

The attached policy “Self-Permitting for a Department Led Project” was developed to promote transparency and consistency in applying state law under the jurisdiction of the Department of Natural Resources. The department will voluntarily apply for and meet the permit application and approval requirements to obtain any permits that a member of the general public would require to undertake the same type of project, including any and all public notice and public hearing requirements, except permit application fees for department led projects will not be required. Previously, a broad, state-wide policy had not been created for self-permitting, but many programs had processes in place that mirrored the legal requirements necessary for approvals. This policy memorializes these requirements found in the law and provides consistent standards for increased transparency with department led projects.

We are now soliciting comments from the public on this policy. Once the 21 day notice period is complete, all comments will be considered, revisions will be made to the policy as needed, and the final policy will be made available to internal and external stakeholders. Comments related to this draft policy should be sent to shelley.warwick@wisconsin.gov

State of Wisconsin
Department of Natural Resources
Manual Code #
Self-Permitting Process for a Department Led Project

Matt Moroney, Deputy Secretary Date

Rescinds and replaces: New

Approved by OMT: (insert date)

I. SCOPE

Unless otherwise directed by the Secretary, this manual code applies to all staff involved in any department led project that requires a permit issued by the Department of Natural Resources. This manual code does not apply to any department led project that was started before January 1, 2015, even if the project is not completed by that date.

This manual code applies to any department led project that includes an activity that may require a permit under ch. 26, 30, 31, or 292, or s. 29.604, 280.11, 281.34, 281.346, 281.36, 281.41, 283 Wis. Stats., or ch. NR 30, 40, 103, 299, 323, 809, 810, 811, 812, 856, and 860, Wis. Adm. Code. This manual code does not apply where such compliance is expressly precluded by statute or administrative rule, or where an imminent threat to public health, safety or welfare.

II. POLICY

While generally not expressly required by statute or common law, but to promote transparency and consistency in applying state law under its jurisdiction the department shall, for any department led project, voluntarily apply for and meet the permit application and approval requirements to obtain any permits that a member of the general public would require to undertake the same type of project, including any and all public notice and public hearing requirements, except permit application fees for department led projects shall not be required.

The department led project manager must receive a permit before commencing the activity in the department led project that requires a permit unless otherwise provided for in statute or administrative code.

A permit decision regarding a department led project shall be based on the standards and requirements in the applicable statutes and administrative rules that apply if the department led project was undertaken by a member of the general public. The benefits that a department led project may provide to the general public shall be considered in evaluating whether the project is detrimental to the public interest.

III. DEFINITIONS

“Agent” a department or agency of this or another state, federal agency, county, town, corporation or individual that has been expressly delegated by statute, rule or written contract to act under full or partial authority of the department.

“Cooperator” includes departments and agencies of this or other states, federal agencies, counties, towns, corporations and individuals.

“Department” means the Department of Natural Resources

“Department Led Project” means any activity initiated and primarily managed by the department or its agent or cooperator that would require an applicable permit if undertaken by a member of the general public.

“Program Permit Lead” means the staff member that is responsible for issuing a decision on a proposed activity.

“Property Manager” is the designated department staff person responsible for managing a state-owned property or easement for which a department led project is desired.

“Department Led Project Manager” is the department staff member that is initiating a project that may need a permit or permits.

“Permit” includes any approval, certification, permit or order issued by the department pursuant to its statutory or administrative rule authority and required before beginning any activity subject to that permit or order.

IV. PROCEDURE

Department Led Project
Manager

Step 1- Consults with the Policy/Permit Lead(s) and WEPA Coordinator to determine what Permits may be needed and what measures in ch. NR 150 will be required to comply with WEPA.

Step 2- If an environmental impact statement (EIS) will be prepared pursuant to s. NR 150.20(4) coordinates with the WEPA Coordinator to complete EIS measures required by ch. NR 150 before continuing to step 3. If an EIS will not be prepared, continue to step 3.

Step 3- Consults Natural Heritage Inventory and Department Archaeologist to identify and address any potential impacts to endangered/threatened species or archaeological/historical resources that may result from the proposed department led project.

Step 4- Consults with local governments , as outlined in the attached July 3, 2014 memo, other state and federal agencies to ensure compliance to the extent practicable with any applicable requirements

Step 5- Prepares and submits application(s) to the Program Permit Lead(s).

Program Permit Lead(s)

Step 1- Conducts initial screening of application packet to assure that all required items are submitted. Requests additional information from the Department Led Project Manager as needed.

Step 2- Reviews application packet and obtains any additional input or information needed from regional or bureau staff.

Step 3- Processes Environmental Assessment, if required, in accord with M.C. 1606.1 and subsequent ch. NR 150, Wis. Adm. Code, guidance dated October 9, 2009

Step 4- Coordinates all reviews with the appropriate staff and communicates results with Department Led Project Manager. Coordinates adjustments to the department led project scope and design with Department Led Project Manager.

Step 5- Determines if a public notice and informational hearing are required by statute or administrative code. Coordinates public notice and hearing with assistance from Department Led Project Manager. Publishes a WEPA compliance determination if required by s. NR 150.35 for the action of undertaking the department led project.

Step 6- Responds to comments and feedback from the public. Adjusts project scope or design as necessary with Department Led Project Manager.

Step 7- Approves or denies permit for department led project in writing to the Department Led Project Manager and Cooperator if applicable.

Property
Manager/Department Led
Project Manager

Secures funding (if appropriate) and initiates department led project after receipt of all required state and federal approvals and after compliance with local requirements to the extent practicable.

V. BACKGROUND

Issue Resolution: The formal conflict resolution process consists of the following steps:

1. The Department Led Project Manager and the Program Permit Lead will meet to resolve the issue(s).
2. If after the Department Led Project Manager and Program Permit Lead have met and there are unresolved issues, first-line supervisors shall meet to discuss and resolve any conflicts. They may appoint, at any time, a mutually acceptable mediator to assist in resolving the conflict. Supervisors will communicate with the Department Led Project Manager and Program Permit Lead the resolution and agreement items afterward.

3. If issues are remaining after the first-line supervisors have met, a meeting will be held with the Regional Managers, (i.e. Water Leader or Regional Fisheries Manager) and or Bureau Director, and the Secretaries Directors. They may appoint, at any time, a mutually acceptable mediator to assist in resolving the conflict. Regional Managers, Bureau Directors and Secretaries Directors commit to keeping all parties informed about the progress of the issue resolution.

4. Division Administrators will meet and decide on a resolution if an agreement is not reached in step 3. After meeting, Division Administrators will communicate the resolution and supporting details to staff previously involved with project.

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