

**FREQUENTLY ASKED QUESTIONS**  
**Related to Transfer of Regulation of Commercial Building Construction Sites to DNR**  
**December 2009**

*1. How will regulation of erosion control and post-construction stormwater management at commercial building construction sites change on January 1, 2010?*

On January 1, 2010, responsibility for soil erosion and sediment control administration and enforcement for commercial building sites will transfer from the Wisconsin Department of Commerce (Commerce) to the Wisconsin Department of Natural Resources (DNR). This transfer takes place because 2009 Wisconsin Act 28, the 2009 state budget legislation, moved current s. 101.1205, Wis. Stats., commercial building construction site soil erosion and sediment control statutory language, to s. 281.33, Wis. Stats., and made other related changes to state law.

Starting on January 1, 2010, the State's requirements for soil erosion and sediment control at commercial building construction sites will be administered by the DNR.

*2. How do I submit a Notice of Intent (NOI) for a commercial building construction site beginning January 1, 2010?*

A Notice of Intent (NOI) is an application for coverage under the Wisconsin Pollutant Discharge Elimination System (WPDES) storm water discharge general permit. All NOIs for commercial building construction sites disturbing one acre or more of land must be submitted to the DNR using the DNR's **Water Resources Application for Project Permits** form (3500-053 (R 08/09)) (equivalent to an NOI). This form can be found at <http://dnr.wi.gov/runoff/stormwater/constrforms.htm>. All sites will be evaluated by the DNR for potential impacts to threatened and endangered species, wetlands, and historic landmarks. The fee schedule found in the instructions for form 3500-053 will apply to commercial building construction projects.

*3. Will NOIs submitted to Commerce prior to January 1, 2010 still be valid?*

Sites for which an NOI was submitted to Commerce are covered under the WPDES general permit for a maximum of three years after the date that the NOI was acknowledged by Commerce. If land disturbing construction activities continue or start on a date after that permit coverage expires, then a new NOI will need to be submitted to DNR at least 14-working days prior to the end of that 3-year period..

*4. How will erosion control for one- and two-family dwellings be regulated beginning January 1, 2010?*

Erosion control for one- and two-family dwellings will continue to be regulated by Commerce under chs. Comm 20 and 21, Wis. Adm. Code.

*5. Section NR 216.44 (1), Wis. Adm. Code, requires that an NOI shall be submitted so that it is received by the DNR at least 14 working days prior to the commencement of land disturbing construction activities. Section Comm 60.12 (1) (b), Wis. Adm. Code, requires an NOI be submitted at least 7 days prior to commencement of land disturbing construction activity. Which time period will apply to commercial building construction sites regulated by DNR beginning January 1, 2010?*

Because commercial building sites will be covered under the DNR's WPDES storm water discharge general permit through the process outlined in ch. NR 216, Wis. Adm. Code, the 14 working day waiting period will apply.

*6. Will certified municipalities continue to enforce ch. Comm 60, Wis. Adm. Code beginning January 1, 2010?*

Municipalities that were certified to serve as agents for Commerce will continue to enforce ch. Comm 60, Wis. Adm. Code, in accordance with the original agreement with Commerce unless this certification is revoked by DNR.

*7. Will my soil erosion inspector credential or Commercial Building Inspector credential continue to be recognized for inspecting commercial building construction sites for soil erosion beginning January 1, 2010?*

For delegated municipalities, all credentials obtained through the ch. Comm 5, Wis. Adm. Code, process administered by the Department of Commerce will continue to be recognized by DNR. All inspections performed for the purposes of enforcing ss. Comm 60.14 and 60.15, Wis. Adm. Code, must still be performed by persons certified in accordance with ch. Comm 5, Wis. Adm. Code, as a soil erosion inspector or commercial building inspector.

8. *Chapter Comm 60, Wis. Adm. Code, has requirements for commercial building construction sites that disturb less than 1 acre while ch. NR 216, Wis. Adm. Code, only regulates sites that disturb one acre or more. Will commercial building construction sites that disturb less than an acre still be regulated beginning January 1, 2010?*

Commercial building construction sites that disturb less than one acre will continue to be regulated under ch. Comm 60, Wis. Adm. Code, beginning January 1, 2010 until DNR revises its rules to address land disturbing sites that are less than one acre.

9. *Who will be responsible for plan review and inspection of commercial building construction sites for erosion control beginning January 1, 2010?*

Certified municipalities will still be responsible for plan review and inspection of commercial building construction sites within their municipality for compliance with ch. Comm 60, Wis. Adm. Code, in accordance with their agreement with Commerce. DNR personnel will be responsible for plan review and inspection of commercial building construction sites that are not within the boundaries of a municipality certified under s. Comm 60.11, Wis. Adm. Code. However, NOIs for commercial building construction sites involving an acre or more of land disturbance must be submitted to DNR, regardless of whether or not they are located within a certified municipality.

For additional questions related to the transfer of regulation of erosion and sedimentation from commercial building construction sites from Commerce to DNR contact:

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