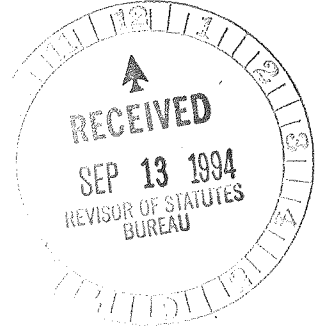


CR 94-109

CERTIFICATE



STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **construction site erosion control and storm water management procedures**, was duly approved and adopted by this Department on September 9, 1994.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 9 day of September, 1994.

Charles H. Thompson
CHARLES H. THOMPSON
Secretary

IN THE MATTER OF an Order Adopting Rule to **CREATE** ch. Trans 401, Wisconsin Administrative Code, relating to Construction Site Erosion Control and Storm Water Management Procedures.

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.075, 85.16(1), 85.19(1), 86.07(2), 114.31(7) and 227.11(2), Stats.

STATUTES INTERPRETED: ss. 20.395(9)(qx), 84.01(15), 84.015, 84.03(1), 85.08, 85.15, 85.19(1), 86.07(2) 86.16(1), 114.32, 114.33(4), 114.34 and 114.35, Stats.

General Summary of Rule. Both state and federal law require the development and implementation of erosion control and storm water management procedures for construction sites. The purpose of this rule is to establish erosion control and storm water management standards for construction sites under the jurisdiction or control of the Department.

As specified in s. 227.01(13)(d), (e) and (y), Stats., the definition of "rule" and the requirement to promulgate statements of general policy and interpretation of statutes as administrative rules do not apply to action or inaction of the Department which relates to the use of highways and is made known by signs or signals, relates to the construction or maintenance of highways or bridges (except as provided in ss. 84.11(1r) and 85.025), or prescribes measures to minimize the adverse environmental impact of bridge and highway construction and maintenance.

As specified in s. 30.12(4)(a) and (b), Stats., activities affecting waters of the state as defined in s. 144.01, Stats., that are carried out under the direction and supervision of the Department in connection with highway and bridge design, location, construction, reconstruction, maintenance and repair are not subject to the prohibitions or permit or approval requirements specified under ss. 29.29, 30.11, 30.12, 30.123, 30.195, 30.20, 59.971, 61.351, 62.231, 87.30 or ch. 144 or 147, Stats., unless the activity is not accomplished in accordance with interdepartmental liaison procedures established by the Department of Natural Resources and the Department for the purpose of minimizing the adverse environmental impact, if any, of the activity.

This rule will apply to actions administered by the Department that relate to airport, railroad, highway and bridge construction and maintenance projects for which plans are developed and which may cause a discharge of pollutants or sediments to waters of the state. This rule will also apply to actions by persons which require a permit from or the approval of the department and which may cause a discharge to waters of the state.

Fiscal Estimate. This rule will increase costs of projects administered by the Department in proportion to the potential impact on waters of the state and, therefore, will have a fiscal effect on the Department and local units of government.

It is anticipated that project costs will increase by up to 1.05% of total project let cost. Assuming that the Department lets 420 projects per year, additional annual costs would be approximately \$4.41 million.

The actual fiscal impact on local units of government will depend on the number of local projects administered by the Department and their proportionate share of total project costs.

Final Regulatory Flexibility Analysis. This rule will likely have an effect on small businesses performing work requiring a permit or approval from the Department.

Preparation and Copies of Rule. This analysis was prepared by Frederick G. Wisner of the Department of Transportation, Office of General Counsel (608) 266-8810, and Jon B. Novick of the Department of Transportation, Office of Environmental Analysis (608) 266-8287. A copy of the rule may be obtained upon request from Mr. Novick, P. O. Box 7916, Room 3-B, Madison, Wisconsin 53707-7916, telephone (608) 266-8287.

TEXT OF RULE

Pursuant to the authority under ss. 85.075, 85.16(1), 85.19(1), 86.07(2), 114.31(7) and 227.11(2), Stats., and interpreting ss. 20.395(9)(qx), 84.01(15), 84.015, 84.03(1), 85.08, 85.15, 85.19(1), 86.07(2), 86.16(1), 114.32, 114.33(4), 114.34 and 114.35, Stats., the department of transportation hereby creates a rule relating to construction site erosion control and storm water management procedures.

