



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

**GENERAL PERMIT TO DISCHARGE UNDER THE  
WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WPDES Permit No. WI-S066796-1**

In compliance with the provisions of ch. 283, Wis. Stats., chs. NR 151 and 216, Wis. Adm. Code, and s. 30.2022 (2), Wis. Stats., the Wisconsin Department of Transportation (DOT) engaging in land disturbing construction activities including clearing, grading and/or excavating, but excluding storm water discharges from Indian activities within Indian Country, that discharges

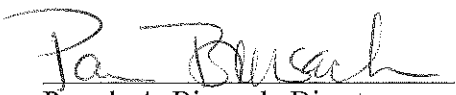
**STORM WATER ASSOCIATED WITH LAND DISTURBING CONSTRUCTION ACTIVITY**

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 (DNR) to the contrary, the effective date of coverage under this permit is 14 working days after the DOT's complete Notice of Intent has been received by the DNR.

Permit coverage continues until submittal of a Notice of Termination for a project, and terminates upon written confirmation by the DNR.

State of Wisconsin Department of Natural Resources  
For the Secretary

By   
Pamela A. Biersach, Director  
Bureau of Watershed Management

**PERMIT EFFECTIVE DATE:** April 2, 2018

**EXPIRATION DATE:** March 31, 2023

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## 1. APPLICABILITY CRITERIA

### 1.1 Eligibility

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

**1.1.1.1** This general Wisconsin Pollutant Discharge Elimination System (WPDES) permit is issued pursuant to ss. 283.33(4m), and 283.35(1) Wis. Stats., and is applicable to all new and existing storm water discharges from DOT land disturbing construction activity occurring after the effective date of this permit until permit coverage is terminated in accordance with section 2.6. Transportation activities required to have permit coverage are those that involve land disturbing construction activity affecting one acre or more of land. This permit also covers a pit/trench dewatering discharge at a construction site covered under this permit provided the dewatering discharge is treated in accordance with the DNR's sediment control dewatering technical standard 1061 or equivalent methodology. Discharges from dewatering wells regulated under ch. NR 812, Wis. Adm. Code, are not covered by this permit.

Note: 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.

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

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

**1.1.3** 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, facilities described in SIC code 2951 for asphalt paving mixes and block, and facilities described in SIC codes 3271, 3272, and 3273 for cement products, may be present at a construction site, but are subject to industrial storm water permitting requirements in subch. II of ch. NR 216 Wis. Adm. Code.

**1.1.4** The DNR may require individual permit coverage for storm water discharge from a construction site otherwise eligible for coverage under this permit if any of the following occur:

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

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

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

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

**1.1.5** Any person may submit a written request to the DNR that it take action under section 1.1.4 above.

## **1.2 Exclusions**

The following are not eligible for coverage under this permit:

**1.2.1** Land disturbing construction activity and associated storm water discharges that affect wetlands, unless the DNR, following the liaison procedures established pursuant to s. 30.2022 Wis. Stats., 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. When applying for permit coverage under section 2.1, the DOT shall provide information to the DNR with the application documenting whether wetlands are present in the project area and how the presence or absence of wetlands was determined.

**1.2.2** Land disturbing construction activity and associated storm water discharges that affect endangered and threatened resources, unless the DNR, following the liaison procedures established pursuant to s. 30.2022 Wis. Stats., determines that the land disturbing construction activity and associated storm water discharges comply with the endangered and threatened resource protection requirements of s. 29.604, Wis. Stats., and ch. NR 27, Wis. Adm. Code.

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

## **1.3 Authorization**

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

**1.3.2** Only the DOT, who submits an NOI in compliance with section 2 of this permit, is authorized to discharge storm water from a land disturbing construction activity under the terms and conditions of this permit.

## **1.4 Implementation**

**1.4.1** Implementation of the requirements of this general permit shall be carried out pursuant to interdepartmental liaison procedures established under s. 30.2022 (2), Wis. Stats.

**1.4.2** Transportation facilities that are directed and supervised by the DOT and that are regulated by an administrative rule administered by the DOT, where the DNR determines in writing (after January 1, 2011) that the rule meets or exceeds the performance standards of subch. IV of ch. NR 151, Wis. Adm. Code, and is implemented in accordance with the administrative rule provisions, shall be deemed to meet the requirements of the portions of subch. IV of ch. NR 151, Wis. Adm. Code determined by the DNR.

