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## **History of Erosion and Stormwater Rules in IHLR, Comm, SPS Codes**

**1987** - Newly promulgated rules contained in Phase II of the EPA's Clean Water Act require that states implement rules to reduce non-point source pollution originating from construction sites. Rules pertain to the discharge of sediment from active construction sites as well as the increased rates and volumes of stormwater discharged from new developments in the post construction phase.

**1992** - The first erosion control rules are implemented in the IHLR administrative code for one and two family dwellings, Uniform Dwelling Code (UDC).

**ILHR 20.10** included the following authorizations of a UDC inspection agency as part of the required inspections:

- shall order all cited violations of erosion control procedures under s. IHLR 21.125 corrected within 72 hours after written notification.
- may issue a special "stop work" order for failure to comply with a corrective order relating to erosion control measures.

**IHLR 20.07 (8m)** defined "Best Management Practices" and recognized the methods described in Chapter 3, Wisconsin Construction Site Best Management Practices Handbook, published by the Wisconsin DNR as acceptable.

**IHLR 21.125** introduced performance standards to be implemented at all residential construction sites for erosion control practices to "prevent or reduce erosion where erosion during construction will result in a loss of soil to waters of the state, public sewer inlets or off-site". In most cases these standards are satisfied by following the Best Management Practices described in the DNR's handbook.

**IHLR 21.125** requires that erosion control measures be properly implemented, installed and maintained by the permit applicant or subsequent landowner in a manner necessary to meet the performance standards. Measures must remain in place until the site is stabilized. Code contains requirements for the clean-up of off-site sediment deposition and a proscribed time frame for compliance.

**1995** – Rules for construction site erosion control and post – construction stormwater management are introduced into the IHLR Commercial Building Code for public buildings and buildings used as places of employment.

**IHLR 50.115** required that a notice of intent (NOI) for coverage under a Wisconsin Pollutant Discharge Elimination System General Permit for storm water discharges associated with construction activities be filed by the landowner for a construction project that disturbs **5 acres**

or more of land. Code requires that a construction site soil erosion control plan and storm water management plan shall be prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the DNR's Best Management Practices Handbook.

**IHLR 50.115** required that the erosion control plan and the stormwater management plan be prepared in accordance with NR 216.46 and 216.47 prior to the filing of the notice of intent. The code also required the landowner to implement and maintain the erosion control plan throughout the construction period until the site was stabilized in accordance with s. NR 216.55. The code also provided for additional monitoring and reporting requirements of the landowner.

**IHLR 50.115** authorized the department to perform inspections and enforce the provisions of the section of the code for violations. The code also established requirements for NOIs to be filed with the department (or with a municipality certified by the department).

## **1999**

**Comm 20.09(4)** established additional items to be shown on the site plan / erosion control plan submitted with the UDC permit application (requires erosion control measures to be shown on plan).

**Comm 20.10(1)5.** added more specific parameters for the inspection of erosion control measures and the issuance of correction orders. The code calls for erosion control inspections to be performed concurrently with all other required construction inspections.

## **2001**

**Comm 21.125** required that perimeter erosion control measures shall be placed within 24 hours after beginning excavation. The code also required that sites with slopes of 12% or greater with a downslope length of 10 feet or more, are not considered stabilized with seed and mulch without the additional use of an approved tackifier, netting, or matting. The code also required the installation of an approved non-tracking access roadway.

## **2002**

**Comm 50.115** renumbered to **Comm 61.115 Enrolled Commercial Building Code**

## **2004**

**Comm 20.125** added language requiring the dismantling and removal of erosion control measures from the site after site stabilization.

## **2006**

**Comm 60** Created as a stand-alone chapter of commercial code entitled: **Erosion Control, Sediment Control and Storm Water Management**

- Required submittal from the landowner of a Notice of Intent (NOI) with the department for all commercial building sites when land disturbing activities involve **one** or more **acres**.
- Requires the submittal from the landowner of a Notice of Termination with the department upon site stabilization.
- Required additional criteria for erosion control plans and stormwater management plans.
- Expanded the description of “mandated practices” for erosion and sediment control on commercial building sites.
- Stated that the submittal of an NOI to the department constitutes an application for coverage under the general permit issued by the DNR pursuant to s. 283.33 Stats., and NR 216.
- Contained the note from the DNR code which states that sites with an NOI submitted to the department are deemed to hold a WPDES permit issued by the DNR and are subject to DNR enforcement for violations of permit conditions.
- Established performance standards for a maximum allowable annual soil loss for an active construction site. Standard is based on the accepted and recognized soil loss model RUSLE2 developed by the USDA for construction sites. RUSLE soil loss calculation built into the department’s online NOI submittal process. Allowed for soil loss calculations by other analytical models.
- Required that stormwater management practices be employed in accordance with NR 151.12 and maintained when the land disturbing construction activity involved one or more acres.

**Comm 20.085** is added, stating that an NOI shall be filed with the department for residential construction sites disturbing an acre or more of land. This section states that the UDC permit and the submission of the erosion control plan under Comm 20.09 shall constitute the NOI process.

**Comm 20.09** removed language calling for slope specific requirements in the erosion control plan. Additional language provides other specific requirements for erosion control plans.

## **2007**

**Comm 21.125** explicitly states that erosion and sediment practices shall be employed and maintained to prevent or reduce the potential deposition of soil or sediment to waters of the state, and adjacent properties.

- Specific mandated practices introduced in the code to prevent or reduce deposition of soil or sediment from residential construction sites. Performance standards mirroring those in the commercial building code are included. Monitoring and maintenance requirements are established, mirroring those found in the commercial code.

**Comm 21.126** is created requiring that stormwater management practices be employed in accordance with NR 151.12 and maintained when the land disturbing construction activity involved one or more acres.

**2010** – Responsibility and jurisdiction for the enforcement and administration of the rules pertaining erosion control and post construction stormwater management on commercial building sites disturbing one acre or more of land is transferred from the department to the DNR.

### **2011**

**Comm 60** removed from the department's administrative code.

### **2013**

**DNR** rules are amended clarifying that the responsibility for enforcement and administration of erosion control and post construction stormwater management *for all building construction sites (residential and commercial) that disturb an acre or more of land* are the sole jurisdiction of the DNR.

**SPS 320.09 and 321.125** DSPS retains the responsibility for enforcement and administration of erosion control rules for all building construction sites disturbing less than an acre of land.

**Note:** Pursuant to 2013 Wisconsin Act 20, the Department of Natural Resources was given state authority over erosion control at all construction sites with one acre or more of land disturbance, including commercial building sites and one- and two- family dwellings. For this reason, the exemptions under subs. (4) and (9) no longer apply and construction site permit coverage must be obtained through the Department of Natural Resources.