

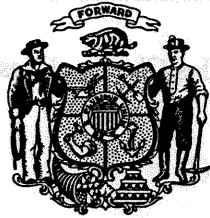
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC FORM 2 MAR 10 2000

**RULES CLEARINGHOUSE**

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 00-035**

AN ORDER to amend NR 216.002 (2), (8) and (12), 216.04 (5) (b) (intro.), 216.06 (1), (2) (a) and (8), 216.23 (9), 216.26 (2), 216.27 (3) (j) 1., 216.29 (7), 216.30, 216.41, 216.43 (1), (2), (4) and (6), 216.46 (2) and (4) (a), (f) and (g) and 216.55 (2) and (3); and to create NR 216.07 (7m), 216.27 (3) (hm), 216.42 (2m), 216.46 (1m) and (6) (i) and (j) and 216.47 (4), relating to stormwater discharge.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

02-10-00 RECEIVED BY LEGISLATIVE COUNCIL.  
03-08-00 REPORT SENT TO AGENCY.

RS:JES:rv;tlu

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

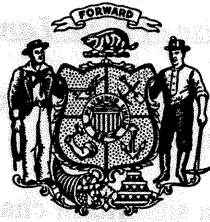
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 00-035

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### **2. Form, Style and Placement in Administrative Code**

- a. In s. NR 216.002 (12), "is" following "are" should be underscored and a comma should be inserted after the phrase "limited to."
- b. In s. NR 216.27 (3) (j) 1., the use of slashed alternatives is not preferred drafting style. [See s. 1.01 (9), Manual.]
- c. In the treatment of s. NR 216.43 (4) (a), there should be no comma before "or".
- d. The references to s. NR 216.46 (4) (a), (f) and (g) in the three SECTIONS that amend these three paragraphs are all incomplete as none of them include the section in ch. 216 in the rule text.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

The analysis accompanying the rule cites s. 283.33, Stats., as authorizing rule-making. This reference is unduly broad. The specific subsections within this section that establish the duty of the department to adopt rules, s. 283.33 (8) and (9), Stats., should be cited. In addition, if the department is relying upon either of the sections cited in the list of statutes interpreted as authority for promulgating this rule, then these statutes should be listed under the statutory

authority for the rule. Finally, the statutes interpreted should list all statutes that the department is interpreting in the rule.

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In s. NR 216.002 (2), it appears that the word “occur” should be inserted after the first occurrence of the phrase “construction activities.”

b. It is not clear who must make a significant change in discharge to waters of this state for the department to later designate additional municipalities for permitting under the inserted language in s. NR 216.04 (5) (b) (intro.).

c. The note following s. NR 216.06 (1) states that the cited construction site erosion control and storm water management model ordinances may help a municipality “obtain” the legal authority cited in sub. (1). Adoption of a model ordinance by a municipality does not confer legal authority on a municipality to regulate the specified storm water related activities; adoption of such an ordinance could be used to show that a municipality has asserted its legal authority to regulate these activities or to show the scope of its regulation of these activities.

d. In s. NR 216.06 (2) (a), “governmental” should be replaced with “government.”

e. To be consistent grammatically with the introduction in s. NR 216.07, the text of s. NR 216.07 (7m) should be a dependent clause rather than a complete sentence.

f. A number of the provisions in the rule refer to “performance standards of” a cited section. See, for example, ss. NR 216.07 (7m) and 216.27 (3) (hm). A clearer word choice would be to refer to performance standards *in* the cited sections.

g. The department should review the treatment of changing from a tier 1 to a tier 2 general permit under ss. NR 216.21 and 216.23 (6) and (9) to ensure that the rule achieves the department’s desired intent. Under s. NR 216.21 (2) (b) 10., a facility previously classified as a tier 1 discharger may be subsequently classified as tier 2 if the reclassification is done under s. NR 216.23 (6). However, s. NR 216.23 (6) only refers to a permittee covered by a tier 1 general permit requesting the department to consider converting its coverage to a tier 2 permit. The department’s determination on this request appears to be made under s. NR 216.23 (9), but sub. (9) does not cross-reference s. NR 216.23 (6) nor is it referenced in s. NR 216.21 (2) (b).

h. The department should review s. NR 216.27 (3) (hm) to ensure that its applicability is clear. The text of par. (hm) indicates that it applies to areas that were subject to s. NR 151.11 and, thus, the area specified in s. NR 151.11 (1). However, the performance standards in s. NR 151.12, as referenced in par. (hm), are applicable as stated in s. NR 151.12 (1) (a), which specify exceptions not in s. NR 151.11 (1).