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

### **2.1 Application Procedures**

**2.1.1** When required to obtain coverage under this permit for storm water discharge from a construction site, the DOT shall submit a completed NOI to the DNR in accordance with the requirements of ss. NR 216.43 and NR 216.44, Wis. Adm. Code. The DOT shall submit the completed NOI to the DNR in accordance with the requirements of this section at least 14 working days prior to commencing any land disturbing construction activities. The DNR 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, or endangered and threatened resources. In either case, the DNR will notify the DOT in writing.

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

### **2.2 Permit Certificate**

The DOT shall post the permit certificate in a conspicuous place on the construction site. The DNR will provide the permit certificate to the DOT with the letter of permit coverage.

### **2.3 Failure to Notify**

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

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

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

### **2.5 Use of Information**

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

### **2.6 Notice of Termination**

The DOT shall comply with this section 2.6 for regulated construction sites.

**2.6.1** Within 45 days after a construction site has undergone final stabilization, temporary erosion control BMPs have been removed and all land disturbing construction activities that required coverage under this permit have ceased, the DOT shall submit a signed Notice of Termination (NOT) to the DNR.

**2.6.2** The NOT shall be submitted on the form available from the DNR. Data submitted on the NOT form shall be used as a basis for terminating coverage under this permit.

Note: The NOT form may be obtained through the DNR storm water Internet site at:  
<http://dnr.wi.gov/topic/Stormwater/construction/forms.html>.

**2.6.3** The NOT shall be mailed to the appropriate DNR regional transportation liaison. An NOT may be submitted electronically using an Internet-based application process if the DNR is capable of accepting the NOT in this manner.

**2.6.4** The NOT form shall be signed in accordance with s. NR 216.43(3), Wis. Adm. Code.

**2.6.5** Termination of coverage under this permit shall be effective upon the DNR's written confirmation of permit termination to the DOT in a manner and timeframe pursuant to section 1.4.1.

## **2.7 Minimum Control Requirements**

The DOT shall design, install, and maintain BMPs to minimize the discharge of pollutants in storm water.

### **2.7.1 Design of BMPs**

The DOT shall design BMPs to address the following:

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

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

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

**2.7.1.4** Staging land disturbing construction activities to limit exposed soil areas subject to erosion.

**2.7.1.5** Minimize the discharge of spills and leaks and develop a spill prevention and response plan.

**2.7.1.6** Provide and maintain natural buffers around surface waters, direct storm water to vegetated areas and maximize storm water infiltration to reduce pollutant discharges, unless infeasible or unless exempt pursuant to section NR 151.244(2) Wis. Adm. Code.

**2.7.1.7** Design all BMPs in accordance with good engineering practices, including applicable technical standards or their equivalent.

### **2.7.2 Installation of BMPs**

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

**2.7.2.1** By the time land disturbing construction activities in any given portion of the site begins, install and make operational any erosion or sediment control practices that prevent or treat discharges from the initial site clearing, grading, excavating, and other land disturbing construction activities.

Note: The requirement to install BMPs prior to each phase of construction activities for the site does not apply to the land disturbance associated with the actual installation of these

BMPs. The DOT shall take all reasonable actions to minimize the discharges of pollutants during the installation of storm water BMPs.

**2.7.2.2** Following the installation of these initial controls, install and make operational all BMPs needed to control discharges prior to subsequent land disturbing activities.

**2.7.3 Maintenance of BMPs**

The DOT 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 DOT shall:

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

**2.7.3.2** If at any time a BMP needs routine maintenance, the DOT shall initiate the needed maintenance work so that it is completed by the close of the next business day. The DOT shall repair or replace storm water BMPs as necessary within 24 hours of an inspection performed in accordance with section 4.5 of this permit or after notification by the DNR that repair or replacement is needed.

**2.7.4 Corrective Actions**

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

**2.7.5 Compliance with Runoff Management Performance Standards**

The DOT shall maintain compliance with the transportation facility performance standards in subch. IV of ch. NR 151, Wis. Adm. Code. The BMPs installed to meet the performance standards shall be maintained to meet the control and/or treatment capability of the practice. In accordance with section 3.2.6 of this permit, the DOT shall ensure that any permanent structures installed to meet a post-construction performance standard in ss. NR 151.241 to 151.249, Wis. Adm. Code, shall be maintained to meet the treatment capability as originally designed.

