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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

JAN 7 1994

MEMORANDUM

SUBJECT: Approach Taken By Michigan to Regulate Storm Water Discharges from Construction Activities

FROM: Michael B. Cook, Director
Office of Wastewater Enforcement and Compliance

TO: Water Management Division Directors, Regions I - X
State NPDES Directors

I wanted to bring to your attention the approach that Michigan has used to regulate storm water discharges from construction activities. The Michigan approach uses the localities as the main regulators, but also assures that Michigan, as the NPDES permitting authority that receives the notice of intent (termed notice of coverage by Michigan) under the general permit, can track and exercise oversight, as appropriate, over the activity. This certainly is not the only approach that can be used, and is likely not unique to Michigan. It has the merit of building on a local program, thereby optimizing use of State and local resources. The following describes the State's approach and how the process works.

Michigan issues general permits for storm water discharges from construction activities as a permit by rule (PBR). Michigan issued revised regulations in late 1992 that establish a separate section, R. 2190, for the PBR.[1]

Michigan's goal under its permit by rule contained in R. 2190 is to utilize an existing erosion and sediment control program and infrastructure authorized under a State law, Act 347, for storm water discharges from construction activities. Act 347

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[1] General permits for storm water discharges for all industrial activities other than construction activities and for non-storm water discharges in Michigan will be issued as a general permit under R. 2191/2192 of the State's baseline NPDES program regulations. EPA worked with the State on a single program submission covering both general permits for construction and for base program regulation changes. EPA approved Michigan's general permit program modification on November 29, 1993.

is implemented by local government entities. This approach requires an existing soil erosion and sedimentation control plan that will be supervised by a storm water operator who has been certified by the State as properly qualified to implement the appropriate soil erosion and sediment measures.

How Will the PBR Work?

o Permittees must first be covered under Michigan's Act 347 requirements before applying for notice of coverage under the general permit/PBR.

o Permit applications (notice of coverage) under the PBR will be submitted to Michigan.[2]

o The State has issued the PBR and can reissue, modify, deny, and revoke it. The PBR requires compliance with the existing erosion and sediment control program authorized by Act 347. The Notice of Coverage under the PBR requires citation of Act 347 permit information.

o These "Act 347" permit requirements contained in the PBR can be enforced by Michigan. However, the State looks upon the local entities as the initial level of enforcement of the Act 347 permit.

I am attaching a copy of materials that Michigan provides to parties interested in the permit by rule.

If you have any questions on this matter, please call me at 202-260-5850 or have your staff contact Shirley Dorrington at 202-260-6961.

Attachments

cc: Ken Kirk, AMSA
Robbi Savage, ASIWPCA

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[2] Michigan has reorganized certain parts of its executive branch, including the NPDES program. EPA is working with the State in dealing with any potential program modifications that may be necessary.

NATURAL RESOURCES COMMISSION
LARRY DEVUYST
PAUL EISELE
GORDON E. GUYER
JAMES P. HILL
DAVID HOLLI
O. STEWART MYERS
JOEY M. SPANO

STATE OF MICHIGAN

JOHN ENGLER, Governor

DEPARTMENT OF NATURAL RESOURCES

Stevens T. Mason Building, P.O. Box 30028, Lansing, MI 48909

ROLAND HARMES, Director

November 18, 1992

TO PERSONS INTERESTED IN THE STORM WATER PERMITTING PROGRAM:

Michigan's permit-by-rule for construction activities took effect on November 13, 1992. This rule allows storm water discharges from construction activities to be authorized as under federal regulations.

The Clean Water Act Amendments of 1987 required that point source discharges of storm water from certain industrial activities be required to obtain National Pollutant Discharge Elimination System (NPDES) permits. The U.S. Environmental Protection Agency promulgated regulations on November 16, 1990 that included construction activities as "industrial activities" that require NPDES permits. The permit-by-rule allows Michigan to provide the permit coverage required under federal regulations without a double permitting process.

The most critical element of the permit-by-rule is the Soil Erosion and Sedimentation Control (Act 347) permit. A construction activity cannot obtain coverage under the permit-by-rule without having first been issued an Act 347 permit.

Enclosed are copies of the permit-by-rule, Notice of Coverage form, Notice of Termination form, and an announcement concerning a series of meetings that are going to be held to discuss implementation of the permit-by-rule. I would like to encourage land owners, developers, municipalities, contractors, and consultants who are or will be involved with construction activities covered by the storm water rules to attend one of the upcoming meetings and become familiar with this process.

If you have any questions concerning the permit-by-rule please contact me or Gary Scheuren at 517-373-1326.

Sincerely,

Gary Boersen

Gary Boersen
Chief, Storm Water Permits Unit
Permits Section
Surface Water Quality Division
517-373-1982

Enclosures

WHAT ACTIVITIES REQUIRE A CONSTRUCTION STORM WATER PERMIT ?