SECTION 1. Chapter Trans 401 is created to read:

CHAPTER TRANS 401

CONSTRUCTION SITE EROSION CONTROL AND

STORM WATER MANAGEMENT PROCEDURES FOR DEPARTMENT ACTIONS

TRANS 401.01 AUTHORITY. (1) This chapter is promulgated under the authority of ss. 85.075, 85.16(1), 85.19(1), 86.07(2), 114.31(7) and 227.11(2), Stats.

(2) As specified in s. 30.12(4)(a) and (b), Stats., activities affecting waters of the state as defined in s. 144.01, Stats., that are carried out under the direction and supervision of the department in connection with highway and bridge design, location, construction, reconstruction, maintenance and repair are not subject to the prohibitions or permit or approval requirements specified under ss. 29.29, 30.11, 30.12, 30.123, 30.195, 30.20, 59.971, 61.351, 62.231, 87.30 or ch. 144 or 147, Stats., unless the activity is not accomplished in accordance with interdepartmental liaison procedures established by the department of natural resources and the department for the purpose of minimizing the adverse environmental impact, if any, of the activity.

TRANS 401.02 PURPOSE. The purpose of this chapter is to:

(1) Establish and implement erosion control and storm water management standards for airport, railroad, highway and bridge construction and maintenance projects administered by the department.

(2) Establish and implement erosion control and storm water management standards for any action by a person which requires a permit from or the approval of the department.

TRANS 401.03 APPLICABILITY. (1) This chapter shall apply to the following actions:

(a) Any action administered by the department that relates to an airport, railroad, highway or bridge construction or maintenance project for which plans are developed and which may cause a discharge to waters of the state, including selected sites.

(b) Any action by a person which requires a permit from or the approval of the department and which may cause a discharge to waters of the state.

(2) With the exception of the use of erosion control and storm water management measures as required under s. Trans 401.06(1), this chapter does not apply to an action administered by the department that is considered routine maintenance or that addresses an emergency, nor does it apply to an action not administered by the department that involves the installation of a driveway by a person for residential use or agricultural use, as defined in s. 91.01(1), Stats.

NOTE: Actions administered by the department which are regulated by this chapter and subject to the department's liaison cooperative agreement with the department of natural resources are deemed to be in compliance with s. 147.021, Stats., and the requirements of NR 216.

TRANS 401.04 DEFINITIONS. In this chapter:

(1) "Best management practices" means structural or non-structural measures which are temporary or permanent measures, methods, procedures and devices employed to avoid or minimize soil, sediment and pollutant movement, or to manage storm water runoff, onto or off a site, developed in consultation with the department of natural resources.

NOTE: Best management practices that are applicable under this chapter are identified in the Wisconsin Department of Transportation specifications and manuals listed below. However, they are not all inclusive and others may be applicable to any given situation.

1. Sections 107.18, 107.19, 107.20 and 628 of the Standard Specifications for Road and Bridge Construction of the Wisconsin Department of Transportation. Copies of these sections may be obtained from the Wisconsin Department of Transportation, Office of Construction, P. O. Box 7916, Madison, Wisconsin 53707-7916.

2. Sections P-151, P-152, P-158, P-159, Division VII and Division VIII of the Standard Specifications for Airport Construction of the State of Wisconsin, Department of Transportation. Copies of these sections and divisions may be obtained from the Wisconsin Department of Transportation, Bureau of Aeronautics, P. O. Box 7914, Madison, Wisconsin 53707-7914.

3. Chapter 10 of the Facilities Development Manual of the Wisconsin Department of Transportation, Division of Highways. A copy of this chapter may be obtained from the Wisconsin Department of Transportation, Office of Design, P. O. Box 7916, Madison, Wisconsin 53707-7916.

4. Chapters 2 and 10 of the Highways Construction and Materials Manual of the Wisconsin Department of Transportation, Division of Highways. Copies of these chapters may be obtained from the Wisconsin Department of Transportation, Office of Construction, P. O. Box 7916, Madison, Wisconsin 53707-7916.