**2.7.6 Unauthorized Discharges**

This permit authorizes storm water discharges from land disturbing construction activities that may become mixed with other storm water discharges. Other storm water or wastewater discharges that require coverage under another general or individual WPDES permit are not authorized under this permit, such as wastewater discharges from washout and cleanout of 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.



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

#### 3.1 Erosion Control Plan Requirements

The DOT shall comply with this section 3.1.

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

**3.1.1** The DOT shall develop a site-specific construction site erosion control plan for each construction site regulated under this permit. The DOT or the DOT's representative shall implement and maintain as required by this permit and s. NR 216.46, 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.

**3.1.2** The construction site erosion control plan shall be designed to meet the applicable performance standards in ss. NR 151.23(4m), (5), and (6), Wis. Adm. Code. 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.

**3.1.3** The erosion control plan shall be completed prior to the submittal of a NOI for coverage under this permit and shall be amended in accordance with section 3.3.

**3.1.4** The construction site erosion control plan shall include, at a minimum, the following items:

**3.1.4.1** 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.

**3.1.4.2** 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.

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

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

**3.1.4.5** Name of immediate named receiving water from the USGS 7.5-minute series topographic maps, and whether the receiving water is an outstanding resource water (ORW), exceptional resource water (ERW), or an impaired water.

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

**3.1.5** The construction site erosion control plan shall include a site map with the following items:

**3.1.5.1** Pre-existing topography and drainage patterns, roads and surface waters.

- 3.1.5.2** Boundaries of the construction site.
  - 3.1.5.3** Drainage patterns and approximate slopes anticipated after major grading activities.
  - 3.1.5.4** Areas of soil disturbance.
  - 3.1.5.5** Location of major structural and non-structural controls identified in the construction site erosion control plan.
  - 3.1.5.6** Location of areas where stabilization practices will be employed.
  - 3.1.5.7** Areas that will be vegetated following land disturbing construction activities.
  - 3.1.5.8** Area and location of wetland acreage on the construction site and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
  - 3.1.5.9** Areas that will be used for infiltration of post-construction storm water runoff.
  - 3.1.5.10** An alphanumeric or equivalent coordinate system for the entire construction site.
  - 3.1.5.11** Additional items necessary to depict site-specific conditions.
- 3.1.6** 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 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 s. NR 151.23(6), Wis. Adm. Code. The description of erosion and sediment control BMPs shall include the following minimum requirements:
- 3.1.6.1** Description of the expected level of sediment control on the construction site that achieves compliance with s. 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.
  - 3.1.6.2** Description of interim and permanent stabilization practices, including a schedule for implementing the practices. The construction site erosion control plan shall ensure that existing vegetation is preserved where feasible and that disturbed portions of the construction site are stabilized as soon as practicable.
  - 3.1.6.3** Description of any structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the construction site.
  - 3.1.6.4** Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
  - 3.1.6.5** Trapping of sediment in channelized flow.

- 3.1.6.6** Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
  - 3.1.6.7** Protection of downslope drainage inlets where they occur.
  - 3.1.6.8** Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
  - 3.1.6.9** Prevent the discharge of sediment as part of site de-watering.
  - 3.1.6.10** Protect separate storm drain inlet structures from receiving sediment.
  - 3.1.6.11** Clean up of off-site sediment deposits.
  - 3.1.6.12** Stabilization of drainage ways.
  - 3.1.6.13** Prevent the discharge of sediment eroding from soil stockpiles existing for more than 7 days.
  - 3.1.6.14** Prevent the transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
  - 3.1.6.15** Installation of permanent stabilization practices as soon as possible after final grading.
  - 3.1.6.16** Description of erosion and sediment control practices put in place for the winter to prevent soil from leaving the construction site during periods of winter and spring thaw and rains.
  - 3.1.6.17** Use and storage of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period to prevent their transport by runoff into waters of the state.
  - 3.1.6.18** Minimization of dust to the maximum extent practicable.
  - 3.1.6.19** Minimization of soil compaction and preservation of topsoil.
  - 3.1.6.20** Minimization of land disturbing construction activity on slopes of 20% or more.
  - 3.1.6.21** Spill prevention and response procedures.
  - 3.1.6.22** Additional items necessary to address site-specific conditions.
- 3.1.7** Sediment control BMPs shall be constructed and placed in operation prior to runoff entering waters of the state.

