

WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT FOR

CONSTRUCTION SITE STORM WATER RUNOFF

Fact Sheet – September 2011 WPDES General Permit No. WI-S067831-4

Purpose

The Wisconsin Department of Natural Resources has reissued Wisconsin Pollutant Discharge Elimination System general permit No. WI-S067831-4 (“general permit”) for the discharge of storm water associated with land disturbing construction activity. This state-wide general permit authorizes storm water discharges to waters of the state from construction sites that are regulated under subch. III of ch. NR 216, Wis. Adm. Code. The general permit requires the permittee to implement best management practices to control storm water runoff in accordance with site-specific erosion control and storm water management plans to reduce sediment and other pollutants from entering waters of the state. Waters of the state includes surface waters, groundwater, and wetlands.

Background

The Federal Water Pollution Control Act of 1972 (Public Law 92-500), also called the Clean Water Act, requires that all point sources discharging pollutants to waters of the U.S. obtain a wastewater discharge permit. These permits specify the conditions under which wastewaters can be discharged so that water quality standards for receiving waters are met. In 1974, the United States Environmental Protection Agency (USEPA) delegated the authority for issuing these permits in the State of Wisconsin to the Wisconsin Department of Natural Resources (DNR).

In 1987, Congress enacted amendments to the Clean Water Act, authorizing a national program of comprehensive storm water pollution control for municipal separate storm sewer systems, industries, and construction sites. Through a series of rule-making authorized by the 1987 amendments (40 C.F.R. §122.26), the USEPA has identified in final rules the permit requirements to discharge storm water and set forth permit application and notification requirements for entities requiring coverage under a storm water discharge permit.

Concurrent with the USEPA's actions, the DNR has conducted its own storm water permit program activities. In 1993, ch. 147, Wis. Stats., (now ch. 283, Wis. Stats.) was amended to include storm water as a "point source" discharge and to require DNR to promulgate administrative rules for permitting the discharge of storm water. As a result, DNR created ch. NR 216, Wis. Adm. Code, for permitting storm water discharges associated with industrial activity, construction sites 5 acres or larger (now one acre or larger), and certain municipalities that own or operate municipal separate storm sewer systems. These rules set the framework for the DNR to create general permits for the discharge of storm water associated with land disturbing construction activity.

General Permit Requirements

Chapter NR 216, Wis. Adm. Code, defines the conditions under which storm water associated with land disturbing construction activity can be discharged so that waters of the state (including surface waters,

ground water, and wetlands) will be protected. The general permit is to meet the permitting requirements for storm water associated with land disturbing construction activity as established in subch. III of ch. NR 216, Wis. Adm. Code.

The general permit has been issued by the DNR and will be used to authorize and regulate storm water discharges from both new and currently permitted eligible construction sites. Unless notified by the DNR to the contrary, the effective date of coverage under the general permit is 14 working days after an applicant's complete Notice of Intent (NOI) has been received by the DNR. General permit coverage continues until submittal of a Notice of Termination for a project and terminates upon written confirmation by the DNR. The maximum period of general permit coverage for any project is limited to 3 years per NOI. Therefore, general permit coverage terminates unless another NOI for the original project, including application fee, is submitted to retain coverage under the general permit or a reissued version of the general permit.

The general permit will not be used to provide permit coverage to a storm water discharge from Indian activities within Indian Country. Permit coverage is required from the USEPA for construction site storm water discharges within Indian Country. Information on such permitting is available at: <http://cfpub1.epa.gov/npdes/stormwater/cgp.cfm>

In summary, the general permit requires landowners of regulated construction sites to:

- Develop and implement erosion control and post-construction storm water management plans in accordance with subch. III of ch. NR 216, Wis. Adm. Code, and the applicable performance standards of ch. NR 151, Wis. Adm. Code.
- Submit a complete Notice of Intent (NOI), also known as the Water Resources Application for Project Permits (WRAPP), to the DNR at least 14 working days prior to the commencement of land disturbing construction activities.
- Conduct inspections of implemented erosion and sediment best management practices at least weekly and after a rainfall event of 0.5 inches or greater, and repair or replace erosion and sediment best management practices as necessary.
- For any permanent storm water management structures, develop a long-term storm water maintenance agreement.
- Submit a complete Notice of Termination to the DNR after the construction site has undergone final stabilization.

To assist permittees with compliance with the performance standards, the DNR has developed technical standards for erosion control and storm water management at construction sites and for post-construction runoff management. The standards are available at: <http://dnr.wi.gov/runoff/stormwater/techstds.htm>

Summary of Key Changes from the Previous Version of the General Permit

The general permit (Permit No. WI-S067831-4), replaces the previous version of the permit (Permit No. WI-S067831-3). Key changes to the general permit include the following (numbering system used below corresponds with the sections in the general permit):

1.1 Eligibility: Language has been changed in 1.1.1.1 indicating that discharges from dewatering wells

regulated under ch. NR 812, Wis. Adm. Code, are not covered under the general permit if those discharges cannot be effectively treated by on-site sediment control best management practices without compromising the effectiveness of those controls for the treatment of storm water runoff. Also, language has been added to 1.1.2 indicating that storm water discharges from temporary support activities such as concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow areas are authorized under the general permit provided that the support activity is directly related to and part of the construction site covered under the general permit. The general 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.

