

STATEMENT OF SCOPE

Department of Commerce

Rule No. : Chapters Comm 2, 5, 20, 21, 60, 61 and 82

Relating to : Erosion and sediment control and storm water systems

1. Description of the objective of the rule.

In order to comply with the statutory mandate for inspection of erosion control activities and structures at construction sites as written in s. 101.1205 (3), Wis. Stats., the objective of the proposal is to update the department's administrative rules relating to erosion and sediment control and storm water management while primarily focusing on inspection and enforcement. This code update may result in one or more rule packages to be presented for public hearings, and may include minor changes to other department rules relating to erosion and sediment control and storm water management.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

Chapters Comm 2, 20, 21, 60 and 61 currently cover erosion and sediment control and storm water management on building sites. Comm 82 includes requirements for plumbing post construction storm systems. Chapter Comm 5 covers credentials issued by the department. The current rules of Chapters Comm 21 and 60 include references to many standards shared with the department of natural resources (DNR) and reflect the shared responsibility for erosion and sediment control and storm water management.

The erosion and sediment control and storm water management code has been updated with an effective date of April 1, 2007. The April 1, 2007 revision implements Federal requirements contained in Phase II of the Clean Water Act. This code project will update administrative processes to increase effective enforcement and implementation of existing standards and may also update erosion and sediment control and storm water management requirements to reflect changing technology.

The alternative of not updating these chapters would result in administrative rules that are not consistent with currently recognized national standards and practices related to erosion and sediment control and storm water management and to impede progress concerning the effectiveness of department inspection and enforcement processes.

3. Statutory authority for the rule.

Section 101.02 (15)(h) to (j), 101.1205, 101.653 and 145.02, Stats.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule.

The department estimates that it will take approximately 500 hours to develop this rule. This time includes reviewing the current codes and related DNR and federally-accepted standards and facilitating

meetings to assess options for inspection and enforcement, then drafting the rule and processing the rule through public hearings, legislative review and adoption. The department will assign existing staff to perform the review and develop the rule changes. There are no other resources necessary to develop the rule.

5. Description of all of the entities that will be affected by the rule.

This rule will affect any entity that is involved with the erosion and sediment control and storm water management industry.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Under the Federal Clean Water Act, the Environmental Protection Agency has established erosion and sediment control regulations, 40 CFR Parts 9, 122, 123 and 124, for land disturbing activities involving one or more acres at construction sites. The regulations establish a permitting process under the National Pollutant Discharge Elimination System, NPDES, that may be implemented by state jurisdictions. The regulations require the design, implementation and maintenance of best management practices to improve water quality by reducing pollutants in storm water runoff.

The Department of Natural Resources under chapter NR 216 implements the EPA permitting process mandate in Wisconsin. Under section NR 216.42 (4), the Department of Natural Resources recognizes commercial building construction falling under Department of Commerce rules as complying with the Wisconsin Pollutant Discharge Elimination System permitting. That recognition in turns helps to achieve the state's implementation of the EPA permitting process for construction site erosion control.

Approved for publication in the Wisconsin
Administrative Register at Madison, Wisconsin,
this date: _____

Approved for implementation at Madison,
Wisconsin, this date: _____

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Mary P. Burke, Secretary

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