Department** means the State of Wisconsin Department of Natural Resources.
- 8.7 Erosion** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- 8.8 Exceptional Resource Water or ERW** means waters designated under s. NR 102.11, Wis. Adm. Code.
- 8.9 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.
- 8.10 Great Lakes System** means all the surface waters within the drainage basin of the Great Lakes, including the waters of Lake Superior and Lake Michigan.

8.11 Impaired water means a waterbody impaired, in whole or in part, for not meeting a water quality standard and listed by the department pursuant to 33 USC § 1313(d)(1)(A) and 40 CFR 130.7, including a water quality standard for a specific substance or the waterbody's designated use.

8.12 Increased Discharge means an actual or proposed change in the area or site conditions that results in or will result in an increase in the concentration, level, or load of a pollutant associated with a currently permitted storm water discharge.

Note: Corrections to the pollutant discharge modeling of previously constructed best management practices would not be considered an increased discharge after the coverage they were constructed under is terminated.

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

8.14 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.

8.15 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.

8.16 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.

8.17 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.

8.18 New Discharge means a storm water discharge that would first occur after the permittee's start date of coverage under a permit issued under s. 283.33, Stats., to a surface water to which the facility did not previously discharge storm water. A new discharge does not include an increase in a storm water discharge to a surface water to which the facility discharged on or before coverage under the permit.

8.19 Outfall means the point at which storm water is discharged to waters of the state or to a storm sewer.

8.20 Outstanding Resource Water or ORW means waters designated under s. NR 102.10.

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

8.22 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.

8.23 Pollutant(s) of concern means a pollutant that is contributing to the impairment of a waterbody.

8.24 Receiving water means the portion of a surface water that will be affected by an existing, proposed new, or increased discharge. Receiving water includes downstream surface waters that are affected by the discharge.

8.25 Pollutant of concern means a pollutant that is causing impairment of a waterbody.

8.26 Post-Construction Site means a construction site subject to regulation under ch. NR 151, Wis. Adm. Code, after construction is completed and final stabilization has occurred.

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

8.28 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.

8.29 Start Date is the date of permit coverage under this permit, which is specified in the Department conveyance of coverage letter.

8.30 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.

8.31 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.

8.32 Temporary stabilization Means actions and best management practices designed to control erosion for a limited time period that are generally removed in order to perform

further construction activities or to permanently stabilize a construction site.

8.33 Total maximum daily load or TMDL means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

8.34 Waters of the State, as defined under s. 283.01(20), Wis. Stats., 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.

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

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

APPENDIX A: Average Annual Loading Rates for Total Suspended Solids (TSS) and Total Phosphorous (TP).

Table 1. *Average Annual Loading Rates for TSS and Total Phosphorus (TP) that prevent downstream water quality degradation when converting land use from preconstruction conditions to developed conditions. To calculate the TSS loss from a preconstruction condition, identify the Commission for Environmental Cooperation Level III Ecoregion, identify the predominate land cover(s), and associated soil types for the area being developed. Use the associated Average TP Discharge in pounds/acre/year or Average TSS Discharge in pounds/acre/year for the area to be developed. Weighted averages may be calculated that best reflect soils and land uses within each Ecoregion.*

Commission for Environmental Cooperation Level III Ecoregion	Wisland 2.0 Level 1 Landcover	Hydrologic Soil Group	Average TP Discharge pounds/acre/year	Average TSS Discharge in pounds/acre/year
Driftless Area	Forest	A	0.6	400
Driftless Area	Forest	B	0.8	600
Driftless Area	Forest	C	0.9	800
Driftless Area	Forest	D	0.8	600
Driftless Area	Pasture/hay agriculture, grassland, and shrubland	A	0.8	400
Driftless Area	Pasture/hay agriculture, grassland, and shrubland	B	1.0	800
Driftless Area	Pasture/hay agriculture, grassland, and shrubland	C	1.2	1000
Driftless Area	Pasture/hay agriculture, grassland, and shrubland	D	1.1	800
Driftless Area	Row crop agriculture	A	0.8	200
Driftless Area	Row crop agriculture	B	1.0	800
Driftless Area	Row crop agriculture	C	1.4	800
Driftless Area	Row crop agriculture	D	1.1	800
North Central Hardwood Forests	Forest	A	0.3	80