5. Chapter 47 of the Highways Maintenance Manual of the Wisconsin Department of Transportation, Division of Highways. A copy of this chapter may be obtained from the Wisconsin Department of Transportation, Office of Maintenance, P. O. Box 7916, Madison, Wisconsin 53707-7916.

(2) "Borrow site" means an area outside of a project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial pits.

(3) "Construction" or "maintenance" means, but is not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling or grading.

(4) "Contractor" means a prime contractor and any subcontractor of the prime contractor.

(5) "Corrective action" means the changes necessary, in conformance with best management practices, to existing practices or structures because of the failure of those practices or structures to avoid or minimize a discharge, and may include preventative maintenance of existing, or the implementation of, new or different erosion control and storm water management measures.

(6) "Department" means the Wisconsin department of transportation.

(7) "Design storm" means a selected precipitation pattern of specified amount, intensity, duration, and frequency.

(8) "Discharge" means the release of pollutants or sediments from a site as a result of erosion or storm water runoff.

(9) "Disturbed area" means an area on a site where construction or maintenance activity has or will take place resulting in the displacement of stable soils.

(10) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

(11) "Erosion control and storm water management measures" means either temporary or permanent erosion control and storm water management measures, or both.

(12) "Erosion control implementation plan" or "ECIP" means the erosion control implementation plan required under s. Trans 401.08.

(13) "Erosion control plan" means the erosion control plan required under s. Trans 401.07.

(14) "Infiltration system" means a device or practice that is designed to facilitate the percolation or penetration of surface water into underlying soil. It may include infiltration trenches or infiltration basins, but does not include grassed waterways such as roadside ditches.

(15) "Inspector" means an employe or authorized representative of the department assigned to make inspections.

(16) "Material disposal site" means an area outside of a project site which is used for the lawful disposal of surplus materials or materials unsuitable for use within the project site.

(17) "Permanent erosion control and storm water management measures" means those best management practices employed prior to, during and after completion of construction or maintenance activity.

(18) "Person" means an individual, institution, business, corporation, limited liability company, partnership, association, joint venture, governmental subdivision or

agency, or any other legal entity, except the term does not include the department, or its officers or employees acting in their official capacities.

(19) "Pollutant" has the meaning specified in s. 147.015(13), Stats.

(20) "Pre-construction conference" means a conference scheduled between the department, prime contractor and other invited persons prior to the commencement of construction or maintenance activity at a site.

(21) "Prime contractor" means a person authorized or awarded a contract to perform, either directly or through the use of subcontractors, all the work of a project administered by the department.

(22) "Project" means an action covered by this chapter.

(23) "Project diary" means a diary of a project's activities kept by a project engineer or inspector.

(24) "Project engineer" means an employe or authorized representative of the department who is in charge of the engineering details and the field administration of a project.

(25) "Project site" means the site of a project.

(26) "Responsible person" means the person having control over a project that is not administered by the department.

(27) "Runoff coefficient" means the fraction of total precipitation that will leave a site as storm water runoff based on land use, soil and drainage characteristics.

(28) "Section 404 permit" means a permit issued by the U.S. army corps of engineers under 33 U.S.C. 1344 of the clean water act, as amended.

(29) "Sediment" means the solid material, either mineral or organic, which is in suspension and being transported or has been deposited away from its original location.

(30) "Sedimentation" means the act or process of depositing sediment.

(31) "Selected sites" means any borrow site or material disposal site used exclusively for projects administered by the department.

(32) "Site" means the project site and selected sites, if any, unless the context clearly indicates otherwise.

(33) "Stabilize" or "stabilization" means using best management practices to avoid or minimize soil, sediment and pollutant movement onto or off a site.

(34) "Suspension of work" means the partial or complete suspension of the operations and work of a project, including the operations and work at the project site or at selected sites, if any.

(35) "Temporary erosion control and storm water management measures" means those best management practices employed during construction or maintenance activity.

(36) "Waters of the state" has the meaning specified in s. 144.01(19), Stats.