i. The reference to the three-year record retention period in s. NR 216.29 (7) is vague. When does the three-year period begin?

j. There should be a semicolon before **“and”** in s. NR 216.41.

k. The verb **“manufactures”** in the note following s. NR 216.42 (2m) appears to be an incorrect word choice. Should this word be **“manufacturers”** or **“manufacturing”**?

l. The reference to the **“appropriate”** regional office of the department in s. NR 216.43 (6) is vague. Does the department mean the regional office for the region in which the construction site activity will occur?

Report to  
Legislative Council Rules Clearinghouse  
NR 216, Wis. Adm. Code  
Natural Resources Board Order No. WT-12-00

Wisconsin Statutory Authority

ss. 227.11(2)(a) and 281.16(2)(a), Stats., interpreting s. 283.33, Stats.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

This chapter establishes criteria and procedures for issuance of storm water discharge permits to certain construction sites, industrial facilities and municipalities, as required by s. 283.33, Stats., to limit the discharge of pollutants carried by storm water runoff into waters of the state. Chapter NR 216 is primarily being revised to incorporate nonagricultural performance standards in proposed ch. NR 151, subchs. II, III and IV. As revised, components of construction and municipal storm water discharge permits including storm water management programs, pollutant loading assessments, storm water pollution prevention plans, construction erosion control plans, and storm water management plans will need to meet the nonagricultural performance standards. Additional changes to this chapter are also being proposed to clarify the existing requirements of this chapter.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

Name and Telephone Number of Agency Liaisons

John Pfender, Bureau of Watershed Management - 266-9266  
Dan Graff, Bureau of Legal Services - 264-8527  
Carol Turner, Bureau of Legal Services - 266-1959

Submitted on February 10, 2000

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

**FISCAL ESTIMATE**  
2048 N(R10/94)

Subject

Amendment of Chapter NR 216

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No
- Decrease Costs

Local:  No local government costs

- Increase Costs
  - Permissive  Mandatory
- Decrease Costs
  - Permissive  Mandatory
- 3.  Increase Revenues
  - Permissive  Mandatory
- 4.  Decrease Revenues
  - Permissive  Mandatory

5. Types of Local Government Units Affected:

- Towns  Villages  Cities
- Counties  WTCS Districts
- School Districts  Others

and Sources Affected

- GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

**SUMMARY OF RULE** - This chapter establishes criteria and procedures for issuance of stormwater discharge permits to certain construction sites, industrial facilities, and municipalities, as required by s. 283.33, Stats., to limit the discharge of pollutants carried by stormwater runoff into waters of the state. Chapter NR 216 is primarily being revised to incorporate non-agricultural performance standards in proposed NR 151, subchapters II, III, and IV. As revised, components of construction and municipal stormwater discharge permits including stormwater management programs, pollutant loading permits, stormwater pollution prevention plans, construction erosion control plans, and stormwater management plans will need to meet the non-agricultural performance standards. Additional changes to this chapter are also being proposed to clarify the existing requirements of this chapter.

**FISCAL IMPACT** - There will not be any additional financial costs to either state or local governments to implement the proposed changes to NR 216, except those costs associated with meeting the performance standards of ch. NR 151. Since the additional fiscal impacts to state or local governments are due to implementation of ch. NR 151, the changes proposed to ch. NR 216 are assumed to have no cost to state or local governments. The frequency of reviewing erosion and sediment control plans and storm water management plans will continue at the same frequency. There will be no additional time spent on reviewing plans that will now be required to meet the performance standards under ch. NR 151.

**Note:** See the fiscal estimate for ch. NR 151 for the fiscal effects of implementing the performance standards of ch. NR 151.

