



BUREAU OF WATERSHED MANAGEMENT
PROGRAM GUIDANCE
STORMWATER AND WATERWAY PROGRAM

**STORMWATER CONSTRUCTION SITE GENERAL PERMIT
COVERAGE FOR WETLAND CONSERVATION PROJECTS
MAY 2007**

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APPROVED:

Russ Rasmussen, Director
Bureau of Watershed Management

Date

GUIDANCE PURPOSE

This memo establishes statewide policy for the following:

1. Clarification when a separate Storm Water Notice of Intent (NOI) general permit application, under ch. NR 216, Wis. Adm. Code, is *not* required for wetland conservation projects and when the NOI application submission and fee is required for these projects.
2. Clarification on the authorization of wetland conservation activities as outlined in s. NR 353.05, Wis. Adm. Code, for those projects that qualify for the general permit in s. NR 343.07(3)(b), Wis. Adm. Code.

Notice of Intent (NOI) – Chapter NR 216, Wis. Adm. Code, storm water construction site general permit coverage for wetland conservation activities.

NOI NOT REQUIRED – Chapter NR 216, Wis. Adm. Code, permit coverage is conferred for wetland conservation activities outlined in s. NR 353.05, Wis. Adm. Code, that are eligible under s. NR 343.07(3)(b), Wis. Adm. Code, for a wetland conservation general permit if all general permit standards are met. In short, we have to have ch. 30, Wis. Stats., authority via administrative code chs. NR 343 or 401, Water Quality Certification (WQC), as these are our jurisdictional mechanisms to issue a general permit for these projects.

Note: If a project does not fall under our ch. 30 jurisdiction, or if there are portions of the project in the upland that are outside ch. 30 jurisdiction and the disturbance is 1.0 or more acres, a NOI is required for that portion of the project.

Section NR 216.42(6), Wis. Adm. Code, allows Other Environmental Programs to manage the stormwater requirements for this program if they are at least as stringent as ch. NR 216. The standard in ch. NR 343 is the same requirement as ch. NR 216. Specifically, s. NR 343.07(3)(a)1., Wis. Adm. Code, states “The site shall meet the construction site performance standards of s. NR 151.11 for land disturbing activities for non-transportation projects and s. NR 151.23 for transportation projects.”

Note: It is recognized that many of these wetland conservation projects are internally drained and therefore, will have minimal erosion control required as the project design is to contain runoff during a runoff event. Site stabilization, at a minimum, will require a temporary seeding, which can also assist in the minimization of invasive plants. However, portions of the project that may not be internally drained, for example, berm exteriors, access roads and stockpiles, will require standard erosion control practices.

NOI REQUIRED– If there is no ch. 30 authority over the project and the project includes a land disturbing activity of 1.0 or more acres. Specifically, the Storm Water NOI application form and fee is required for any person required to obtain coverage under the construction site permit.

Note: In the future, ch. NR 353, Wis. Adm. Code, language will be reworked to include ch. NR 216, Wis. Adm. Code, requirements and also cover those projects that do not require a ch. 30 permit.

Authorizing wetland conservation activities under a general permit in chapter NR 343, Wis. Adm. Code – Ponds & Artificial Waterways

The general permit for wetland conservation practices is created under the authority of s. 30.19(3r)(b), Wis. Stats., because wetland conservation practices (listed in s. NR 353.05, Wis. Adm. Code) involve construction, dredging, enlargement of ponds and similar artificial water bodies connecting in any way or within 500 feet of any navigable water that requires a permit under s. 30.19(1g), Wis. Stats. Section NR 353.05, Wis. Adm. Code, lists specifically authorized wetland conservation activities that all result in or directly facilitate the activities regulated by s. 30.19(1g), Wis. Stats., (e.g., scrapes, ditch plugs, water level control, and attached water monitoring or measuring devices). Concurrent activities with such construction (e.g., intake or outfall, dredging, grading, dams, and wetland fill) may also require authorization under ss. 30.12, 30.20, 31.02, 31.12 and 281.36, Wis. Stats. Chapter NR 343, Wis. Adm. Code, creates a general permit for any pond or artificial water meeting the standards of ss. NR 343.04 and 343.05, Wis. Adm. Code. In turn, the standards of ss. NR 343.04 and 343.05, Wis. Adm. Code, were promulgated under the authorities of ss. 30.12, 30.20, 31.02, 31.12 and 281.36, Wis. Stats. – and so they ensure that projects eligible for the general permit under ch. NR 343 also meet the decision standards of the other laws and rules that apply to such projects.