TRANS 401.05 BASIC PRINCIPLES OF EROSION CONTROL AND STORM WATER MANAGEMENT. A project shall be planned and implemented in accordance with the following basic principles of erosion control and storm water management:

(1) Investigate the site and design the project to avoid or minimize adverse effects which may be caused by erosion or a discharge to waters of the state.

(2) Design erosion control and storm water management measures for the project to:

(a) Avoid or minimize on-site erosion damage in order to avoid or minimize off-site sediment or pollutant accumulation that may result from a discharge.

(b) Protect the perimeter area of the site and the disturbed areas from erosion and pollutant accumulation that may result from off-site runoff.

(c) Reduce runoff velocities and retain sediments and pollutants on the site to the maximum extent practicable.

(3) Minimize the size of the disturbed area exposed at any one time and the duration of the exposure.

(4) Stabilize the disturbed area as soon as practicable.

(5) Establish a thorough preventative maintenance program which can be reasonably implemented as appropriate within the context of the standard specifications for the type of project being developed or through the use of special contract provisions.

TRANS 401.06 PERFORMANCE STANDARDS. A site shall meet the following standards:

(1) GENERAL. Erosion control and storm water management measures shall be employed to avoid or minimize soil, sediment and pollutant movement, or to manage storm water runoff, onto or off a site, including the avoidance or minimization of discharges to off-site areas, public sewer inlets and waters of the state. Where an erosion control and storm water management measure fails to adequately perform as intended, other such measures may be employed by a prime contractor or responsible person with the written approval or at the direction of the project engineer or inspector.

(2) REMOVAL OF TEMPORARY EROSION CONTROL AND STORM WATER MANAGEMENT MEASURES. At the direction of the project engineer or inspector, or as required by the project's erosion control plan or erosion control implementation plan, a prime contractor or responsible person, as appropriate, shall remove or cause the removal of all temporary erosion control and storm water management measures at a site when permanent erosion control and storm water management measures have been installed to the satisfaction of the project engineer or inspector or when the temporary

erosion control and storm water management measures are no longer required for the purpose intended as determined by the project engineer or inspector.

(3) TRACKING. Soils tracked by construction or maintenance equipment from a site onto a public or private paved roadway or sidewalk shall be minimized to the maximum extent practicable. To this end, a temporary roadway consisting of at least gravel or a hard surface may be constructed if deemed necessary and appropriate by the project engineer or inspector. Soils tracked onto a public or private paved roadway or sidewalk shall be cleaned or otherwise removed by the contractor or responsible person, as appropriate, in a manner consistent with this chapter within 24 hours or as directed by the project engineer or inspector after such tracking to prevent sedimentation of the tracked soils into waters of the state.

(4) SEDIMENT CLEANUP AND REMOVAL. Off-site sediment deposition occurring as a result of a discharge due to a storm event shall be cleaned up or otherwise removed by the contractor or responsible person in a manner consistent with this chapter and in a timely fashion as conditions allow at the direction of the project engineer or inspector. All other off-site sediment deposition occurring as a result of construction or maintenance activity shall be cleaned up or otherwise removed by the contractor or responsible person at the end of each work day.

(5) PUBLIC SEWER INLET PROTECTION. Downslope, on-site public sewer inlets, and downslope, off-site public sewer inlets reasonably subject to a discharge shall be protected by the contractor or responsible person, as appropriate, in accordance with best management practices.

(6) BUILDING MATERIAL AND OTHER WASTE DISPOSAL. All building materials and other wastes shall be properly managed and disposed of by the contractor

or responsible person, as appropriate, to prevent pollutants and debris from being carried off a site by wind or water runoff. No person shall permit any solid materials, including building materials, to be discharged in violation of chs. 30 and 31, Stats., or section 404 permit requirements. All building material and other solid wastes, including surplus materials from a project and materials not suitable for use on a project, shall be disposed of by the contractor or responsible person in accordance with all applicable federal, state and local laws, regulations, rules and ordinances relating to the disposal of solid wastes.

NOTE: For proper disposal of flammable, combustible, toxic materials and other hazardous substances, contact the local fire department.