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

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

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

**3.1.10** Runoff settling basins and pit/trench dewatering settling basins, if used, shall be constructed and operated in accordance with good engineering practices and design standards, and as follows:

**3.1.10.1** Basins shall discharge to a vegetated or otherwise stabilized area protected from erosion. The principal spillway shall discharge at the bottom of the embankment.

**3.1.10.2** When the accumulated sediment reaches one-half the height of the sediment control structure, or one-half the depth of the permanent pool, the sediment shall be removed. Materials removed from basins shall be properly disposed of in a manner that will not pollute waters of the state.

**3.1.10.3** Consideration should be given to installing fences around construction site settling basins for human safety.

**3.1.11** All maintenance shall be done in accordance with technical standards developed pursuant to subch. V of ch. NR 151, Wis. Adm. Code. 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 measures and other protective measures shall be identified in the erosion control plan.

**3.1.12** The construction site erosion control plan shall clearly identify the contractor(s) and subcontractor(s) that will install and maintain erosion and sediment control measures. This information may be added to the plan after the NOI has been submitted to DNR. It shall be included in the plan prior to the commencement of land disturbing construction activities.

## **3.2 Storm Water Management Plan Requirements**

**3.2.1** Pollution caused by storm water discharges from the site after construction is completed, including rooftops, parking lots, roadways and the maintenance of grassed areas shall be addressed by a storm water management plan. A storm water management plan shall be developed prior to submitting an NOI to the DNR.

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

**3.2.2** The storm water management plan shall be designed to meet the applicable performance standards in ss. NR 151.241 through NR 151.249, Wis. Adm. Code.

**3.2.3** 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 to reduce petroleum in runoff that will occur

after construction operations have been completed. Storm water BMPs shall be in accordance with applicable state and local regulations.

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

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

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

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

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

**3.2.6** For permanent storm water treatment BMPs, provisions shall be made for long-term maintenance and shall be submitted to the DNR.

**3.2.7** BMPs to control impacts from storm water runoff include infiltration systems, wet detention ponds, constructed wetlands, grassed swales, vegetative protective areas, reduced imperviousness, beneficial reuse such as irrigation or toilet flushing, combinations of these practices, or other methods which do not cause significant adverse impact on the receiving surface water or groundwater. The storm water management plan shall include an explanation of the technical basis used to select the BMPs.

**3.2.8** For final stabilization after construction is completed, areas where the DOT will perform final stabilization through the establishment of a perennial vegetative cover shall follow the procedures for permanent seeding in accordance with the DNR's seeding technical standard 1059 or equivalent methodology.

### **3.3 Amendments**

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

**3.3.1.1** 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 which has not otherwise been addressed in the erosion control and storm water management plans.

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

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

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

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

## 4. WATER QUALITY STANDARDS, MONITORING AND RECORDS

### 4.1 Water Quality Standards

This permit specifies the conditions under which storm water may be discharged to waters of the state for the purpose of achieving water quality standards contained in chs. NR 102 through 105, NR 140, and NR 207, Wis. Adm. Code. For the term of this permit, compliance with water quality standards will be addressed by adherence to general narrative-type storm water discharge limitations, compliance with the applicable performance standards of ss. NR 151.225, 151.23, 151.241 to 151.249, and 151.25, Wis. Adm. Code, and implementation of the erosion control and storm water management plans and BMPs. The DOT with a construction site covered under this permit shall select, install, implement and maintain BMPs as necessary to meet applicable water quality standards. Unless notified by the DNR in writing to the contrary, compliance with the applicable performance standards of ss. NR 151.225, 151.23, 151.241 to 151.249, and 151.25, Wis. Adm. Code, shall be deemed as stringent as necessary to ensure that storm water discharges covered by this permit do not cause or contribute to an excursion above any applicable water quality standard.

### 4.2 Outstanding and Exceptional Resource Waters

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

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

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

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

**4.2.3** The DOT's erosion control and storm water management plans required under this permit shall be designed to prevent the discharge of sediment and other pollutants to any ORW or ERW in excess of the background level within the water body. Unless notified by the DNR in writing to the contrary, compliance with the applicable performance standards of ss. NR 151.225, 151.23, 151.241 to 151.249, and 151.25, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section. If the DNR has sufficient site-specific data to determine that the DOT's construction or post-construction site storm water will discharge a pollutant in excess of the background level within an ORW or ERW, then the DNR shall notify the DOT in writing that the DOT shall include a written section in the erosion control and storm water management plans that discusses and identifies the management practices and control measures the DOT will implement to prevent the discharge of any pollutant in excess of the background level within the water body. This section of the DOT's plans shall specifically identify control measures and practices that will collectively be used to prevent the discharge of a pollutant in excess of the background level within the water body.