Long-Range Fiscal Implications

15

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
NR	Joe Polasek	(608) 266-2794		(608) 266-2794	12/02/1999

**FISCAL ESTIMATE WORKSHEET**

**1999 Session**

Detailed Estimate of Annual Fiscal Effect  
 JOA-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.    Amendment No.  
 NR 216

Subject  
 Amendment of Chapter NR 216

**One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

Annualized Costs:	Annualized Fiscal impact on State funds from:	
State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes		
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
<b>TOTAL State Costs by Category</b>	<b>\$0</b>	<b>\$0</b>
State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR		
FED		
PRO/PRS		
SEG/SEG-S		
State Revenues: <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Rev.	Decreased Rev.
GPR Taxes		
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
<b>TOTAL State Revenues</b>	<b>\$0</b>	<b>\$0</b>

**NET ANNUALIZED IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
CHANGE IN COSTS	\$0	\$0
CHANGE IN REVENUES	\$0	\$0

Prepared By	Phone No.	Authorized Signature	Phone No.	Date
Joe Polasek	(608) 266-2794	<i>Joe Polasek</i>	(608) 266-2794	12/02/1999



**ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
AMENDING AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to amend NR 216.002(2), 216.002(8), 216.002(12), 216.04(5)(b)(into.), 216.06(1), 216.06(2)(a), 216.06(8), 216.23(9), 216.26(2), 216.27(3)(j)1., 216.29(7), 216.30, 216.41, 216.43(1), 216.43(2), 216.43(4), 216.43(6), 216.46(2), 216.46(4)(a), 216.46(4)(f), 216.46(4)(g), 216.55(2) and 216.55(3); and to create NR 216.07(7m), 216.27(3)(hm), 216.42(2m), 216.46(1m), 216.46(6)(i), 216.46(6)(j) and 216.47(4) relating to stormwater discharge permits.

WT-12-00

Analysis Prepared by Department of Natural Resources

Statutory authority: s. 283.33, Stats.

*← relevant in (5) & (9)  
✓ Pol. Stats. by rule*

Statutes interpreted: ss. 281.16(2)(a) and 227.11(2), Stats.

*Act 9 doesn't amend either*

Existing ch. NR 216 is being amended in response to two legislative acts, 1997 Wisconsin Act 27 and 1999 Wisconsin Act 9. These acts require significant changes to the department's Nonpoint Source Water Pollution Abatement Program and to the department of agriculture, trade and consumer protection's Soil and Water Resources Management Program. Amendment of ch. NR 216 is an integral part of promulgating a series of inter-related administrative rules to implement a re-design of Wisconsin's nonpoint source programs and related water regulations as set forth in these legislative acts. Other related components of this effort that are being conducted concurrently include: repeal and recreation of ch. NR 120, Nonpoint Source Pollution Abatement Program; creation of ch. NR 151, Runoff Management; creation of ch. NR 152, Model Ordinances for Construction Site Erosion Control and Storm Water Management; creation of ch. NR 153, Runoff Management Grant Program; creation of ch. NR 154, Best Management Practices and Technical Standards For Use With DNR Cost Share Programs and Non-Agricultural Performance Standards; repeal and recreation of ch. NR 243. The department of agriculture, trade and consumer protection is concurrently revising ch. ATCP 50, Soil and Water Resource Management, to incorporate changes in its programs required under 1997 Wisconsin Act 27 and 1999 Wisconsin Act 9.

Chapter NR 216 establishes criteria and procedures for issuance of stormwater discharge permits to certain construction sites, industrial facilities, and municipalities, as required by s. 283.33, Stats., to limit the discharge of pollutants carried by stormwater runoff into waters of the state. Chapter NR 216 is primarily being revised to incorporate non-agricultural performance standards in proposed NR 151, subchapters II, III, and IV. As revised, components of construction and municipal stormwater discharge permits including stormwater management programs, pollutant loading assessments, stormwater pollution prevention plans, construction erosion control plans, and stormwater management plans will need to meet the non-agricultural performance standards. Additional changes to this chapter are also being proposed to clarify the existing requirements of this chapter. Also, an exemption to the construction site permit fee is being removed so that now all construction sites conferred coverage under a construction site permit through subch. III of ch. NR 216 will have to pay an application fee.

1 SECTION 1. NR 216.002 (2) is amended to read:

2 NR 216.002 (2) "Construction site" means ~~a site~~ an area upon which one or more land disturbing  
3 construction activities affecting that in total will affect 5 or more acres of land ~~are occurring~~, including  
4 areas that are part of a larger common plan of development or sale where multiple separate and distinct  
5 land disturbing construction activities may be taking place at different times on different schedules but  
6 under one plan such that the total disturbed area is 5 or more acres.

7  
8 SECTION 2. NR 216.002 (8) is amended to read:

9 NR 216.002 (8) "Final stabilization" means that all ~~soil~~ land disturbing construction activities at  
10 the construction site have been completed and that a uniform perennial vegetative cover has been  
11 established with a density of 70% of the cover for the unpaved areas and areas not covered by permanent  
12 structures or that employ equivalent permanent stabilization measures.