(7) **GROUNDWATER LIMITATIONS.** When permanent infiltration systems are used, appropriate on-site testing shall be conducted to determine if seasonal high water is within 5 feet of the bottom of the proposed practice. If permanent infiltration structures are to be used and there is a municipal well within 100 feet or a non-public well within 400 feet, the groundwater flow must be identified in accordance with the provisions specified in either ch. NR 110 or 214.

(8) **PROHIBITED DISCHARGES.** 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 a structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

TRANS 401.07 EROSION CONTROL PLAN. In the case of a project administered by the department, the department shall prepare the erosion control plan for a project site and, in the case of a project not administered by the department, a responsible person shall prepare the erosion control plan for the project.

(1) GENERAL. (a) The erosion control plan shall be based on selected design storms and developed as part of a project's design.

NOTE: At a minimum, the 2-year, 24-hour rainfall design storm is used for the design of temporary erosion control and storm water management measures, and the 10-year, 24-hour rainfall design storm is used for the design of permanent erosion control and storm water management measures.

(b) The erosion control plan shall identify the best management practices to be employed prior to, during and after the completion of construction or maintenance activity, including the best management practices that will be employed to prevent pollution caused by storm water discharge after completion of the project.

(c) The erosion control plan may be prepared in written or pictorial format, or both formats, as necessary and appropriate to convey the design, intent, use and placement of erosion control and storm water management measures.

(d) 1. In the case of a project administered by the department, when the department of natural resources, through the liaison cooperative agreement procedures established by the department of natural resources and the department, identifies areas or resources that require added safeguards, the erosion control plan shall include such areas or resources and the specific added safeguards as determined in consultation with the department of natural resources.

2. In the case of a project not administered by the department, the responsible person shall consult with the department of natural resources to identify any areas or resources that require added safeguards. When the department of natural resources identifies areas or resources that require added safeguards, the erosion control plan shall include such areas or resources and the specific added safeguards as determined in consultation with the department of natural resources.

(e) The erosion control plan may be developed as a separate project document or in segmented form throughout the project's documents including, but not limited to, plans, special provisions, specifications and drawings.

(f) In the case of a project not administered by the department, the erosion control plan may not be implemented prior to its written approval by the department. A responsible person shall submit the erosion control plan to the department for its approval along with its request for a permit from or approval of the department for the project.

(2) CONTENT. The erosion control plan for a project site shall include, at a minimum, the following items:

(a) The quarter, quarter-quarter, section, township, range, and the county in which the site is located.

(b) A description of the site and the nature of the construction or maintenance activities.

(c) A description of the intended sequence of major activities which disturb soils for major portions of the site.

(d) Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction or maintenance activities.

(e) Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction or maintenance activities are completed.

(f) Any existing data describing the surface soil as well as subsoils on the site.

(g) The depth to groundwater, as indicated by soil conservation service soil information where available, except when permanent infiltration systems are used, appropriate on-site testing shall be conducted in accordance with s. Trans 401.06(7).

(h) The name of the immediate receiving waters, if any, from the United States geological survey 7.5 minute series topographic maps or other appropriate source.

(i) A site map which includes the following items:

1. Existing topography and drainage patterns, roads and surface waters.
2. Boundaries of the site.
3. Drainage patterns and approximate slopes anticipated after major grading activities.
4. Areas of soil disturbance.
5. Location of major structural and non-structural controls identified in the plan.
6. Location of areas where stabilization practices will be employed.
7. Areas which will be vegetated following construction or maintenance activities.
8. Wetlands, area and extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.

(j) A description of appropriate erosion control and storm water management measures which will be used or performed at the site to prevent sediments or pollutants reaching waters of the state. The plan shall clearly describe the appropriate erosion control and storm water management measures for each major activity identified and the timing during the construction or maintenance process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

1. Description of erosion control and storm water management measures, including a schedule for implementing them. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

2. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and discharges from the site. Unless otherwise specifically approved in writing by the department, structural measures shall be installed on upland soils.