Note: Reducing or eliminating surface water discharges to an ORW or ERW by infiltrating runoff is a method to help prevent the discharge of pollutants to an ORW or ERW in excess of background levels. It is expected that post-construction storm water management practices will be designed to maintain or increase infiltration rates for the site as compared to pre-development infiltration rates for areas that discharge to any ORW or ERW. Post-construction storm water management practices for infiltration are subject to s. NR 151.244, Wis. Adm. Code. Infiltration systems shall be designed to comply with the groundwater quality standards contained in ch. NR 140, Wis. Adm. Code.

**4.2.4** Protective areas of no less than 75 feet shall be maintained adjacent to any ORW and ERW as required under s. NR 151.245, Wis. Adm. Code.

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

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

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

**4.3.2** The DOT may not establish a new storm water discharge of pollutants to a fish and aquatic life water if the discharge will result in the significant lowering of water quality of the fish and aquatic life water. Significant lowering of water quality is defined within ch. NR 207, Wis. Adm. Code. Unless notified by the DNR in writing to the contrary, compliance with the applicable performance standards of ss. NR 151.225, 151.23, 151.241 to 151.249, and 151.25, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.

**4.3.2.1** “New storm water discharge” has the meaning given in section 4.2.2.1 of this permit.

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

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

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

Note: The list of Wisconsin impaired surface water bodies may be obtained by contacting the DNR or by searching for keyword “impaired waters” on the DNR’s Internet site. The DNR 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 DNR’s Internet site at:

<http://dnr.wi.gov/topic/impairedwaters/>.



**4.4.3** When a project will discharge a pollutant of concern via storm water to an impaired water body, DOT shall include a written section in the erosion control and storm water management plans that specifically identifies control measures and management practices that will collectively be used to reduce, with the goal of eliminating, the storm water discharge of pollutant(s) of concern that contribute to the impairment of the water body and explain why these control measures and management practices were chosen as opposed to other alternatives. Unless notified by the DNR in writing to the contrary, compliance with the applicable performance standards of ss. NR 151.225, 151.23, 151.241 to 151.249, and 151.25, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.

**4.4.4** The DOT may not establish a new storm water discharge of a pollutant of concern to an impaired water body or increase an existing discharge of a pollutant of concern to an impaired water body unless the new or increased discharge causes the receiving water to meet applicable water quality standards, or the discharge is consistent with a USEPA approved total maximum daily load (TMDL) allocation for the impaired water body. Unless notified by the DNR in writing to the contrary, compliance with the applicable performance standards of ss. NR 151.225, 151.23, 151.241 to 151.249, and 151.25, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.

**4.4.4.1** “New storm water discharge” has the meaning given in section 4.2.2.1 of this permit.

**4.4.5** Before beginning land-disturbing construction activity, the DOT shall determine whether any part of its construction or post-construction site storm water will discharge a pollutant of concern via storm water to a water body included in a State and Federal approved TMDL. If so, the DOT 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 ss. NR 151.225, 151.23, 151.241 to 151.249, and 151.25, Wis. Adm. Code, or whether changes to the plans are necessary.

Note: The DNR recommends that DOT check for approved TMDLs during project planning prior to submitting an NOI. State and Federal approved TMDLs can be identified by contacting the DNR, or by searching for keyword “TMDL” on the DNR Internet site at [dnr.wi.gov](http://dnr.wi.gov). The current State and Federal approved Final TMDLs may be found on the DNR’s Internet site at: <http://dnr.wi.gov/topic/tmdls/>.

**4.4.6** After determining whether the construction or post-construction site storm water discharge is included in a USEPA approved TMDL and determining that any TMDL wasteload allocation for the construction or post-construction site’s discharge is not being met, the DOT shall amend the erosion control and storm water management plans. The amended plans shall include the necessary control measures to meet the requirements of the USEPA approved TMDL wasteload allocation for the construction or post-construction site. If a specific wasteload allocation has not been assigned to the construction or post-construction site under a TMDL, compliance with the applicable performance standards of ss. NR 151.225, 151.23, 151.241 to 151.249, and 151.25, Wis. Adm. Code, and this permit shall be deemed to be compliance with the TMDL.