13  
14 SECTION 3. NR 216.002 (12) is amended to read:

15 NR 216.002 (12) "Land disturbing construction activity" means any man-made change of the  
16 land surface resulting in a change in the topography, existing vegetative and non-vegetative soil cover or  
17 the existing soil topography which may result in storm water runoff and lead to increased soil erosion and  
18 movement of sediment into waters of the state. Land disturbing construction ~~activities include~~ activity  
19 includes, but ~~are~~ is not limited to clearing and grubbing, demolition, excavating, pit trench dewatering,  
filling and grading activities, but does not include agricultural land uses or silviculture activities.

20  
21 SECTION 4. NR 216.04 (5) (b) (intro.) is amended to read:

22 NR 216.04 (5) (b) (intro.) The department shall review the urban storm water planning area  
23 required in s. NR 216.05 (3), and any petition to designate other municipalities for permitting in  
24 accordance with s. NR 216.05 (4). If the department intends to designate any municipality in the  
25 watersheds of an applicant, according to s. NR 216.02 (4), it shall do so in the process of approving the  
26 preapplication. However, the department may later designate additional municipalities for permitting  
27 based on a significant change in discharge to waters of the state. The following time frame applies to the  
28 petition and designation process.

29  
30 SECTION 5. NR 216.06 (1) is amended by adding a note to read:

31 Note: Construction site erosion control and storm water management model ordinances that may  
32 help obtain this legal authority are available for voluntary use within ch. NR 152.  
33  
34

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- include  
no limit of  
5- petition

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whose  
change

2  
?

after the subsection 5. offer per (A)

1 SECTION 6. NR 216.06 (2) (a) is amended to read:  
2 NR 216.06 (2) (a) Identification and outline of the storm water drainage basins, the watersheds  
3 and municipal separate storm sewer systems. Other major municipal, governmental or privately owned  
4 storm water conveyance systems lying within, but not owned or operated by the permittee shall also be  
5 identified.

6  
7 SECTION 7. NR 216.06 (8) is amended to read:  
8 NR 216.06 (8) PROPOSED MANAGEMENT PROGRAM. A schedule to provide a proposed  
9 storm water management program that shall be developed and initiated during the term of the permit in  
10 accordance with s. NR 216.07(7) and (7m).

11  
12 SECTION 8. NR 216.07 (7m) is created to read:  
13 NR 216.07 (7m) PERFORMANCE STANDARDS. A storm water management program  
14 required by this section shall meet the performance standards of ss. NR 151.11, 151.12 and 151.13.

15  
16 SECTION 9. NR 216.23 (9) is amended to read:  
17 NR 216.23 (9) MOVEMENT TO TIER 2. The department may make the determination that a tier  
18 1 facility or an industrial activity defined under s. NR 216.21 (2) (a) has no significant exposure of  
19 pollutants listed under s. NR 216.27 (3) (i) and is more appropriately covered by a tier 2 general permit.

20  
21 SECTION 10. NR 216.26 (2) is amended to read:  
22 NR 216.26 (2) DATE OF APPLICATION. Persons proposing to discharge storm water within 6  
23 months after November 1, 1994 shall submit to the department a completed storm water permit  
24 application at least 30 days prior to the commencement of activities at the site. Persons proposing to  
25 discharge storm water after 6 months from November 1, 1994, or later, shall submit to the department a  
26 completed complete storm water permit application at least 6 months prior to the commencement of  
27 activities at the site.

28  
29 SECTION 11. NR 216.27 (3) (hm) is created to read:  
30 NR 216.27 (3)(hm) The SWPPP shall meet the performance standards of s. NR 151.12 for those  
31 areas that were subject to s. NR 151.11.

32  
33 SECTION 12. NR 216.27 (3) (j) 1. is amended to read:

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8  
9

Not // construction w/ NR 216.07(1A)(a)  
151.11 to 151.13

NR 216.21(1)(b) 10  
not included, see  
NR 216.27  
5/26/91

151.11(1) - Applicability  
Exceptions in 151.12(1)(a)

if Not subject to NR 151.11?