3. Management of overland flow at the site, unless otherwise controlled by outfall controls.

4. Trapping of sediment in channelized flow.

5. Staging construction and maintenance to limit disturbed areas subject to erosion.

6. Protection of downslope drainage inlets where they occur.

7. Minimization of tracking at the site.

8. Clean up of off-site sediment deposits.

9. Proper disposal of building and waste material at the site.

10. Stabilization of drainage ways.

11. Installation of permanent stabilization practices as soon as possible after final grading.

12. Minimization of dust to the maximum extent practicable.

(3) AMENDMENTS. (a) No amendments shall be made by a prime contractor or responsible person to an erosion control plan unless approved in writing by the department.

(b) Subject to the written approval of the department, the erosion control plan for a project site shall be amended whenever:

1. There is a change in a contractor or responsible person that is responsible for land-disturbing activities at the site.

2. There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for a discharge to waters of the state and which has not been otherwise addressed in the plan.

3. The erosion control and storm water management measures required by the plan fail to reduce adverse impacts to waters of the state caused by a discharge.

(c) Any change to the erosion control plan under par. (b) shall be made by the prime contractor or responsible person, as appropriate. In the case of a project administered by the department, the department shall notify the department of natural resources of any such change to the erosion control plan within 24 hours of its approval by the department.

TRANS 401.08 EROSION CONTROL IMPLEMENTATION PLAN. A prime contractor shall prepare the erosion control implementation plan for a project.

(1) GENERAL. (a) An ECIP for a project shall be provided to the appropriate district office of the department and either delivered personally or mailed by registered or certified mail, return receipt requested, to the appropriate district environmental impact coordinator of the department of natural resources by the prime contractor at least 14 days prior to the pre-construction conference, or at a time otherwise agreed upon by the department, department of natural resources and prime contractor.

(b) The ECIP shall be used by a prime contractor in implementing the erosion control plan for a project.

(c) The ECIP shall be used by a prime contractor in developing and implementing erosion control and storm water management measures for selected sites, if any.

(d) The ECIP shall be prepared in a detailed, written and pictorial format which identifies the schedule, timing and methodology for a prime contractor's implementation of the project's erosion control plan.

(e) The ECIP shall detail any changes to the project's erosion control plan as approved in writing by the department.

(f) The ECIP shall include information on how and when erosion control and storm water management measures will be implemented in anticipation of the sizes and locations of the disturbed areas, and shall address erosion control and storm water management measures for each stage of a site.

(g) The ECIP shall provide for the removal of temporary erosion control and storm water management measures in accordance with s. Trans 401.06(2).

(h) The ECIP may not be implemented prior to its written approval by the department in consultation with the department of natural resources.

(2) CONTENT. (a) The ECIP shall include, at a minimum, the following items to complement the project's erosion control plan:

1. The name, address, telephone number, and principal contact of the contractor responsible for installation and maintenance of erosion control and storm water management measures at the sites.

2. A description of the intended timetable and sequence of major activities, such as grubbing, excavating or grading, which disturb soils for major portions at the sites.

3. A description of erosion control and storm water management measures, including a schedule for implementing them at the sites.

4. A description of any additions, amendments, deletions or modifications to the erosion control plan or any of the contract documents which pertain to erosion control and storm water management for the sites.

(b) The ECIP shall also include, at a minimum, a narrative and pictorial description of each of the selected sites, if any, and attendant erosion control and storm water management measures for the selected sites. If the combined area of all sites, including the project site, disturb 5 or more acres as determined by the department, the following items for each of the selected sites shall be included in the ECIP:

1. If known, the name and mailing address of the site.

2. The quarter, quarter-quarter, section, township, range, and the county in which the site is located.

3. The name, address, telephone number, and principal contact of the contractor or other person responsible for installation and maintenance of erosion control and storm water management measures at the site.

4. A narrative description of the site and the nature of the activities to be performed at the site.

5. A description of the intended sequence of major activities which disturb soils for major portions of the site.

6. An estimate of the total area of the site that is expected to be disturbed by construction activities.

7. Estimates, including calculations, if any, of the runoff coefficient of the site before and after completion of construction activities.

8. Any existing data describing the surface soil as well as subsoils at the site.

9. The depth to groundwater, as indicated by soil conservation service soil information where available, except when permanent infiltration systems are used, appropriate on-site testing shall be conducted in accordance with s. Trans 401.06(7).

