

3 02-081

STATE SENATOR JAMES BAUMGART

SENATE COMMITTEE ON INSURANCE, TOURISM AND
TRANSPORTATION
THE STATE CAPITOL
ROOM No. 306 SOUTH
Via Inter-Departmental Mail



Wisconsin Department of Transportation

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The Honorable DuWayne Johnsrud
Chairman, Assembly Committee on Natural Resources
323 North, State Capitol
Madison, WI 53702

October 9, 2002

The Honorable Senator Roger Breske
Chairman, Senate Transportation Committee
Room 18 South, State Capitol
Madison, Wisconsin 53702

OCT 10 2002

**RE: Proposed Administrative Rule
Chapter Trans 401
Clearinghouse Rule No. 02-081**

Gentlemen:

The Wisconsin Department of Transportation is submitting a germane amendment to **Section 51** of Clearinghouse Rule 02-081, relating to construction site erosion control and storm water management procedures for department actions.

As submitted, **Section 51** of Clearinghouse Rule 02-081, creating Trans 401.08(1)(ar), authorizes the Department of Transportation to hold a pre-construction conference within 14 days after the contractor submits an erosion control implementation plan ("ECIP") to the Department of Natural Resources for review, if the Department of Transportation provides written notice to the Department of Natural Resources that it intends to hold the pre-construction conference within that time.

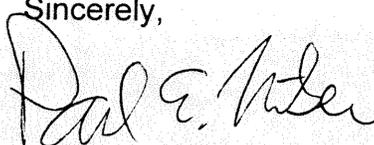
Clearinghouse Rule 02-081, Section 51, should be amended to allow the Department of Natural Resources 14 days to review and comment on the ECIP, and to require the Department of Transportation to convene a follow-up meeting within 7 days after receiving those comments to consider those comments with the prime contractor, the Department of Natural Resources and any other affected parties. This amendment is intended to ensure that under any circumstances the Department of Natural Resources has at least 14 days to review the contractor's ECIP, and has an opportunity to comment meaningfully on the ECIP, while avoiding the increased costs and project delays caused by postponing a pre-construction conference.

Accordingly, pursuant to § 227.19(4)(b)3, Stats., the Department proposes the germane modification to this proposed rule as shown on the attached page. Please replace **Section 51** on pp. 28 and 29 originally submitted with the attached replacement page.

The Senate Transportation Committee review period expires November 4, 2002, and the Assembly Committee review period expires October 25, 2002, unless otherwise waived.

Thank you for your consideration of this proposal.

Sincerely,



Paul E. Nilsen
Assistant General Counsel

Attachment

cc: Senator Judy Robson
Representative Glenn Grothman
Gary Poulson
Gary Whited
Carol Cutshall
Dan Scudder

“SECTION 51. Trans 401.08(1)(am) and (ar) are created to read:

Trans 401.08(1)(am) The prime contractor shall select best management practices from the matrix published under s. Trans 401.07(1m)(a) when preparing an ECIP. The prime contractor may not employ best management practices that are not specified in the matrix unless the department of transportation has specifically approved that use in writing.

(ar)1. The department of transportation may not hold a pre-construction conference until at least 14 days after the prime contractor delivered or mailed the ECIP to the department of natural resources, unless either of the following occurs before the pre-construction conference is held:

a. The district director of the department of transportation has notified the regional director of the department of natural resources in writing that the department of transportation intends to hold the pre-construction conference.

b. The department of natural resources consents to the pre-construction conference.

2. If the department of transportation holds a pre-construction conference within 14 days after the prime contractor delivered or mailed the ECIP to the department of natural resources, the department of natural resources shall have 14 days after the prime contractor delivered or mailed the ECIP to the department of natural resources to review the ECIP and deliver written comments to the department of transportation and to the prime contractor. At the earliest practicable time, but not more than 7 days after receiving such written comments, the department of transportation shall hold a conference with the prime contractor, the department of natural resources and any other affected parties to consider the department of natural resources' comments.”

(end)