1 NR 216.27 (3) (j) 1. Storm water significantly contaminated with petroleum products shall be  
 2 treated for oil and grease removal by an adequately sized, designed and functioning wastewater treatment  
 3 device. Coverage under a separate individual permit or general permit is not required for discharges of  
 4 storm water from an oil/water treatment device ~~device~~ unless the department determines that coverage  
 5 under another WPDES permit is necessary.

6  
 7 SECTION 13. NR 216.29 (7) is amended to read:

8 NR 216.29 (7) RECORD RETENTION. Records required under this subchapter shall be retained  
 9 for either 5 years beyond the date of the cover letter notifying a facility of coverage under a storm water  
 10 permit, and or 3 years, whichever is later. Records shall be made available to the department upon  
 11 request.

12  
 13 SECTION 14. NR 216.30 is amended to read:

14 **NR 216.30 Industrial storm water discharge permit fees.** A storm water discharge permit fee  
 15 shall be paid annually by each industry holding a permit under this chapter or a wastewater discharge  
 16 permit that incorporates storm water management requirements under this chapter. Permit fees are due  
 17 June 30 of each year. ~~However, for 1994, the permit fees are due 60 days after November 1, 1994.~~ The  
 18 fee shall be:

19 (a) (1) \$200 for a tier 1 industrial general permit under s. NR 216.21 (2) (a), an industry-specific  
 20 general permit under s. NR 216.24 with tier 1 requirements, or an individual WPDES permit under s.  
 21 283.31, Stats., with tier 1 requirements; or

22 (b) (2) \$100 for a tier 2 industrial general permit under s. NR 216.21 (2) (b), an industry-specific  
 23 general permit under s. NR 216.24 or an individual WPDES under s. 283.31, Stats., with tier 2  
 24 requirements; or

25 (c) (3) \$0 for a tier 3 industrial general permit under s. NR 216.21 (2) (c); or

26 (d) (4) \$500 for an individual WPDES permit issued under s. 283.33 (1), Stats.

27  
 28 SECTION 15. NR 216.41 is amended to read:

29 **NR 216.41 Purpose.** The purpose of this subchapter is to establish criteria defining those  
 30 construction site activities that constitute discharges needing a WPDES storm water discharge permit for  
 31 landowners of construction sites that require coverage under a general WPDES permit for storm water  
 32 discharges, and the requirements for filing applications for WPDES storm water discharge permits for a  
 33 general WPDES permit application for a construction site activities, as required by s. 283.33, Stats.; to  
 34 prescribe the form of the applications general WPDES permit application pursuant to s. 283.37, Stats.;

287

5

1 and to specify the number of working days within which the department will indicate its intended action  
2 on a general WPDES permit application or request for modification, pursuant to s. 227.116 (1), Stats. and  
3 to specify the storm water erosion control and management that is required at construction sites regulated  
4 under this subchapter.

6 SECTION 16. NR 216.42 (2m) is created to read:

7 NR 216.42 (2m) SILVICULTURE. Storm water discharges from silviculture activities, including  
8 tree nursery operations, tree harvesting road construction and maintenance, tree harvesting site  
9 preparation, tree harvesting operations, reforestation, tree thinning, prescribed burning and pest control  
10 are not covered by this subchapter. Clearing and grubbing of an area of a construction site is not  
11 considered a silviculture activity.

12 Note: Certain lumber, wood and paper product manufactures may require coverage under an  
13 industrial general WPDES permit for storm water discharges pursuant to subchapter II. A silviculture  
14 activity may require approval pursuant to ch. 30 or 31, Stats., or an U.S. army corps of engineers section  
15 404 permit.

17 SECTION 17. NR 216.43 (1) is amended to read:

18 NR 216.43 (1) FORMS. A notice of intent shall be submitted on forms supplied by the  
19 department. Data submitted in the notice of intent forms shall be used as ~~the~~ the basis for ~~issuing storm~~  
20 ~~water discharge permits conferring coverage under the general WPDES permit for storm water~~  
21 ~~discharges. Different notice of intent forms are used to provide information form different sources of~~  
22 ~~storm water discharge.~~

24 SECTION 18. NR 216.43 (2) is amended to read:

25 NR 216.43 (2) OBTAINING FORMS. Notice of intent forms may be obtained from the ~~district~~  
26 regional offices of the department or by writing to the Department of Natural Resources, ~~WPDES Permit~~  
27 Section Storm Water Program - WT/2, Box 7921, Madison, WI 53707-7921.