10. The name of the immediate receiving waters, if any, from the United States geological survey 7.5 minute series topographic maps or other appropriate source.

11. A site map which includes the following items:

- a. Existing topography and drainage patterns, roads and surface waters.
- b. Boundaries of the site.
- c. Drainage patterns and approximate slopes anticipated after major grading activities.
- d. Areas of soil disturbance.
- e. Location of major structural and non-structural controls identified in the plan.
- f. Location of areas where stabilization will be employed.
- g. Areas which will be vegetated following construction.
- h. Wetlands, area and extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.

12. A description of appropriate erosion control and storm water management measures which will be used or performed at the site to prevent sediments and pollutants reaching waters of the state. The plan shall clearly describe the appropriate erosion control and storm water management measures for each major activity identified and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

a. Description of erosion control and storm water management measures, including a schedule for implementing them. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the department, structural measures shall be installed on upland soils.

c. Management of overland flow at the site, unless otherwise controlled by outfall controls.

d. Trapping of sediment in channelized flow.

e. Staging construction to limit bare areas subject to erosion.

f. Protection of downslope drainage inlets where they occur.

g. Minimization of tracking at the site.

h. Clean up of off-site sediment deposits.

i. Proper disposal of building and waste material at the site.

j. Stabilization of drainage ways.

k. Installation of permanent stabilization practices as soon as possible after final grading.

l. Minimization of dust to the maximum extent practicable.

13. An estimate of the starting and completion dates of construction activity.

14. A description of the procedures to maintain in good and effective operating condition, vegetation, erosion control and storm water management measures and other protective measures.

(3) AMENDMENTS. Subject to the written approval of the department, a prime contractor shall amend the ECIP whenever:

(a) There is a change in design, construction, operation or maintenance at a site which has the reasonable potential for a discharge to waters of the state and which has not otherwise been addressed in the plan.

(b) The erosion control and storm water management measures required by the plan fail to reduce adverse impacts to waters of the state caused by a discharge.

TRANS 401.09 MAINTENANCE OF EROSION CONTROL AND STORM WATER MANAGEMENT MEASURES. A prime contractor or responsible person, as appropriate, shall be responsible for the implementation, installation and maintenance of erosion control and storm water management measures at a site.

(1) PRIOR TO AND DURING CONSTRUCTION OR MAINTENANCE ACTIVITY. Prior to and during the period of construction or maintenance activity at a site, the prime contractor or responsible person shall implement, install and maintain, or cause to be performed, all erosion control and storm water management measures at the site, as required by the erosion control plan, the ECIP and the requirements of this chapter. The prime contractor or responsible person shall also implement any corrective action that is ordered as a result of an inspection. A responsible person shall notify the department at least 24 hours prior to the installation of erosion control and storm water management measures at a project site. After the installation of permanent stabilization of disturbed areas is completed at a site, the prime contractor or responsible person shall remove or cause the removal of all temporary erosion control and storm water management measures in accordance with s. Trans 401.06(2).

(2) AFTER CONSTRUCTION OR MAINTENANCE ACTIVITY. (a) In the case of a project administered by the department, when construction or maintenance activities are completed, the department shall make an inspection of the project site and of the selected sites; if any, to ensure that the permanent erosion control and storm water management measures are adequate and functioning properly. If the inspection of a site reveals that the erosion control and storm water management measures are not adequate or not functioning properly, the prime contractor, upon notification from the department or based on its own inspection and consultation with the department, shall promptly take the appropriate corrective action. Where the prime contractor proposes corrective action based on its own inspection of a site, the prime contractor shall immediately request approval from the department for such corrective action. Upon the department's written acceptance of permanent erosion control and storm water management measures at a site, the prime contractor's responsibility to maintain those accepted measures shall cease except for any responsibility for defective work or materials or for damages caused by its own operations.