According to the provisions of 40 C.F.R. section 122.26 (a), any construction activity that disturbs 5 acres or more of total land area and has a point-source discharge of storm water requires a storm water permit. The Federal Transportation Act of 1991 exempts all construction activities owned or operated by municipalities with less than 100,000 people.

HOW DO I GET A CONSTRUCTION STORM WATER PERMIT ?

Michigan's permit-by-rule (R 323.2190 of the Water Resources Commission) is a streamlined way to obtain the required coverage under the federal storm water program. Two things must be done to receive coverage under permit-by-rule. First, the construction permittee must get coverage under the Soil Erosion and Sedimentation Control Act of 1973 (Act 347) for the site. Second, the construction permittee must send a Notice of Coverage (NOC) form to the Michigan Department of Natural Resources (MDNR). Once MDNR receives the NOC, the construction permittee will be deemed to have the required federal coverage. There is not a waiting period.

WHO MUST APPLY ?

The construction permittee must be the landowner or the recorded easement holder of the property where the construction activity is located, or the Authorized Public Agency if the construction is carried out by an Authorized Public Agency.

An agent of the land owner (such as a developer or contractor) may assist the owner in complying with the requirements of these rules, and receive all notices or other instruments required by these rules.

WHEN DO I APPLY ?

The NOC must be submitted to the MDNR before construction activities begin. Once the MDNR receives the NOC, the construction permittee will be deemed to have the required coverage and construction can begin.

MICHIGAN'S PERMIT-BY-RULE FOR CONSTRUCTION ACTIVITIES

Effective November 13, 1992

R 323.2190. National permit for storm water discharge from construction activity; effective date of subrule (2)(d).

Rule 2190. (1) Unless the commission has required an individual national permit pursuant to the provisions of subrule (3) or (4) of this rule, a point source discharge of storm water from a construction activity will be deemed to have a national permit if both of the following criteria are met:

(a) The construction permittee has filed, with the executive secretary, on a form approved by the commission, notice of coverage pursuant to the provisions of this rule before the initiation of construction activity. The notice of coverage shall include all of the following:

(i) Certification that an individual soil erosion and sedimentation control permit for the site has been issued to the construction permittee or, if the construction activity is to be carried out by an authorized public agency, that an approved control plan exists.

(ii) Acknowledgement by the construction permittee that any discharge that is made pursuant to the provisions of this rule shall be in compliance with the commission act and the rules promulgated thereunder.

(iii)A location map and a description of the nature of the construction activity.

(iv) The location of the proposed discharge and identification of the receiving water.

(v) The total area of the site and the area of the site that is expected to undergo construction activity during the life of the project.

(vi) Site-specific soil erosion control measures that will be used to control waste in storm water discharges during construction activity.

(vii)Site-specific measures to control waste in storm water discharges that occur after construction activities have been completed.

(viii)An estimate of the runoff coefficient of the site and the increase in impervious area after the construction activities are completed, the nature of any fill material used, and existing data that describe the soil or the quality of the discharge.

(b) The notice of coverage has a valid signature. If the construction permittee is a partnership, association, corporation, industry, municipality, state agency, or interstate body, the valid signatory for the notice of coverage shall be determined in accordance with the provisions of R 323.2114.

(2) A construction permittee that has authorization to discharge pursuant to this rule shall comply with all of the following provisions:

(a) Not directly or indirectly discharge any substance into the waters of the state in violation of the commission act or rules promulgated thereunder.

(b) Be in compliance with the soil erosion and sedimentation control permit for the site or, if the construction activity is carried out by an authorized public agency, the approved control plan, including the selected control measures that are applicable to the site.

(c) Properly maintain and operate the soil erosion control measures.

(d) Have the soil erosion control measures under the specific supervision and control of a storm water operator who has been certified by the director as properly qualified to operate the soil erosion control measures. The certification shall be done in accordance with the requirements of R 323.1251 et seq. of the Michigan Administrative Code. This requirement shall take effect 2 years after the effective date of this rule.

(e) Cause the construction activity to be inspected by a certified storm water operator once per week, and within 24 hours after every precipitation event that results in a discharge from the site and ensure that any needed corrective actions are carried out. A log of the inspections and corrective actions shall be maintained on file by the construction permittee for review and shall be retained by the construction permittee for a period of 3 years from the date of the inspection or corrective action.

(f) In accordance with the requirements for on-land facilities as set forth in spillage of oil and polluting materials, being part 5 of these rules, provide facilities and comply with reporting procedures for containment of any accidental losses of oil or other polluting materials.

(g) Dispose of solids, sediment, filter backwash, or other waste that is removed from or results from the treatment or control of storm water in compliance with applicable state laws and regulations and in a manner that prevents any waste from entering waters of the state.

(h) Allow the director or authorized representative to enter upon the site at any reasonable time before the expiration of the authorization to discharge as set forth in subrule (5) of this rule, upon presentation of credentials and other documents as may be required by law, for the purpose of inspecting conditions relating to the pollution of any waters or determining compliance with the provisions of this rule.