29 SECTION 19. NR 216.43 (4) is amended to read:

30 NR 216.43 (4) APPLICATION FEE. ~~(a)~~ A storm water construction site application fee of \$200 shall  
31 be paid to the department with the notice of intent, excluding notices filed under s. NR 216.42 (3), or (4)  
32 ~~or this subsection.~~

strike placed  
No comma

~~(b) Construction sites receiving erosion control plan review and inspection by a county, city, village or town with an ordinance in effect prior to January 1, 1994 that establishes standards for erosion control at commercial building sites are exempt from the permit application fee.~~

SECTION 20. NR 216.43 (6) is amended to read:

NR 216.43 (6) FILING. Notice of intent forms shall be filed with the appropriate regional office of the department or with the Department of Natural Resources, WPDES Permit Section Storm Water Program - WT/2, Box 7921, Madison, WI 53707-7921.

SECTION 21. NR 216.46 (1m) is created to read:

NR 216.46 (1m) PERFORMANCE STANDARDS. The construction site erosion control plan shall meet the applicable performance standards of either s. NR 151.11 or 151.21.

Note: Section NR 151.11 applies to construction sites that are not transportation facilities and s. NR 151.21 applies to transportation facility construction sites.

SECTION 22. NR 216.46 (2) is amended to read:

NR 216.46 (2) HANDBOOK. The *Wisconsin Construction Site Best Management Practice Handbook* (WDNR Pub. WR-222 November 1993 Revision) contains limitations on suitable conditions where best management practices can be applied. Tributary area limitations on the use of practices for trapping sediment in channelized flow conflict with the practices suggested in the January 7, 1987 version of the State Model Construction Site Erosion Control Ordinance. Also, best management practices within ch. NR 154 may conflict with the *Wisconsin Construction Site Best Management Practice Handbook*. Where this occurs, the specifications contained in the *Wisconsin Construction Site Best Management Practice Handbook* shall take precedence over erosion and other pollutant control requirements contained in the State Model Construction Site Erosion Control Ordinance and in ch. NR 154.

SECTION 23. NR 216.46 (4) (a) is amended to read:

NR 216 (4) (a) Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a USGS 7.5-minute series topographic map.

SECTION 24. NR 216.46 (4) (f) is amended to read:

NR 216 (4) (f) Depth to groundwater, as indicated by soil natural resources conservation service soil information where available, except when permanent infiltration systems are used, the depth to groundwater shall be identified as outlined in sub. (5); and

2-10-94 (6)

5-w/has appropriate?

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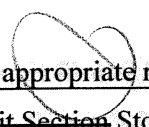
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Region in which construction site activity will occur



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2 SECTION 25. NR 216.46 (4) (g) is amended to read:

3 NR 216 (4) (g) Name of immediate named receiving water from the United States geologic  
4 service 7.5-minute-series topographic maps ~~or other appropriate source.~~

5  
6 SECTION 26. NR 216.46 (6) (i) <sup>and (j)</sup> is created to read:

7 NR 216.46 (6) (i) Locations of all surface waters and wetlands within one mile of the  
8 construction site.

9  
10 SECTION 27. NR 216.46 (6) (j) is created to read:

11 NR 216.46 (6) (j) Alphanumeric or equivalent grid overlying the entire construction site.

12  
13 SECTION 28. NR 216.47 (4) is created to read:

14 NR 216.47 (4) PERFORMANCE STANDARDS. The storm water management plan shall meet  
15 the applicable performance standards of either s. NR 151.12 or 151.22.

16 Note: Section NR 151.12 applies to sites that are not transportation facilities and s. NR 151.22  
17 applies to transportation facility sites.

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19  
20 SECTION 29. NR 216.55 (2) is amended to read:

21 NR 216.55 (2) OBTAINING FORMS. Notice of termination forms shall be obtained from the  
22 ~~district regional~~ offices of the department or by writing to the Department of Natural Resources, ~~WPDES~~  
23 ~~Permit Section~~ Storm Water Program – WT/2, Box 7921, Madison, WI 53707-7921.

24  
25 SECTION 30. NR 216.55 (3) is amended to read:

26 NR 216.55 (3) FILING. Notice of termination forms shall be filed with the Department of Natural  
27 Resources, ~~WPDES Permit Section~~ Storm Water Program – WT/2, Box 7921, Madison, WI 53707-7921.

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31 The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board  
32 on \_\_\_\_\_.

The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

(SEAL)

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