1.3 Authorization: Language referring to the Wisconsin Department of Commerce, “public buildings and buildings that are places of employment” (“commercial buildings”), and “one- and two-family dwellings” has been removed from this section (as well as other sections throughout the general permit). The note under 1.3.4 referring to the Wisconsin Department of Transportation has also been removed. Instead, reference to the applicability criteria in s. NR 216.42, Wis. Adm. Code, has been added to the first sentence of 1.1.1.1. Also, 1.3.3 has been amended to align more with the language in s. NR 216.42 (6), Wis. Adm. Code.

1.4 Water Quality Standards: The language in 1.4.1 has been deleted since it was repetitive with language in 4.1. The language from 1.4.2 has been moved to 1.2.5 since it is a limitation on coverage.

2.1 Application Procedures: Language has been added to 2.1.1 stating that the DNR will accept electronic submittal of an NOI if the DNR is capable of accepting applications in this manner.

2.3 Permit Certificate: The permit certificate is mailed to the permittee by the DNR with the letter granting general permit coverage. This section incorrectly stated that the permit certificate was available for download from the DNR’s Internet site.

2.9 Notice of Termination: Language has been added to this section stating that the DNR will accept electronic submittal of a Notice of Termination if the DNR is capable of accepting the form in this manner.

3.1 Erosion Control Plan Requirements: Section 3.1.2 has been simplified. Reference to the 80% sediment reduction performance standard is unnecessary since this section refers to ch. NR 151, Wis. Adm. Code, which contains the applicable performance standards. Language has been added to 3.1.6 referencing the implementation requirements of ss. NR 151.11(8) and NR 151.23(6), Wis. Adm. Code. Sections 3.1.6.13 through 3.1.6.15 and Sections 3.1.6.19 through 3.1.6.21 have been added to conform to the USEPA’s non-numeric requirements for erosion and sediment control, stabilization, and pollution prevention.

3.2 Storm Water Management Plan Requirements: Section 3.2.2 has been reorganized and the appropriate references to the application sections of ch. NR 151, Wis. Adm. Code, have been updated to reflect the recent changes to that administrative code.

4.1 Effluent Limitations: This section has been renamed “Water Quality Standards”. Reference to ch. NR 207, Wis. Adm. Code, *Water Quality Antidegradation*, has been included. Also, language has been added indicating that a permittee with a construction site covered under the general permit shall select, install, implement and maintain best management practices as necessary to meet applicable water quality

standards, and that unless notified by the DNR in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed as stringent as necessary to ensure that storm water discharges covered by the general permit do not cause or contribute to an excursion above any applicable water quality standard.

4.2 Outstanding and Exceptional Resource Waters: Section 4.2.2 has been modified to prohibit a permittee from establishing a new storm water discharge of pollutants to an Outstanding Resource Water or an Exceptional Resource Water unless the erosion control and storm water management plans required under the general permit meet the requirements of Section 4.2.3. The definition of “new storm water discharge” has also been added. Section 4.2.3 has been created and contains language previously in Section 4.2.2 along with the statement that unless notified by the DNR 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. Language has also added specifying the circumstances under which the DNR may contact a permittee in writing to amend the erosion control and storm water management plans to address a discharge to an Outstanding Resource Water or an Exceptional Resource Water.

4.3 Fish and Aquatic Life Waters: Section 4.3.2 has been modified to prohibit a permittee from establishing a new storm water discharge of pollutants to a fish and aquatic life water unless the erosion control and storm water management plans required under the general permit is designed to prevent the significant lowering of water quality of any fish and aquatic life water. The statement has been added that unless notified by the DNR in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.

4.4 Impaired Water Bodies and Total Maximum Daily Load Requirements: This section has been modified and reorganized, and language has been added to address the storm water discharge of pollutants of concern to impaired waters. Impaired waters are those that are not meeting applicable water quality standards and are listed by the DNR 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 USEPA, 40 CFR §130.7(c)(1).

Under Section 4.4.3, a permittee that will discharge a pollutant of concern via storm water to an impaired water body is required to 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 subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.

Section 4.4.4 prohibits a permittee from establishing 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. This section includes the statement that unless notified by the DNR 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.

Under Section 4.4.5, before beginning land-disturbing construction activity, a permittee is required to

determine whether any part of its construction or post-construction site storm water will discharge a pollutant of concern via storm water to a water body included in a State and Federal approved TMDL. If so, the permittee must 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. State and Federal approved TMDLs can be identified by contacting the DNR, or by searching for the State and Federal approved TMDL list on the DNR Internet site. The link to approved Final TMDLs is: http://dnr.wi.gov/org/water/wm/wqs/303d/Approved_TMDLs.html

Under Section 4.4.6, after determining whether the construction or post-construction site storm water discharge is included in a USEPA approved TMDL and determining that any TMDL wasteload allocation for the construction or post-construction site's discharge is not being met, the permittee is required to amend the erosion control and storm water management plans. The amended plans must 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 the general permit shall be deemed to be compliance with the TMDL.

4.8 Department Actions: The language in 4.8.2 was repetitive with 1.1.1.2. Therefore, 4.8.2 has been deleted and the remaining sections renumbered accordingly.

Additional Information

Further information on the general permit and the DNR's storm water permit program is available online at <http://dnr.wi.gov/runoff/stormwater/const.htm> or by contacting the appropriate DNR regional office or the DNR's Central Office at:

Wisconsin Department of Natural Resources
Storm Water Program
Runoff Management Section, WT/3
P.O. Box 7921
Madison, WI 53707-7921
Phone: (608) 267-7694

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