(i) Upon request, make available for public inspection or provide to the executive secretary all reports or logs prepared pursuant to the provisions of this rule.

(j) File a revised notice of coverage in compliance with the provisions of subrule (1) of this rule before any expansion of the construction activity or change in the soil erosion control measures that requires a change in the soil erosion and sedimentation control permit.

(3) The commission may require that discharges from a construction activity be authorized by an individual national permit if it has been determined by the commission that unlawful pollution cannot be adequately guarded against and there is or may be water quality degradation that will violate the commission act unless requirements in addition to those in the soil erosion and sedimentation control permit are imposed. Such a determination by the commission constitutes grounds for revocation of the authorization to discharge pursuant to the provisions of this rule.

(4) The commission may require that discharges from a construction activity be authorized by an individual national permit if it has been determined by the director that the responsible act 347 permitting entity or authorized public agency is not carrying out a program that is adequate to ensure that the requirements of act 347 are complied with.

(5) The authorization to discharge pursuant to the provisions of

(a) When the soil erosion and sedimentation control permit expires or is revoked or terminated by the act 347 permitting entity in accordance with the provisions of act 347 and Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, or when the authorized public agency determines that the project has been completed by the stabilization of earth change activity.

(b) 5 years from the date of the notice that is filed pursuant to the provisions of subrule (1)(a) of this rule, if the authorization to discharge has not previously expired pursuant to the provisions of subdivision (a) of this rule. This authorization may be extended by filing a new notice in compliance with the provisions of subrule (1)(a) of this rule. The construction permittee shall file a notice of termination with the executive secretary on a form approved by the commission when authorization to discharge expires as set forth in accordance with subdivision (a) of this rule. The notice of termination shall include the name and address of the construction permittee, the location of the construction site and the mailing address, if available, and certification that stabilization of earth change activity has been completed or, if such certification cannot be made, the reason why the authorization to discharge has expired.

(6) The commission may revoke authorization to discharge pursuant to the provisions of this rule if an individual national permit is required pursuant to the provisions of subrule (3) of this rule or in compliance with the provisions of R 323.2159.

(7) Nothing in this rule shall be construed to preclude the institution of any legal action or relieve the construction permittee from any responsibilities, liabilities, or penalties to which the construction permittee may be subject pursuant to the commission act or rules promulgated thereunder.

(8) The provisions of this rule are severable, and if any provision of this rule or the application of any provisions of this rule to any circumstances is held invalid, the application of such provision to other circumstances and the remainder of this rule shall not be affected by the invalidity.

(9) The construction permittee shall take all reasonable steps to minimize any adverse impact to the surface or ground waters of the state that result from noncompliance with any of the conditions specified in this rule.

(10) If, for any reason, the construction permittee does not comply with, or will be unable to comply with, any of the conditions that are specified in this rule, the construction permittee shall provide the executive secretary with the following information, in writing, within 5 days of becoming aware of such condition:

(a) A description of the noncompliance and its cause.

(b) The period of noncompliance, including exact dates and times, or, if the noncompliance is not corrected, the anticipated time that the noncompliance is expected to continue and the steps taken to reduce, eliminate, and prevent recurrence of the noncompliance.

(11) The provisions of this rule do not convey any property rights in either real or personal property or any exclusive privileges, authorize any pollution, impairment, or destruction of the natural resources of the state or the violation of any federal, state or local laws or regulations, or obviate the necessity of obtaining permits or approvals from other units of government as may be required by law.

(12) The provisions of this rule do not exempt the construction permittee from giving notice to public utilities and complying with each of the requirements of Act No. 53 of the Public Acts of 1974, as amended, being §460.701 et seq. of the Michigan Compiled Laws.

(13) This rule shall not provide authorization to discharge storm water from construction activity which is mixed with non-storm water or which is subject to an existing national permit or general permit.

DEFINITIONS AS USED IN THE PERMIT-BY-RULE

"Act 347" means Act No. 347 of the Public Acts of 1972, as amended, being §282.101 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder.

"Act 347 permitting entity" means an agency that is designated by a county board of commissioners pursuant to the provisions of section 6 of act 347, an agency that is designated by a city, village, or charter township in accordance with the provisions of section 7 of act 347, or the director if the construction activity overlaps more than 1 permitting entity.

"Approved control plan" means the plan which is prepared by an authorized public agency, which is approved by the director pursuant to the provisions of section 11 of act 347, and which contains the soil erosion and sedimentation control procedures that govern all construction activities normally undertaken by the authorized public agency.

"Authorized public agency" means a state, local, or county agency that is designated pursuant to the provisions of section 11 of act 347 to implement soil erosion and sedimentation control requirements with regard to construction activities undertaken by the agency.

"Certified storm water operator" means an individual who has been certified by the department pursuant to the provisions of section 6(a) of the commission act as properly qualified to operate treatment or control facilities for storm water discharges.

