

DATE: May 15, 2026

TO: Project Development – Design & Construction Staff

FROM: Bureau of Technical Services, Environmental Services Section

SUBJECT: Important Changes to TCGP NOI Process

What is changing?

WisDOT is required to update our process to apply for and obtain permit coverage under the Transportation Construction General Permit (TCGP), which applies to any project with one acre or more of land disturbing construction activity. This change will affect both the design and construction processes of project development. These changes are also consistent with changes to the ECIP submittal, review, and approval process proposed in the Trans 401 rulemaking process (enactment pending).

Why is this changing?

This change is necessary to align WisDOT processes with the requirements for Stormwater Discharge Permits in accordance with administrative code NR 216. NR 216 requires an erosion control plan to be submitted with the Notice of Intent (NOI) when applying for permit coverage. All requirements for an erosion control plan under NR 216 are not fulfilled by WisDOT until both the design erosion control plan and contractor's erosion control implementation plan (ECIP) are submitted. As such, DNR has notified WisDOT that our current process of applying for TCGP coverage with the DNR final concurrence is not consistent with NR 216 code requirements and is a potential violation of the EPA's delegated authority to the DNR for the administration of the Clean Water Act through these permits.

When will this change?

This change will be effective with the August PS&E and November Letting in 2026. STSP #107-056 regarding TCGP coverage will be updated and published with the July STSP updates.

Projects that have applied for coverage prior to this notification will be "grandfathered" and follow the existing process; however, the project team will need to submit the approved ECIP to the DNR as an amendment to the project's TCGP coverage.

How will the process change?

WisDOT will continue to coordinate with the DNR Transportation Liaison (TL) throughout the design process to ensure the project meets TCGP requirements, however WisDOT will no longer submit the NOI to apply for TCGP coverage during the design phase. Submittals for coverage under the TCGP will now occur during the preconstruction phase of the project, after the contract is awarded to the prime contractor.

Design Process:

- When requesting final concurrence from DNR, the project team should indicate on the “Request for DNR Final Concurrence Letter” template whether the anticipated amount of land disturbing construction activity is less than one acre or one acre or more. This is already part of the template and part of the existing process.
- The DNR TL will review the design information and indicate whether the project design appears to qualify for coverage under the TCGP, pending submittal of the contractor’s ECIP during the preconstruction phase. The DNR TL will include language relative to this determination in the DNR final concurrence letter.
- The NOI to apply for TCGP permit coverage will no longer be submitted at the time of requesting final concurrence. Instead, the project staff should draft the NOI in DNR’s ePermitting system and leave this in draft status. By doing this, it will help submittal of the NOI and avoid delays during the pre-construction phase.
 - Additionally, the person drafting the NOI should also share the NOI with both the WisDOT PM and WisDOT Supervisor. This can be done on the WDNR ePermitting site. This is intended to be a safeguard in the event of staff turnover or attrition – the NOI cannot be otherwise transferred since the NOI is specific to the user within the DNR ePermitting system (<https://dnr.wisconsin.gov/permits/water>).

Construction Process:

Please note: The definition of “working day” as outlined below is as defined by s. 227.01(14) Wis. Stats. and is not the same as defined by the standard specifications.

1. Upon receipt of the contractor’s ECIP, the WisDOT PM or project team will review the ECIP for completeness. Completeness indicates that all necessary questions on the ECIP have been answered, and all necessary information has been provided by the contractor. It does not indicate that the department has reviewed and resolved all comments. If the ECIP is incomplete, the ECIP should be rejected and sent back to the contractor.

A review for completeness should consider, but not be limited to, the following:

- All applicable sections of the ECIP have information submitted.
 - All applicable ECIP forms are included with the submittal.
 - All necessary attachments are included and properly labeled.
 - Contractor has completed the “contractor acknowledgement” sections.
2. Within two working days of receipt of a complete ECIP:
 - a. The WisDOT PM or project team will forward the ECIP to the DNR TL, SWECE, and any others that will be reviewing the ECIP.
 - b. Concurrently with the ECIP distribution after a complete ECIP is received, the WisDOT PM will submit the NOI to apply for TCGP coverage.

3. The DNR TL will have 14 working days to review the initial ECIP submittal and provide comments. The 14 working day review period will begin on the day that the ECIP and NOI is submitted to the DNR TL.
4. After the 14 working day review period has expired, the department will have two working days to compile all comments and provide those to the contractor. This includes resolving any conflicting comments that were received.
5. The contractor is expected to update the initial ECIP accordingly and resubmit it in a timely manner. WisDOT PM will forward any revised ECIP to the DNR TL for additional review and comment.
6. While there is no definitive timeframe for review/comment from DNR on subsequent submittals, the DNR has agreed to make reasonable efforts to return comments as soon as possible to avoid delays to the project construction schedule.
7. Upon all comments being resolved, WisDOT PM or appropriate delegate will approve the ECIP in accordance with Trans 401 and forward the approved ECIP to DNR TL.
8. The DNR TL will convey permit coverage for the project upon submittal of the approved ECIP and DNR concurrence that the project meets the requirements for coverage under the TCGP.

The contractor may not begin land disturbing construction activities until both the ECIP is approved and the DNR has conveyed permit coverage for the project.

Additional Resources:

TCGP Guidance is available on the WisDOT Erosion Control Webpage at the below location. The information covered within this notification will be updated within the guidance around August 1, 2026. <https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/erosion-ctrl-drainage.aspx>

Updates to FDM and CMM language will be occurring as we transition to the new process.

Contact Information:

If you have any questions related to this notification and guidance, please contact:

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