## **4.5 Inspections and Maintenance**

The DOT shall:

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

**4.5.1.1** Weekly inspections of implemented erosion and sediment controls; and

- 4.5.1.2** Inspections of erosion and sediment controls 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.
- 4.5.2** Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification indicating that repair or replacement is needed.
- 4.5.3** Maintain, at the construction site or via an Internet site, weekly written reports of all inspections conducted by or for the DOT. If an Internet site method is used, the DOT shall provide the Internet address to the DNR prior to its use. Weekly inspection reports shall include all of the following:
- 4.5.3.1** The date, time and exact location of the inspection.
  - 4.5.3.2** The name of the individual who performed the inspection.
  - 4.5.3.3** An assessment of the condition of erosion and sediment controls.
  - 4.5.3.4** A description of any erosion and sediment control installation or maintenance performed in response to the inspection.
  - 4.5.3.5** A description of the present phase of construction at the site and any schedule modifications that may increase sediment discharge.

Note: The DNR has developed a model inspection report that includes the above items and it is available through the DNR’s storm water Internet site at:  
<http://dnr.wi.gov/topic/Stormwater/construction/forms.html>.

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

## **4.6 Records**

- 4.6.1** The DOT shall retain records of all construction site inspections, copies of all reports and plans required by this permit, and records of all data used to obtain coverage under this permit. Minimum periods of retention are as follows:
- 4.6.1.1** If there is a secure location, such as a construction site trailer, the erosion control and storm water management plans and amendments to the erosion control and storm water management plans shall be retained at the construction site until permit coverage is terminated.
  - 4.6.1.2** All reports required by subch. III of ch. NR 216, Wis. Adm. Code, or information submitted to obtain coverage under this permit, including the erosion control and storm water management plans, amendments, and background information used in their preparation, shall be kept by the DOT for a period of at least 3 years from the date of termination of permit coverage.
- 4.6.2** Upon request by the DNR, the DOT 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 DNR. Additional information may be requested by the DNR for resource

waters that require additional protection such as outstanding or exceptional resource waters, or other sensitive water resources.

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

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

#### **4.8 DNR Actions**

**4.8.1** The DNR may notify the DOT at any time that the erosion control and storm water management plans do not meet one or more of the minimum requirements of subch. III of ch. NR 216, Wis. Adm. Code, or this permit, for reducing and preventing the discharge of pollutants. The notification shall identify those provisions that are not being met by the erosion control and storm water management plan, and identify which provisions of the plan require modification in order to meet the requirements. Within the time frame identified by the DNR in its notification, the DOT 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 DNR a written certification that the requested changes have been made and implemented, and such other information the DNR requires. The DNR 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. Where the DNR has revoked coverage under this permit, the DOT 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 DOT.

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

**4.8.3** The DNR 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. A DOT construction site for which permit coverage has been denied or revoked 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 DOT.

## 5. GENERAL CONDITIONS

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

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

**5.1 Work near Surface Waters and Wetlands** Activities performed in wetland areas, in floodplains, or near shorelands may require permits or approvals through applicable laws and regulations. Additionally, state permits and/or contracts required by chs. 30, 31 and 87, Wis. Stats. and s. 281.36, Wis. Stats. (or Wisconsin Administrative Code promulgated under these laws), and federal permits may be applicable.

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

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

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

**5.5 Spill Reporting** The DOT shall notify the DNR 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 DNR's website at: <http://dnr.wi.gov/topic/Spills/>.

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

**5.7 Enforcement** Any violation of s. 283.33, Wis. Stats., ch. NR 216, Wis. Adm. Code, or this permit is enforceable under s. 283.89, Wis. Stats. and the liaison procedures established pursuant to s. 30.2022 Wis. Stats.

## 6. DEFINITIONS

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

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

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

**6.3 DNR** means the State of Wisconsin Department of Natural Resources.

**6.4 DOT** means the State of Wisconsin Department of Transportation.

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

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

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

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

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

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

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

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

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

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

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

**6.16 Transportation Activity(ies)** means an activity(ies) carried out under the direction and supervision of the DOT in connection with highway, bridge, or other transportation project design, location, construction, reconstruction, maintenance, or repair.

**6.17 Transportation Facility** means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1) (b), Wis. Stats. Transportation facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the department pursuant to s. 281.33, Wis. Stats.

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

**6.19 Working Day** means any day except Saturday and Sunday and holidays designated in s. 230.35(4)(a), Wis. Stats. (for the purpose of implementing and complying with this permit).

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