"Commission" means the water resources commission.

"Commission act" means Act No. 245 of the Public Acts of 1929, as amended, being §323.1 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder.

"Construction activity" means a man-made earth change or disturbance in the existing cover or topography of land that is equal to or more than 5 acres in size for which a national permit is required pursuant to the provisions of 40 C.F.R. §122.26(a) and which is defined as a construction activity pursuant to the provisions of 40 C.F.R. §122.26(b)(14)(x). The term includes clearing, grading, and excavating activities. The term does not include the practices of clearing, plowing, and tilling soil and harvesting for the purpose of crop production.

"Construction permittee" means a person who is deemed to have a national permit pursuant to the provisions of R 323.2190 and who owns or holds a recorded easement on the property where a construction activity is located, is constructing in a public right-of-way in accordance with the provisions of sections 13, 14, 15, and 16 of Act No. 368 of the Public Acts of 1925, as amended, being §§247.183, 247.184, 247.185, and

"National permit" means an NPDES permit, or equivalent document or requirements, issued by the commission to a discharger pursuant to sections 5 and 7 of the commission act for discharges into surface waters.

"NPDES" means the national pollutant discharge elimination system established by the federal act.

"Point source discharge" means a discharge that is released to the waters of the state by a discernible, confined, and discrete conveyance, including any of the following from which wastewater is or may be discharged:

(i) A pipe.
(ii) A ditch.
(iii) A channel.
(iv) A tunnel.
(v) A conduit.
(vi) A well.
(vii) A discrete fissure.
(viii) A container.
(ix) A concentrated animal feeding operation.
(x) A vessel or other floating craft.

The term does not include a legally established county or intercounty drain, except for a county or intercounty drain that has a POTW designated as part of the drain or a discharge otherwise required to be authorized by a national permit.

"Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

"Site" means the area where a construction activity is physically located or conducted, including adjacent land that is used in connection with the construction activity.

"Soil erosion and sedimentation control permit" means a permit that is issued pursuant to the provisions of act 347 by an act 347 permitting entity.

"Soil erosion control measures" means the measures or procedures to prevent or reduce the pollution of waters of the state that are required in the soil erosion and sedimentation control permit for the site or the selected control measures from the approved control plan that are applicable to the site.

"Stabilization of earth change activity" means the proper placement, grading, or covering of soil or rock at a construction activity to insure subsequent resistance to soil erosion, sliding, or other earth movement.

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

OTHER RULES REFERENCED IN THE PERMIT-BY-RULE

R323.2114. Permit application and other NPDES forms; valid signatories.

Rule 2114. A state or national permit application form or any other NPDES form submitted to the executive secretary pursuant to these rules shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president, or his designated representative, if the representative is responsible for the over-all operation of the facility from which the discharge described in the permit application or other NPDES form originates.

(2) For a partnership, by a general partner.

(3) For a sole proprietorship, by the proprietor.

(4) For a municipal, state or other public facility, by either a principal executive officer, the mayor, village president, city or village manager or other duly authorized employee.

R 323.2159. State and national permits; modification or revocation by the commission.

Rule 2159. (1) The commission may modify any term or condition, including a schedule of compliance, of a permit or may revoke a permit upon its finding of any of the following:

(a) There is a change in any condition that requires a temporary or permanent reduction or elimination of a permitted discharge or constituent thereof.

(b) The administrator of EPA issues a regulation prescribing a restriction or prohibition of a waste or wastewater constituent which is not covered by the terms and conditions of a permit or the regulation is more stringent than any limitation imposed on a wastewater constituent in a permit.

(c) A modification of the terms and conditions of a permit or a time schedule thereon is necessary because of an act of God or other conditions beyond the control of the permittee.

(d) In the case of discharges from publicly owned treatment works, federal treatment works grant funds are not available or are not sufficient to allow construction of the treatment works in a time schedule set forth in the permit.

(e) There is a violation of any term or condition of the permit.

(f) The permittee has obtained a permit by misrepresentation or has failed to disclose all relevant facts to the commission.

(g) A toxic effluent standard or prohibition, including any schedule of compliance specified therein, is established pursuant to section 307(a) of the federal act for a toxic waste or wastewater constituent which is present in the permittee's discharge and the standard or prohibition is more stringent than any limitations upon the waste or wastewater constituent in the permit.

(h) The POTW receives wastewater from a nondomestic source and the development of a pretreatment program is necessary to control the introduction of regulated pollutants.

(i) When a request for removal credits is approved in accordance with R 323.2162(3).

(2) The commission shall notify the regional administrator of any [illegible] status or condition of a permit and he or she shall have an

(3) A permittee who is affected by a modification of a permit by the commission shall be notified not less than 90 days before the effective date of the modification and, upon petition therefore, shall have a hearing thereon pursuant to section 8(a) of the commission act and R 323.1031 to R 323.1036.