Commission for Environmental Cooperation Level III Ecoregion	Wiscland 2.0 Level 1 Landcover	Hydrologic Soil Group	Average TP Discharge pounds/acre/year	Average TSS Discharge in pounds/acre/year
North Central Hardwood Forests	Forest	B	0.5	200
North Central Hardwood Forests	Forest	C	0.5	200
North Central Hardwood Forests	Forest	D	0.5	200
North Central Hardwood Forests	Pasture/hay agriculture, grassland, and shrubland	A	0.4	200
North Central Hardwood Forests	Pasture/hay agriculture, grassland, and shrubland	B	0.7	400
North Central Hardwood Forests	Pasture/hay agriculture, grassland, and shrubland	C	0.7	400
North Central Hardwood Forests	Pasture/hay agriculture, grassland, and shrubland	D	0.9	400
North Central Hardwood Forests	Row crop agriculture	A	0.5	200
North Central Hardwood Forests	Row crop agriculture	B	0.8	400
North Central Hardwood Forests	Row crop agriculture	C	1.0	600
North Central Hardwood Forests	Row crop agriculture	D	0.6	600
Northern Lakes and Forests	Forest	A	0.1	80
Northern Lakes and Forests	Forest	B	0.2	60
Northern Lakes and Forests	Forest	C	0.3	200

Commission for Environmental Cooperation Level III Ecoregion	Wiscland 2.0 Level 1 Landcover	Hydrologic Soil Group	Average TP Discharge pounds/acre/year	Average TSS Discharge in pounds/acre/year
Northern Lakes and Forests	Forest	D	0.4	400
Northern Lakes and Forests	Pasture/hay agriculture, grassland, and shrubland	A	0.3	200
Northern Lakes and Forests	Pasture/hay agriculture, grassland, and shrubland	B	0.3	80
Northern Lakes and Forests	Pasture/hay agriculture, grassland, and shrubland	C	0.5	200
Northern Lakes and Forests	Pasture/hay agriculture, grassland, and shrubland	D	0.8	1800
Northern Lakes and Forests	Row crop agriculture	A	0.3	80
Northern Lakes and Forests	Row crop agriculture	B	0.6	200
Northern Lakes and Forests	Row crop agriculture	C	0.8	400
Northern Lakes and Forests	Row crop agriculture	D	0.7	3600
SE Wisconsin Till Plains	Forest	A	0.6	400
SE Wisconsin Till Plains	Forest	B	0.8	800
SE Wisconsin Till Plains	Forest	C	1.0	1200
SE Wisconsin Till Plains	Forest	D	0.9	1200
SE Wisconsin Till Plains	Pasture/hay agriculture, grassland, and shrubland	A	0.7	600
SE Wisconsin Till Plains	Pasture/hay agriculture, grassland, and shrubland	B	1.1	1000
SE Wisconsin Till Plains	Pasture/hay agriculture, grassland, and shrubland	C	1.1	1400

Commission for Environmental Cooperation Level III Ecoregion	Wisland 2.0 Level 1 Landcover	Hydrologic Soil Group	Average TP Discharge pounds/acre/year	Average TSS Discharge in pounds/acre/year
SE Wisconsin Till Plains	Pasture/hay agriculture, grassland, and shrubland	D	1	1600
SE Wisconsin Till Plains	Row crop agriculture	A	0.9	800
SE Wisconsin Till Plains	Row crop agriculture	B	1.1	1000
SE Wisconsin Till Plains	Row crop agriculture	C	1.1	1400
SE Wisconsin Till Plains	Row crop agriculture	D	1.1	2200