WATERWAY PERMITS - APPROVALS IN DECLARED DISASTER AREAS

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What you need to know
Recovering from a natural disaster can be overwhelming. This factsheet aims to help people and communities recover quickly and in a way that protects natural resources and reduces future damage.

Remember, FEMA requires that applicants receiving federal disaster assistance must comply with all applicable local, state and federal laws, requirements and permits, including permits necessary for work that affects lakes, streams and wetlands. Failure to do so could jeopardize your federal funding.

Permitting overview
Under Wisconsin law, the Wisconsin Department of Natural Resources regulates many of the construction activities in or near our lakes, rivers, streams, and wetlands. Repair and restoration activities after a natural disaster like flooding or tornadoes may require DNR permits or approvals. With a few exceptions, the following activities require DNR approval:

- All structures and dams in public waterways
- Wet ponds within 500 ft of a public waterway
- Ponds connected to public waterways
- Enlargements of public waterways
- Grading on the bank of a public waterway
- Relocating a public stream channel
- Dredging in all streams and public lakes
- Filling or dredging in wetlands

Local DNR Water Management Specialists (WMS) and Environmental Analysis Specialists (EAS) can help identify what permits or approvals are required. The WMS staff are the contacts for private waterway projects including bridges, culverts and roads and the EAS staff are the contacts for public bridges, culverts and roads.

DNR staff gives a high priority to disaster relief projects and promote prevention measures. Reach your local WMS or EAS by contacting the nearest DNR Service Center or Regional Headquarters Office, or find contact information online at websites listed on page 2. Flood related debris may be removed without a permit, except for work in the streambed but it must be disposed outside waterways, wetlands, and floodplains.

Private bridges, culverts, roads

Streamlining the process
DNR WMS staff can expedite projects in an officially declared disaster area if your project fits into one of the categories below, as many will. Review these categories to see if your project qualifies, and how to proceed.

Protection of Human Health and Safety: If regulated activities must be done immediately to protect human health and safety or resolve an ongoing environmental problem, you must notify the local DNR Water Management Specialist or Conservation Warden, preferably in the form of a permit application. The project should be designed to meet the substantive requirements of the law, recognizing that once the site is stable, you must apply for and receive an after-the-fact permit from the DNR. Many permits can be authorized on site.

Previously Permitted Activities: If the disaster restoration or mitigation project was previously issued a waterway, wetland permit by the DNR, you can restore or rebuild to the dimensions specified by the original permit. This includes the replacement of previously authorized bridges, culverts or streambank protection projects. Be sure to follow all applicable permit conditions. If a dam requires repairs, you should contact the Water Engineer for approval prior to proceeding.
Replacement of Minor Unpermitted Culverts:
If your culvert project is required for essential access to a primary residence, business or farm, call the local WMS and they will respond within 24 hours. For private roads, fill out a permit application. Many permits can be authorized on-site. With DNR consultation, other projects essential for access to primary residences, businesses and farms can be constructed and can receive authorization after-the-fact. If the general permit specifications can’t be met, use the general design recommendations below.

1. Excavation is limited to only that amount that is essential to place the culvert;
2. No excavated material may be returned to the waterway or placed in a wetland or floodplain without prior explicit authorization;
3. The culvert is less than 5 feet in diameter;
4. The gradeline of the roadway overflow sections may not be raised;
5. The culvert must not cause increased flood levels on adjacent property without permission;
6. The culvert must be free of controversy concerning public rights and navigation;
7. Below the regional flood elevation, the culvert must have an equal flow passing capacity.

Other Projects: A complete permit application & permit review is required for all other projects. This includes all of the following projects:

➢ Grading in excess of 10,000 sq. ft. on the banks of a public waterway,
➢ Stream relocation or channel changes,
➢ Any temporary or permanent fill within a wetland, floodplain or public waterway,
➢ Any changes in the structure footprint in public water.

Your local WMS will coordinate the permit or approval review. Contact the DNR early in your planning process to have staff help identify the appropriate site and explain the permitting process.

Public bridges, culverts, roads
(state, county, town, city, village)

➢ DNR approval is typically required for repairs/replacement of public owned roads, bridges or culverts on navigable waterways. Regional Environmental Analysis Specialists will handle all public municipal highways and structures under Trans 207, Wis. Admin. Code. If DOT is administering flood damage repairs, EAS will work with DOT under the DNR/DOT Cooperative Agreement.

➢ If the proposed improvement is to repair or replace the road/bridge/culvert to pre-flood conditions in-kind and at the same location, and includes best management practices for erosion control, DNR review will be simplified and expedited.

➢ If DOT or local governments need to do something immediately for emergency access, they may make the temporary repairs to get the road/bridge/culvert open and begin to remove the damaged parts and prep the site for their pending permanent repairs. Debris/sediment must be disposed outside waterways, wetlands and floodplains.

- Permit applications can be found on DNR’s web site: http://dnr.wi.gov/org/water/fhp/waterway/
- A listing of DNR Water Management Specialists by county is available at: http://dnr.wi.gov/org/water/fhp/waterway/watermanagementspecialists.htm

The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240.

This publication is available in alternative format (large print, Braille, audio tape, etc.) upon request. Please contact the Bureau of Fisheries Management and Habitat Protection for more information.