(4) If the commission modifies an effluent limitation or a schedule of compliance in a permit, notice of the modification shall be mailed to all persons on the commission mailing list for public notices and fact sheets as prescribed by R 323.2124, and any interested person may comment thereon within 30 days following the date of notification.

MICHIGAN DEPARTMENT OF NATURAL RESOURCE
SURFACE WATER QUALITY DIVISION-PERMIT SECT

DNR

NOTICE OF COVERAGE under R 323.2190 (1) (a)
National Pollutant Discharge Elimination System (NPDES):
Storm Water Discharges from Construction Activities

BY AUTHORITY OF ACT 245 P.A. 1929 AS AMENDED (THE MICHIGAN WATER RESOURCES COMMISSION ACT)

Submission of this Notice of Coverage constitutes notice that the party identified in section I is authorized under R 323.2190 to discharg storm water associated wth construction activities. Becoming a permittee obligates the discharger to comply with the terms and provisions R 323.2190. **SEE REVERSE FOR INSTRUCTIONS.**

I. CONSTRUCTION PERMITTEE INFORMATION

A. Name: (Last name first)	NPDES Number: **DNR USE ONLY**
B. Mailing Address: Street City, State, ZIP	C. Construction Site Location: Street City, State, ZIP - OR - Description

II. ACT 347 PERMIT INFORMATION

	A. Name of Permitting Agency:
B. ACT 347 Permit Number:	C. Address:
D. Date of Issue (or Date of APA Approval):	City, State, ZIP:

III. SITE DESCRIPTION – ATTACH LOCATION MAP

A. Total Acres of Site:	B. Acres of Land Disturbance:
C. Receiving Waters:	D. Discharge Data Available? ☐ YES ☐ NO
E. Soil Description (if data exists):	

IV. CONSTRUCTION ACTIVITIES

	A. Dates of Construction: Start _____ Finish _____ (estimation)
B. Describe Construction Activities:	C. Nature of Fill Material:
D. Change in Impervious Area:	E. Runoff Coefficient: (after construction)
F. Soil Erosion Control Measures: (during construction)	G. Soil Erosion Control Measures. (construction completed)

V. CERTIFICATION

I certify that all provisions of R 323.2190 of the Water Resources Commission have been complied with and that all information submitted under the rule and contained in tl Notice of Coverage is, to the best of my knowledge and belief, true, accurate and complete. I acknowledge that any discharge that is made pursuant to R 323.2190 shall be compliance with ACT 245 and the rules promulgated thereunder. I am aware that there are significant penalties for submitting false information, including the possibility fines and imprisonment.

Signature of Construction Permittee or Authorized Representative	Title	Date	Telephone #

SEE REVERSE FOR MAILING INSTRUCTIONS.

INSTRUCTIONS FOR NOTICE OF COVERAG
NATION. . POLLUTANT DISCHARGE ELIMINATION SYS. .I (NPDES):
STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES

WHO MUST APPLY: According to the provisions of R 323.2190 of the Water Resources Commission, a Notice of Coverage must be submitted t. the Michigan Department of Natural Resources for any construction activity that disturbs 5 acres or more of land and requires a national perm pursuant to the provisions of 40 C.F.R. section 122.26(a). The permittee must be the owner or the recorded easement holder of the property wher the construction activity is located, or the Authorized Public Agency if the construction activity is carried out by the Authorized Public Agency.

The permittee must obtain a Soil Erosion and Sedimentation Control Permit (ACT 347 permit) from the proper ACT 347 agenc, before submitting the Notice of Coverage. The permittee will be deemed to have an NPDES permit for storm water discharges from a constructio site when the Surface Water Quality Division of the Michigan Department of Natural Resources receives the Notice of Coverage. The Notice c Coverage must be received before construction begins.

Fill in the blanks on the Notice of Coverage application according to the instructions given below. If more space is needed, attach ex sheet(s) of paper and clearly indicate which of the parts is being answered on it.

I. CONSTRUCTION PERMITTEE INFORMATION

A. **Name:** Fill in the name of the person or entity wishing to have authorization to discharge storm water from construction sites.
B. **Mailing Address:** The mailing address of the construction permittee.
C. **Project Location:** Give the address of the construction site ***or*** describe the location of the construction site in terms of latitude a longitude to the nearest 15 seconds or the section, township, and range to the nearest quarter.

II. ACT 347 PERMIT INFORMATION

A. **Name of Permitting Agency:** Give the name of the agency that issued the ***Soil Erosion and Sedimentation Control*** permit (A 347 permit). If the construction activity will be done by an Authorized Public Agency (APA) then submit the name of the APA
B. **Act 347 Permit Number:** Give the number of the ACT 347 permit. Leave blank if the construction will be done by an APA
C. **Address:** Fill in the address of the Act 347 Permitting Agency ***or*** and address of the APA.
D. **Date of Issue:** Fill in the date that the Act 347 permit was issued ***or*** the date that the permittee received APA approval.

III. SITE DESCRIPTION Attach a map showing the locations of the construction site, the storm water discharge(s), and the receiving water(s) storm sewer.

A. **Total Acres of Site:** Give the total acreage of the site, including any undisturbed areas.
B. **Acres of Land Disturbance:** Give the area of the site (in acres) that is expected to undergo construction activity during the life the project.
C. **Receiving Water(s):** Name the water(s) that directly receive storm water runoff from the site ***or*** if it discharges through a separa storm sewer, name the municipality or operator of the storm sewer and the ultimate receiving water(s).
D. **Discharge Data Available?** Indicate if any existing sampling data that describes the quality of the storm water discharge(s) available. ***Do not*** submit the data.
E. **Soil Description:** Provide any data that describes the soils at the site.

IV. CONSTRUCTION ACTIVITIES

A. **Dates of Construction:** Self Explanatory.
B. **Describe Construction Activities:** Provide a brief description of the ***general*** construction activities that will occur at the site.
C. **Nature of Fill Material:** If any fill material will be used in the construction project, give a brief description of that fill material.
D. **Change in Impervious Area:** Estimate the change in surface area of the site that will become impervious due to the constructi project.
E. **Runoff Coefficient:** Estimate the fraction of rainfall that will end up as runoff from the site through a point-source discharge. Th estimate should be for the site after construction has been completed.
F. **Soil Erosion Control Measures** (during construction): Briefly describe the soil erosion control measures that will be used in a stages of the construction activity. These may also be shown on the location map (be sure they are clearly marked).
G. **Soil Erosion Control Measures** (construction completed): Briefly describe all soil erosion control measures that will be installed left in place after the construction activity has been completed. These may also be shown on the location map (be sure they a clearly marked).

V. CERTIFICATION Michigan state regulations require that this form to be signed as follows:

A. **For a corporation,** by the principal executive officer of at least the level of vice president, or his designated representative. if t

MICHIGAN DEPARTMENT OF NATURAL RESOURC'
SURFACE WATER QUALITY DIVISION
PERMIT SECTION

DNR

NOTICE OF TERMINATION under R 323.2190 (5) (b)
National Pollutant Discharge Elimination System (NPDES): Storm Water Discharges from Construction Activities

BY AUTHORITY OF ACT 245 P.A. 1929 AS AMENDED (THE MICHIGAN WATER RESOURCES COMMISSION ACT).

Submission of this Notice of Termination constitutes notice that the authorization to discharge storm water from the construction site identifi below has expired. **SEE INSTRUCTIONS BELOW.**

I. PERMIT INFORMATION	NPDES Number:

Reason for Termination: (choose all that apply)

☐ The ACT 347 permit is or will expire on _____ .

☐ The ACT 347 permit was revoked/terminated on _____ .

☐ The project has been completed by stabilization of the earth change activities on _____ .

☐ Other. Explain _____

II. CONSTRUCTION PERMITTEE INFORMATION	**III. CONSTRUCTION SITE LOCATION**
Name: (last name first)	Address:
Address:	City, State, ZIP:
City, State, ZIP:	Location Description:

IV. CERTIFICATION

I certify that all information submitted in this Notice of Termination is, to the best of my knowledge and belief, true, accurate and complete, and that all storm water discharge associated with construction activities from the site identified above that were authorized by R 323.2190 have been eliminated because of the reason(s) indicated above. understand, by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with construction activities at this site and that dischargin pollutants in storm water associated with construction activities without authorization is unlawful. I also understand that submittal of this Notice of Termination does not releas the permittee from liability for any prior violations of R 323.2190.

Signature of Construction Permittee or Authorized Representative	Title	Date	Telephone #

INSTRUCTIONS FOR NOTICE OF TERMINATION
National Pollutant Discharge Elimination System (NPDES): Storm Water Discharges from Construction Activities

I. PERMIT INFORMATION

NPDES Number: Fill in the current NPDES number for the site.

Reason for Termination: Choose the reason(s) for this notice of termination. Fill in the date (mm/dd/yy) that the ***Soil Erosion and Sediment Control*** permit (ACT 347 permit) will end and/or briefly explain other reasons for termination. Be sure to indicate if the project has completed by stabilization of the earth charge activities.

II. CONSTRUCTION PERMITTEE INFORMATION

Name: Give the name of the person or entity wishing to terminate coverage under the NPDES program.

Address: Fill in the complete street address of the permittee.

City, State, ZIP: Fill in the city, state, and ZIP code of the permittee.

III. CONSTRUCTION SITE LOCATION

Address: Give the complete street address of the construction site, if available.

City, State, ZIP: Give the city, state, and ZIP code where the construction site is located.

- OR -

Location Description: Describe the location of the construction site in terms of latitute and longitude to the nearest 15 seconds or the section, township, and range to the nearest quarter.

IV. CERTIFICATION State regulations require that this form be signed as follows:

For a corporation, by a principal executive officer of at least the level of vice president, or his designated representative, if the representati responsible for the over-all operation of the facility from which the discharge described in this form originates.

For a partnership, by a general partner.

For a sole proprietorship, by the proprietor.

For a municipal, state, or other public facility, by either a principal executive officer, the mayor, village president, city or village manager, or duly authorized employee.

MAIL COMPLETED APPLICATION TO:

STORM WATER PERMITS UNIT
SURFACE WATER QUALITY DIVISION
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
P O BOX 30028
LANSING, MI 48909

IF YOU HAVE ANY QUESTIONS ABOUT THE PREPARATION OF THIS FORM CALL (517) 373-8088

DNR

PERMIT-BY-RULE FOR STORM WATER FROM CONSTRUCTION ACTIVITIES

FACT SHEET

BACKGROUND

Effective October 1, 1992, Federal Regulations (40 C.F.R. Section 122.26(a)) require that certain construction activities have a permit for the discharge of storm water from the site. Construction activities that meet the following criteria are required to get storm water permit coverage:

1. There will be a total land disturbance of 5 or more acres.
2. There will be a point source discharge of storm water to waters of the State (Including separate storm sewers).

NOTE: According to the Federal Transportation Act of 1991, construction activities owned or operated by municipalities that serve a population less than 100,000 are currently not required to obtain storm water discharge permits.

PERMIT-BY-RULE

The Michigan Department of Natural Resources (MDNR), the agency responsible for implementing the storm water program, has developed a permit-by-rule for construction activities. Permit-by-rule (R 323.2190 of the Water Resources Commission Act (Act 245)) is a way to obtain the required storm water permit coverage. It makes full use of Michigan's existing Soil Erosion & Sedimentation Control Act (Act 347) and avoids a double permitting process.

HOW TO APPLY

The permittee must be the land owner or a recorded easement holder of the property where the construction will take place. To obtain coverage under the permit-by-rule two things must be done. First, the permittee must get coverage under Act 347 (Act 347 permit or APA status) for the construction site. Second, the permittee must send a Notice of Coverage (NOC) form to MNDR. Once MDNR receives the NOC form, the permittee is deemed to have the required coverage. These must be done before construction begins.

If you have any questions, please contact:

Storm Water Permits Unit
Michigan Dept. of Natural Resources
P.O. Box 30273
Lansing, MI 48909

517-373-8088

June 28, 1993

DNR

PERMIT-BY-RULE FOR STORM WATER FROM CONSTRUCTION ACTIVITIES

QUESTIONS AND ANSWERS

1. Q. **How do I know if my construction activities require a permit according to the federal storm water regulations?**

   A. Construction activities that meet the following criteria are required to get storm water discharge permit coverage:

   1. There will be a total land disturbance of 5 or more acres.
   2. The site will have a point source discharge of storm water to waters of the State (Including separate storm sewers).

   NOTE: Under the Federal Transportation Act of 1991, municipalities that serve populations less than 100,000 are not required to get storm water discharge permits for any construction activity they own or operate before October 1, 1994.

2. Q. **What is the Permit-by-Rule?**

   A. The permit-by-rule is a method for Michigan land owners involved in construction activities to obtain permit coverage required under the National Pollutant Discharge Elimination System (NPDES) storm water regulations. Under the permit-by-rule, land owners obtain permit coverage automatically by notifying the Surface Water Quality Division of the Michigan Department of Natural Resources (MDNR) that they already have a permit to conduct construction activities under the Soil Erosion and Sedimentation Control Act (Act No. 347 of the Public Acts of 1972).

3. Q. **What is the application procedure for obtaining coverage under Permit-by-Rule?**

   A. The permittee must first get coverage under Act 347 (an Act 347 permit or Authorized Public Agency (APA) status) for the construction site. The permittee must then submit a completed Notice of Coverage (NOC) form to MDNR. The NOC form must be received by MDNR before any construction at the site begins. Once it is received, the permittee is deemed to have the required coverage.

4. Q. **Under permit-by-rule, who must be the permittee?**

   A. The construction permittee must be the land owner or the recorded easement holder of the property or the APA if the construction activity is under the control of an APA.

5. Q. **When should I get covered under the permit-by-rule?**

   A. The NOC form may be submitted any time prior to the start of construction. The coverage [illegible] begins immediately upon submittal of a completed NOC form to

6. Q. **What types of construction activities are required to get an Act 347 permit but do not need to file an NOC for NPDES storm water coverage (i.e., permit-by-rule)?**

A. Act 347 permits are required for construction activities that disturb 1 acre or more or are within 500 feet of a lake or stream. Any construction activities that disturb less than 5 acres are not required to submit an NOC for permit-by-rule coverage. Therefore, construction activities that disturb more than 1 acre but less than 5 acres need to have an Act 347 permit but not a storm water permit.

The Federal Transportation Act of 1991 delays the NPDES permit application deadline for construction activities owned or operated by municipalities that serve a population less than 100,000 (see "Note" in question No.1). These municipalities may still need to get an Act 347 permit.

7. Q. **Can sand mining and borrow pit areas be covered under the permit-by-rule?**

A. No. Mining of any sort, including mining of sand, gravel, peat, marl or clay, even borrow pits located off-site of a construction project, is exempt from Act 347. Therefore, those operations are ineligible for coverage under permit-by-rule. Such operations will need to apply for federal storm water coverage for discharge of storm water that comes in contact with overburden or raw materials. Such coverage will be provided by MDNR under an industrial storm water permit.

8. Q. **Do I need a storm water discharge permit for areas away from the construction site where I deposit excavated soils?**

A. Yes, a storm water discharge permit is needed if the off-site spoil piles disturb 5 acres or more.

9. Q. **Can I apply for the U.S. EPA General Permit for construction activities?**

A. No. MDNR is the NPDES storm water permitting authority in Michigan.

10. Q. **If someone other than the land owner or recorded easement holder currently holds the Act 347 permit for a construction site, is the project in violation of the permit-by-rule?**

A. Yes, if the construction requires a federal storm water discharge permit. The Act 347 permit must be transferred into the land owner's name and the NOC form must be submitted for coverage under the permit-by-rule as soon as possible.

11. Q. **How is the population of a municipality determined?**

A. In general, municipal populations will be determined by service area. For example, a drainage district is a municipal entity set up under the State Drain Code. Its population is the number of people in the drainage area that are assessed drain fees rather than the population of the entire county.

12. Q. **Do school districts currently have to get federal storm water discharge permits for their construction activities?**

A. NO, unless the entire population served by the school district (students plus general public) is greater than 100,000 people. School districts are considered municipal entities. For school districts serving a population of 100,000 or more, federal storm water permit coverage is needed for construction activities that meet the criteria listed in question No.1.

13. Q. **What is a Certified Storm Water Operator?**

A. A Certified Storm Water Operator is someone who has been certified by MDNR as having a minimum level of knowledge concerning the inspection and utilization soil erosion and sedimentation control measures at construction sites. Construction activities will be required to have certified storm water operators starting November 14, 1994.

14. Q. **Who will be responsible for hiring Certified Storm Water Operators for construction activities?**

A. The permittee is responsible for providing a Certified Storm Water Operator for the construction site. The permittee may designate a certified individual, who may be the project engineer or contractor, to be the certified operator.

15. Q. **Who can become a Certified Storm Water Operator?**

A. Anyone who has met the minimum requirements established for storm water operators of construction activities.

16. Q. **What is the permittee responsible for under permit-by-rule?**

A. The permittee must comply with the requirements of their Act 347 permit and inspect the soil erosion control measures at the site to insure that they are working correctly. The inspections of the soil erosion control measures must be done within 24 hours of a precipitation event that results in a storm water discharge <u>and</u> at least once a week whether there is runoff or not. A logbook must be kept indicating the condition of the controls and any corrective actions taken.

17. Q. **If melting snow runs off my construction site for several days following a snowfall do I have to inspect each day during the runoff?**

A. No. Only one inspection is needed following a precipitation event, regardless of the length of time it takes for all the runoff to leave the site. A precipitation event is one which totals 0.1 inch of rain or more, or an equivalent snowfall.

18. Q. **Will Act 347 agents have increased responsibilities under the Permit by Rule?**

A. No. Their responsibilities do not increase. There are some changes in the way permitting is done. For example, permits will have to be issued in the name of the land owner or recorded easement holder of the property to get coverage under permit-by-rule. Also, Act 347 permits will have to be terminated when no longer needed and transferred when

19. Q. **Will County and Local Enforcing Agencies of Act 347 be responsible for notifying MDNR of violations of Water Quality Standards or the Permit-by-Rule?**

A. No. There is nothing in the permit-by-rule that increases the responsibilities of an Act 347 agent or agency. However, voluntary submittal of such information is welcomed.

20. Q. **If I violate the Act 347 permit am I automatically violating the Permit-by-Rule?**

A. Yes, compliance with the permit-by-rule requires the permittee to be in compliance with their Act 347 permit or their APA control plan for the site.

21. Q. **If I am notified that I am not in compliance with my Act 347 permit, must I notify the Surface Water Quality Division that I have violated the permit-by-rule?**

A. Notification of the Surface Water Quality Division is required in situations when the Act 347 agent has given a formal written notice that you are in violation of the Act 347 permit. When only verbal notification is given by the Act 347 agent, no notification of the Surface Water Quality Division is required.

22. Q. **Under the Permit-by-Rule, what am I responsible for after the construction activity is completed?**

A. When the construction activities are complete and the Act 347 permit has been terminated, the permittee must submit a Notice of Termination (NOT) form. This terminates coverage under permit-by-rule. The weekly inspections can be discontinued at that time. Logbooks of the inspections must be kept on file and available for inspection fo three years following termination.