(b) In the case of a project not administered by the department, a responsible person shall promptly notify the department upon completion of all construction or maintenance activities and the installation of all permanent erosion control and storm water management measures at a project site. Within a reasonable time after such notification by the responsible person, the department shall make an inspection of the project site to ensure that the permanent erosion control and storm water management measures are adequate and functioning properly. If the inspection of the project site reveals that the erosion control and storm water management measures are not adequate or not functioning properly, the responsible person, upon notification from the

department or based on its own inspection, shall promptly take the appropriate corrective action. Where the responsible person takes corrective action based on its own inspection of a site, the responsible person shall immediately notify the department of such corrective action.

NOTE: The maintenance procedures and inspection sequences within Chapter 3, Wisconsin Construction Site Best Management Practices handbook, are not adopted as a part of this chapter. The handbook is available through Document Sales, 202 South Thornton Avenue, P.O. Box 7840, Madison, Wisconsin 53707-8480; phone (608) 266-3358.

TRANS 401.10 INSPECTIONS. A project engineer or inspector shall make inspections of a project, including the project site and the selected sites, if any.

(1) **GENERAL.** Inspections shall be made by the project engineer or inspector to determine whether erosion control and storm water management measures for a project are implemented, correctly installed, and adequate and properly functioning for the purposes intended, and to identify any corrective action that is necessary at a site. Inspections shall continue until the installation of permanent stabilization of disturbed areas is completed and the temporary erosion control and storm water management measures are removed by the prime contractor or responsible person as provided by s. Trans 401.06(2).

(2) **CONDUCT.** Inspections shall be conducted in accordance with all of the following requirements:

(a) In the case of a project administered by the department:

1. At least once per week during the time construction or maintenance activity is being pursued on a site.

2. Within 24 hours after every precipitation event which produces 0.5 inches of rain or more during a 24-hour period, or which results in any discharge, to determine the

appropriate corrective action, if any. The department shall notify the department of natural resources within 24 hours of any known discharge into waters of the state.

3. At each stage, as new portions of a site are disturbed, when the installation of permanent stabilization of disturbed areas is completed at a site, and at the completion of the project. The inspection to be performed at the completion of the project shall be made prior to final payment to the prime contractor.

(b) In the case of a project not administered by the department, at least once per week during the time construction or maintenance activity is being pursued on a project site.

(3) CORRECTIVE ACTION. The project engineer or inspector shall, by written notice, inform the prime contractor or responsible person whenever an inspection of a site reveals the need for changes or corrections to existing erosion control and storm water management measures. Upon receipt of such written notification, which shall indicate the need for changes or corrections to existing erosion control and storm water management measures, the contractor or responsible person shall implement, or cause to be implemented, the necessary corrective action within 24 hours or as directed by the project engineer or inspector. The prime contractor or responsible person shall return the written notification to the project engineer or inspector upon completion of the corrective action and indicate thereon a description of the corrective action implemented and the date completed.

(4) REPORT. All inspections shall be documented by a written report. The written report may be included as part of a project diary and shall contain all of the following:

(a) The date or dates of inspection.

(b) Any comments concerning the effectiveness of in-place erosion control and storm water management measures.

(c) Any reasonable corrections needed to maintain or increase the effectiveness of existing erosion control and storm water management measures.

(d) Notes on any verbal communications between the project engineer or inspector and the contractor or responsible person regarding erosion control and storm water management.

(5) REVIEW. The department shall maintain copies of the written inspection reports which require corrective action on a site, either separately or as part of the project diary, for review by other agencies and the public.

(6) RECORDS. After a project is completed and the final inspection has been made, copies of the written inspection reports shall be maintained by the department in the project's files, or with the project's permit application or approval document, if any.

TRANS 401.11 ENFORCEMENT. The project engineer and inspector shall have the authority to enforce the provisions of this chapter. This authority shall include, but not be limited to, ordering the suspension of work on a project, including work at the project site or at any selected sites, for such period or periods of time as deemed necessary in the interest of public safety or convenience, or for such period or periods of time as deemed necessary due to the failure on the part of a contractor or responsible person to comply with any or all of the requirements of this chapter, including the failure of a prime contractor or responsible person to implement within the prescribed time period a corrective action ordered in response to an inspection.

(END OF RULE TEXT)

Effective Date. This 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), Stats.

Signed at Madison, Wisconsin, this 9 day
of September, 1994.



CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation