

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES NONFEDERAL WETLANDS WATER
QUALITY CERTIFICATION GENERAL PERMIT**

Permittee: The General Public in Wisconsin

Permit No. NONFEDERAL WETLANDS-GP-2008-WI (NFWGP-WI)

Issuing Office: Waterways and Wetlands Protection Section
Bureau of Watershed Management

Issuance Date: May 23, 2008

Expiration Date: May 23, 2011

NOTE: The term "you" and its derivatives, as used in this general water quality certification permit, means the permittee. The term "this office" refers to the appropriate Department of Natural Resources (DNR) Service Center, DNR Region or Central Office headquarters of the Wisconsin DNR having jurisdiction over the authorized activity or the appropriate official of that office acting under the authority of the Secretary of the Department.

GENERAL PERMIT AUTHORIZATIONS: The general public in the State of Wisconsin is authorized to perform work in accordance with the terms and conditions of the general permit specified below, after satisfying all applicable permit terms and conditions.

IMPORTANT: The authorizations are provisional and require that project proponents obtain any other local, state or federal permit before any work is authorized. NONFEDERAL WETLANDS-GP-2008-WI (NFWGP-WI) authorizations are subject to all applicable terms and conditions specified in this permit. Refer to the appropriate sections of this permit for a description of NFWGP-WI procedures, eligible activities, conditions, exclusions and application instructions.

PROJECT DESCRIPTION AND LOCATION: NONFEDERAL WETLANDS-GP-2008-WI (NFWGP-WI) applies to certain discharges, less than 2 acres in size, of dredged and/or fill material into non-federal wetlands , as described herein, in the State of Wisconsin.

Department of Natural Resources (DNR) General Conditions (applicable to all NONFEDERAL WETLANDS-GP-2008-WI (NFWGP-WI) authorizations):

1. This NFWGP-WI expires on May 23, 2011. The time limit for completing work authorized by the provisions of NFWGP-WI ends upon the expiration date of NFWGP-WI or three years from the date of the DNR letter confirming the project complies with the requirements for the NFWGP-WI, but no more than three years unless a permit extension (1 yr. maximum) is granted by the department.

2. You must maintain the activity authorized by NFWGP-WI in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity. Should you wish to cease to maintain an activity authorized by NFWGP-WI or should you desire to abandon it, you must obtain a modification of the authorization from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archaeological remains while accomplishing any activity authorized by NFWGP-WI, you must immediately stop work and notify this office and the State Historical Society of what you have found. The State Historical Society will determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. You must allow representatives from this office to inspect the proposed project site during reasonable hours and the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of NFWGP-WI.

5. If a confirmation letter from DNR has been issued for your project, you must comply with all conditions specified in NFWGP-WI.

6. Reliance on Applicant's Data: The determination by this office that a confirmation of authorization is not contrary to the public interest will be made in reliance on the information provided by the applicant and any other information required by the DNR.

7. Authorization to undertake the activities described above is pursuant to s. 281.36(8), Wis. Stats.

8. Limits of this authorization.

- a. NFWGP-WI does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. NFWGP-WI does not grant any property rights or exclusive privileges.
- c. NFWGP-WI does not authorize any injury to the property or rights of others.
- d. NFWGP-WI authorized activities are non-transferable.

9. Limits of State Liability. In authorizing work, the State Government does not assume any liability, including for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the State in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this NFWGP-WI.

10. Reevaluation of Decision. This office may reevaluate its decision on any individual authorization under NFWGP-WI at any time the circumstances warrant and may suspend, modify or revoke any previously authorized activity and may result in enforcement pursuant to s. 281.98, Wis. Stats. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. The applicant fails to comply with the terms and conditions of this NFWGP-WI.

b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate (see 6 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

This General Permit becomes effective when the Secretary, for the Department of Natural Resources has signed below.

Matthew J. Frank
Secretary, Department of Natural Resources

May 23, 2008
Date

NONFEDERAL WETLANDS-GP-2008-WI TERMS AND PROCEDURES

This describes the NONFEDERAL WETLANDS-GP-2008-WI (NFWGP-WI) permit authorization procedures implemented by the DNR.

Persons proposing to do work should especially note that, in ALL cases, NFWGP-WI requires that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable. Also, activities that would adversely affect Federal or State endangered plant or animal species or certain cultural or archaeological resources, are not eligible for authorization under NFWGP-WI.

1. NON-REPORTING ACTIVITIES.

The following discharges, for a single and complete project, that comply with all terms and conditions of NFWGP-WI are authorized by this permit. **No DNR application or notification is required for certain activities under this NFWGP-WI. Project proponents may proceed with the described discharges after very carefully making sure that the work will meet all applicable terms and conditions of NFWGP-WI.**

Certain activities, as noted below, are authorized under the non-reporting section of NFWGP-WI **only if they are regulated and approved by the Wisconsin Department of Natural Resources (WDNR) under chapters 30 or 31, Wis. Stats or specifically exempted from WDNR regulation.**

Applicants for all activities should consult with local or federal governments concerning permit requirements.

Note the areas and activities that are EXCLUDED from this non-reporting section of NFWGP-WI in section b.,

below. .

a. NON-REPORTING ACTIVITIES ELIGIBLE FOR AUTHORIZATION UNDER NFWGP-2008-WI (NFWGP-WI):

1. Maintenance activities.

Discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill, or any currently serviceable structure or fill authorized under ch. 30/31, Wis. Stats., sections 281.36., 281.37, Stats., NR 299, Wis. Adm. Code, that affect waters of the State., including non-federal wetlands. The structure or fill is not to be put to uses differing from those uses specified or contemplated in the original authorization or most recently authorized modification. Minor deviations are allowed where necessary to conform to modern construction practices, materials, construction codes, or safety standards. This section of NFWGP-WI may be used for public road projects that include the replacement of bridge abutments and/or culverts and reconditioning of the roadbed. NFWGP-WI may not be used for roadway widening beyond the existing footprint or for the addition of new lanes.

2. Scientific Measurement Devices.

Regulated discharges for staff gages, tide gages, water recording devices, water monitoring wells, water quality testing and improvement devices and similar structures.

3. Survey Activities. Regulated discharges for survey activities including core sampling, seismic exploratory operations, and plugging of seismic shot holes and other

exploratory-type bore holes. Drilling and the discharge of excavated material from test wells for oil and gas exploration is not authorized by this section; the plugging of such wells is authorized. Fill placed for roads, pads and other similar activities is not authorized by this section of NFWGP-WI. The discharge of drilling mud and cuttings may require a permit under the WPDES program.

4. Oil/Hazardous Substances Containment/Cleanup.

Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan, (40 CFR Part 300), provided that the work is done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR 112.3 and any existing State contingency plan and provided that the Regional Response Team (if one exists in the area) concurs with the proposed containment and cleanup action

5. Wetland Restoration Activities regulated under NR 353.

NFWGP-WI does not authorize any conversion of sedge meadow and forested wetland to other wetland types. It covers the restoration and enhancement of wetlands and riparian areas, the enhancement or restoration of degraded wetlands and riparian areas on: (i) public lands and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration or creation agreement between the landowner and the U.S. Fish and Wildlife Service or the Natural Resources Conservation Service (NRCS) or voluntary wetland

restoration, enhancement, and creation actions documented by the NRCS pursuant to NRCS regulation; or (ii) on any Federal land. (The future reversion discussed below does not apply to wetlands created, restored or enhanced as mitigation for a mitigation bank); or (iii) by a state agency on any public or private land. NFWGP-WI cannot be used to authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed. However, NFWGP-WI may be used to relocate aquatic habitat types on the project site, provided there are net gains in aquatic resource functions and values. Reversion: For enhancement, restoration and creation projects conducted under paragraph (ii) and (iii), NFWGP-WI does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required at that time for any reversion

6. Moist Soil Management for Wildlife.

Discharges of dredged or fill material and maintenance activities that are associated with moist soil management for wildlife performed on state or federal owned or managed property, for the purpose of continuing ongoing, site-specific, wildlife management activities where soil manipulation is used to manage habitat and feeding areas for wildlife. Such activities include, but are not limited to: the repair, maintenance or replacement of existing water control structures; the repair or maintenance of dikes; and plowing or disking to impede succession, prepare seed beds, or establish fire breaks. Sufficient vegetated buffers must be maintained adjacent to all open water bodies to preclude water quality degradation due to erosion and sedimentation. NFWGP-WI does not

authorize the construction of new dikes, roads, water control structures, etc. associated with the management areas. NFWGP-WI does not authorize converting wetlands to uplands, impoundments or other open water bodies.

7. Emergency Watershed Protection -Rehabilitation. Work done by or funded by the Natural Resource Conservation Service qualifying as an "exigency" situation (requiring immediate action) under its Emergency Watershed Protection Program (7 CFR Part 624) and work done or funded by the Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 509.13).

8. Outfall Structures. This activity is authorized provided that the work is regulated and approved under ch. 30/31, Wis. Stats., or the work is exempt from regulation under those statutes. Activities related to construction of outfall structures and associated intake structures where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted, or which are otherwise in compliance with regulations issued under the Wisconsin Pollutant Discharge Elimination System program.

9. Bank Stabilization. This activity is authorized provided that the work is regulated and approved under ch. 30/31 Wis. Stats, or, the work is exempt from regulation under that statute .

10. Boat Ramps. This activity is authorized under the non-reporting GP provided that the work is regulated and approved under ch. 30/31 Wis. Stats.

11. Minor fills. Minor wetland fills that occur in conjunction with activities that are authorized under

ch. 30/31 Wis. Stats., to a maximum of 500 square feet.

b. AREAS/ACTIVITIES EXCLUDED FROM THE NON-REPORTING SECTION OF NFWGP-WI.

1. The non-reporting section of NFWGP-WI does not authorize any activity in:

A. Calcareous fens as identified by the DNR, and waters of the state within 300 feet of such fens. All regulated activities in these areas require evaluation under individual wetland water quality certification procedures.

B. Listed impaired waters. This permit may not be used to authorize projects that involve filling, draining, or inundating more than one acre of non-federal wetlands located in the watershed of any waterbodies, that are listed on the EPA-approved list of Wisconsin impaired waters pursuant to Section 303(d) of the Clean Water Act. This exclusion applies only to those impaired waters that are listed for one or more of the following reasons: nutrients, dissolved oxygen (DO), ammonia, suspended solids, turbidity, sediment, streambank erosion, flow habitat, hydrological modification, wetland loss, siltation and organic enrichment. Such projects in these areas may be eligible for evaluation under the individual wetland water quality certification procedure.

C. Coastal non-federal wetlands in ridge and swale complexes as identified on DNR Wisconsin Wetland Inventory maps.

2. Activities detrimental to waters of the state, including wetlands, that would adversely affect designated areas of special natural resource interest as defined in NR 103.04, Wis. Adm. Code.

3. Activities, individually or cumulatively, detrimental to waters of the state, including wetlands, that would further the substantial degradation of designated impaired waters of the state.

4. All regulated activities under 1., 2. and 3. above, require evaluation under individual wetland water quality certification procedures (except oil - hazardous material spill confinement and cleanup).

c. APPLICATION/EVALUATION PROCEDURES UNDER THE NON-REPORTING SECTION OF NFWGP-WI:

An activity authorized by this NFWGP-WI may commence when project proponents have carefully confirmed that the activity will be conducted in compliance with all of the terms and conditions of NFWGP-WI. No application to the DNR is required; however, if requested, the DNR will confirm whether or not proposed work is authorized by the NFWGP-WI. Persons proposing to do work should note that **conditions of the NFWGP-WI require that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable.** Activities that would adversely affect Federal or State endangered plant or animal species or certain cultural/archaeological resources are not authorized by this non-reporting general permit. Information about Federal and State endangered species may be obtained by contacting the U. S. Fish and Wildlife Service at (920) 465-7440 or the DNR at (608) 266-7012. If investigations of previously identified archaeological sites and/or historic structures present within the area covered under this permit result in recommendations to avoid or otherwise mitigate adverse impacts to

those site and/or structures, you are required to comply with those recommendations. Note that burial sites are protected against any unauthorized disturbances under provisions of Wisconsin Statutes. Information concerning cultural resources may be obtained by contacting the State Historic Preservation Office at (608) 264-6505. Project proponents are encouraged to contact these agencies early in project planning because doing so can help avoid violations of State law and potentially lengthy project delays.

Persons performing work should be aware that Federal or State regulations concerning endangered species and cultural resources may apply to their projects whether or not the work requires DNR authorization.

2. REPORTING ACTIVITIES FOR NONFEDERAL WETLANDS-GP-2008-WI (NFWGP-WI).

The following discharge activities, for a single and complete project, that comply with all terms and conditions of NFWGP-WI are eligible for authorization by this permit. Wetland alteration activities authorized under NFWGP-WI may not exceed 2 acres of wetland impact. **Persons proposing to do work should note that conditions of NFWGP-WI require that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable.**

Note that certain areas and activities are EXCLUDED from this permit as described in item b., below.

a. ACTIVITIES ELIGIBLE FOR AUTHORIZATION BY NFWGP-WI:

1. Activities that are excluded from authorization by the non-reporting

section of NFWGP-WI because they are in a coastal wetland area described at 1.b.1.C.

2. Return Water From Upland Contained Disposal Areas. Return water from an upland, contained dredged material disposal area.

3. Cleanup of Hazardous and Toxic Waste. Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. For discharges in special aquatic sites, including wetlands, the application must include a delineation of affected special aquatic sites, including wetlands. Court ordered remedial action plans or related settlements are also authorized by NFWGP-WI. This general permit does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

4. Completed Enforcement Actions. Discharges of dredged or fill material, remaining in place, or undertaken for mitigation, restoration, or environmental benefit in compliance with the terms of a final written DNR non-judicial settlement agreement resolving a violation, or the terms of a state settlement agreement or order resolving a violation of ch. 30/31, sections 281.15, 281.17(10), 281.36, 281.37, 283.33, Wis. Stats., and NR 299, Wis. Adm. Code, and is limited to cases involving water/wetland impacts of 5 acres or less.

5. Temporary Construction, Access and Dewatering. Temporary structures and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites; provided the associated permanent activity was previously authorized by

the DNR. Fill must be of materials and placed in a manner that will not erode. Temporary fill must be entirely removed to upland areas following completion of the construction activity and the affected areas restored to the pre-project conditions.

Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use. The application for this general permit must include a restoration plan of reasonable measures to avoid and minimize impacts to aquatic resources. This general permit does not authorize temporary structures or fill associated with mining activities or the construction of marina basins that have not been authorized by the DNR.

6. Structural Discharges. Discharges of material such as concrete, sand, rock, etc. into tightly sealed forms or cells where the material will be used as a structural member such as a utility pole, bridge support, ramp surface, or retaining wall. This activity does not include building foundations or other structures such as pilings intended for use as building supports.

7. Utility Line Discharges. Activities required for the construction, maintenance and repair of utility lines and associated facilities in non-federal wetlands as follows:

(i) Utility lines: The construction, maintenance, or repair of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, in non-federal wetlands, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television

communication. Material resulting from trench excavation may under limited circumstances, as determined by DNR, be temporarily sidecast (up to two weeks) into non-federal wetlands provided the erosion control measures meet or exceed the technical standards for erosion control approved by the DNR under subch. V of ch. NR 151, Wis. Adm. Code. Any area where topsoil is exposed during construction shall be immediately seeded and mulched or riprapped to stabilize disturbed areas and prevent soils from being eroded and washed into a water of the state, including wetlands.

Note: These standards can be found at the following website: <http://dnr.wi.gov/org/water/wm/nps/stormwater/techstds.htm>.

The top 6" to 12" of the trench should normally be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain non-federal wetlands. (e.g., backfilling with extensive gravel layers, creating a french drain effect). For example, utility line trenches can be backfilled with clay blocks to ensure that the trench does not drain the waters of the state through which the utility line is installed.

(ii) Utility line substations: The construction, maintenance, or expansion of a substation facility associated with a power line or utility line in non-federal wetlands provided the activity does not result in the loss of greater than 10,000 square feet of wetland.

(iii) Foundations for overhead utility line towers, poles, and anchors: The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in non-federal wetlands provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

The term "utility line" does not include activities which drain an isolated wetland, such as drainage tile, or french drains; however, it does apply to pipes conveying drainage from another area. For the purposes of this NFWGP-WI, the loss of non-federal wetlands includes the filled area plus wetlands that are adversely affected by flooding, excavation, or drainage as a result of the project.

Activities authorized by paragraphs (i) through (iii) may not exceed a total of 10,000 square feet loss of non-federal wetlands. Jurisdictional wetlands temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, are not included in the calculation of permanent loss of wetlands. This includes temporary construction mats (e.g., timber, steel, composite, geotextile) used during construction and removed upon completion of the work. Where certain functions and values of wetlands are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous wetland, are considered a permanent wetland loss.

Mechanized land clearing necessary for the construction, maintenance, or repair of utility lines and the construction, maintenance and expansion of utility line substations, and foundations for overhead utility lines is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of wetland that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, and foundations. Excess material must be removed to upland areas immediately upon completion of construction.

If using directional-drilling method of utility line installation, the applicant has provided a detailed narrative

describing water supply intake(s) and recapture and disposal methods for used drilling fluids. A plan must be submitted describing the correctional steps to be taken in the event of a leak, either through the substrate into the wetland, or onto the upland area with possible return to the wetland or waterway.

8. Commercial, Residential, Industrial, Agricultural, Recreational and Public Development (including roads for these purposes).

Discharges of dredged or fill material for a single and complete project that directly and/or indirectly impact by filling, draining, excavating and/or inundating not more than 2.0 acres of wetland/water area for commercial, residential, industrial or recreational development projects, including associated roads. It is important for applicants for NFWGP-WI to include information with their application that clearly shows that an alternatives analysis has been conducted and the proposed work is the least environmentally damaging way that is practicable to accomplish the purpose of the project. This will minimize delays in evaluation procedures and increase the chance that the project will receive prompt and favorable review.

9. Wildlife Ponds. Discharges of dredged or fill material for the construction of wildlife ponds that are regulated and approved under NR 343, Wis. Adm. Code. The wildlife ponds shall be constructed with irregular shorelines, shallow side slopes (e.g., 8-foot H to 1-foot V), and up to 5-foot water depth. Excess fill material not needed for construction of the pond must be removed to an upland location. The primary purpose of this activity must be wildlife habitat improvement. NFWGP-WI does not authorize the discharge of fill material for the construction of wildlife ponds

in forested wetlands, sedge meadows or calcareous fens.

b. AREAS/ACTIVITIES EXCLUDED FROM NFWGP-WI.

1. NFWGP-WI does not authorize any activity in;

A. Calcareous fens as identified by the DNR, and waters of the state within 300 feet of such fens.

B. Listed impaired waters. This permit may not be used to authorize projects that involve filling, draining, or inundating more than one acre of non-federal wetlands located in the watershed of any waterbodies, that are listed on the EPA-approved list of Wisconsin impaired waters pursuant to Section 303(d) of the Clean Water Act. This exclusion applies only to those impaired waters that are listed for one or more of the following reasons: nutrients, dissolved oxygen (DO), ammonia, suspended solids, turbidity, sediment, streambank erosion, flow, habitat, hydrological modification, wetland loss, siltation and organic enrichment. Such projects in these areas may be eligible for evaluation under the individual wetland water quality certification procedure.

C. Coastal non-federal wetlands in ridge and swale complexes as identified on DNR Wisconsin Wetland Inventory maps.

2. Activities detrimental to waters of the state, including wetlands, that would adversely affect designated areas of special natural resource interest as defined in NR 103.04, Wis. Adm. Code.

3. Activities, individually or cumulatively, detrimental to waters of the state, including wetlands, that would further the substantial degradation of designated impaired waters of the state.

4. All regulated activities under 1., 2. and 3. above require evaluation under individual wetland water quality certification procedures (except oil - hazardous material spill confinement and cleanup).

c. APPLICATION/EVALUATION PROCEDURES UNDER NFWGP-WI:

Applicants must submit a complete application to the DNR using the joint State-Federal application form that is available from DNR offices and on the following website:

<http://www.dnr.state.wi.us/org/water/fhp/waterway/index.shtml>.

Upon receipt of a permit application for authorization under NFWGP-WI, and the appropriate permit fee, the department will review the information to determine the completeness of the application and eligibility for NFWGP-WI. A complete application consists of the following information:

1. Name and address of the applicant and authorized agent.
2. Description of the proposed activity. The description should be of sufficient detail to provide a thorough understanding of the project so that it can be explained to other agencies and the general public.
3. The application should identify all activities that affect waters of the state and that are reasonably related to the same project for which an application has been submitted (see definition of Single and Complete Project under Definitions, below).
4. Name and address of adjacent landowners.
5. Project location. The application should identify the wetland impacted and identification of the specific location of the impact(s).
6. A description of any work already completed as part of the project in waters of the state, including non-federal wetlands .
7. Signature of Applicant or

authorized agent.

8. Drawings, plans, or sketches of sufficient detail to understand the existing and proposed conditions at the site. Detailed engineering plans and specifications may be required.

9. A practicable alternatives analysis demonstrating that the proposed activity avoids and minimizes wetland impacts to the maximum extent practicable.

10. The applicable permit processing fee.

11. Any other information as required by the department.

In most cases, the department will require a wetland delineation prepared in accordance with the 1987 Corps of Engineers Wetland Delineation Manual before the application will be considered complete.

Applicants are encouraged to obtain the services of professional consultants in planning projects and preparing applications, wetland determinations/delineations, and mitigation plans. The department may request additional information from the applicant in order to complete its determination of compliance with NFWGP-WI.

Once an application has been determined to be complete, the department will conduct its evaluation of the permit application as described in the following paragraphs.

Applicants are encouraged to help speed the department's evaluation and increase the chance of receiving a favorable review and authorization by including information with their application that clearly shows that the proposed work is the least environmentally damaging way that is practicable to accomplish the basic purpose of the project. The department will generally deny any request for authorization under the NFWGP-WI unless the applicant

demonstrates that the work proposed is the least environmentally damaging practicable alternative to accomplish the basic project purpose, and that impacts to non-federal wetlands cannot reasonably be avoided or further minimized. The department will also deny authorization for any regulated activity that it determines is contrary to the public interest.

The department will do the level of analysis required to determine whether or not the proposal meets all authorization criteria. Projects that fail to meet any authorization criteria will be denied authorization.

If the department's decision is to approve the activity under NFWGP-WI, the DNR will send a confirmation letter to the applicant. The DNR will simultaneously send a copy of the letter to the COE.

Time limits associated with determinations made by the department under this general permit are not applicable for applications after October 1 in any calendar year and if a field investigation is required before the department has adequate information to make a decision. The weather delayed processing time is limited to November 1 of any calendar year and April 1 of the succeeding calendar year.

ENDANGERED SPECIES AND CULTURAL RESOURCES REVIEW.

The DNR review will include a determination concerning compliance of the project with Section 7 of the Endangered Species Act, s. 29.604, Wis. Stats. (State Endangered and Threatened Species Protected), Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats., (State Historic Preservation). Projects found not to comply with any of these Acts/laws are automatically deemed incomplete applications and will not be authorized until actions are

taken so that compliance with both Acts/laws is assured. The state cultural resources review will be conducted in a manner similar to the endangered species review. If investigations of previously identified archaeological sites and/or historic structures present within the area covered under this permit result in recommendations to avoid or otherwise mitigate adverse impacts to those site and/or structures, you are required to comply with those recommendations. Note that burial sites are protected against any unauthorized disturbances under provisions of Wisconsin statutes.

VOLUNTARY COMPENSATORY MITIGATION

Applicants whose project includes voluntary compensatory mitigation should include a mitigation plan prepared in accordance with the *Guidelines for Wetland Compensatory Mitigation in Wisconsin* (February 2002) that describes the measures proposed to offset the adverse impacts of the project. Voluntary compensatory mitigation that is proposed to satisfy state requirements may, but will not necessarily, satisfy a local requirement.

NFWGP-WI PROVISIONS

DEFINITIONS.

Calculation of Aquatic Impact Thresholds: For those activities with threshold limits, substantial adverse modification impacts shall be determined by calculating area of waters of the state (including non-federal wetlands) filled plus the impacts to waters of the state that are excavated, inundated, or drained as a result of the regulated discharge.

Discharge of Fill Material: the term fill

material means material placed in waters of the state (including non-federal wetlands) where the material has the effect of:

(i) Replacing any portion of a water of the state with dry land or having the same/similar affect as to change a water of the state to a different use; or

(ii) Changing the elevation of any portion of a water of the state. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, plant debris (lawn clippings), construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the State. The term fill material includes any material that changes the water of the state into a different wetland type or to non-wetland.

Loss of waters. Refers to waters of the state (including non-federal wetlands) that are filled or permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills/alterations that change an aquatic area to dry land or change its use, wetland function, value or type. Temporary fill in non-federal wetlands is regulated by s. 281.36 Wis. Stats.

Practicable: available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose.

Single and Complete Project. For purposes of this permit the term, "single and complete project" means the total project affecting a single isolated wetland proposed by the project proponent. However if a project proponent's project affects several non-federal wetlands but

each wetland activity is dependent on the other for completing the project, the cumulative total of all the filled areas is the basis for deciding the projects total wetland impact. For example, if construction of a residential development or linear project such as a road or utility line affects several different non-federal wetlands, the cumulative total of all filled areas is the basis for deciding the project's total wetland impact. For "phased" developments, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose whether or not other phases were constructed.

NFWGP-WI STANDARD CONDITIONS

1. Discretionary Authority. The DNR retains discretionary authority to require an individual wetland water quality certification of any activity eligible for authorization under NFWGP-WI based on concern for the aquatic environment or for any public interest factor.

2 . Record Keeping. All NFWGP-WI confirmations will be recorded in the DNR's permit database for impact tracking and program evaluation.

3. Mitigation/Sequencing. Discharges of dredged or fill material into non-federal wetlands **must be avoided and minimized to the maximum extent practicable in conformance with NR 103, Wis. Adm. Code.**

4. Proper maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety, and preventive actions to avoid the spread of invasive plant species.

5. Erosion and siltation controls. Appropriate erosion and siltation

controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date. Work should be done in accordance with state-approved published practices that meet or exceed the technical standards for erosion control approved by the DNR under subch V of ch. NR 151, Wis. Adm. Code. Any area where topsoil is exposed during construction shall be immediately seeded and mulched or riprapped to stabilize disturbed areas and prevent soils from being eroded and washed into a water of the state, including wetlands.

Note: These standards can be found at the following website: <http://dnr.wi.gov/org/water/wm/nps/stormwater/techstds.htm>.

6. Removal of temporary fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

7. Federal and State Threatened and Endangered Species. NFWGP-WI does not affect the DNR's responsibility to insure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/ or State law or which is likely to destroy or adversely modify the critical habitat of such species.

8. Historic properties, cultural resources. NFWGP-WI does not

affect the DNR's responsibility to insure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws.

Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.

9. Spawning areas. Discharges in fish, amphibian and reptile spawning areas during spawning seasons, and wildlife nesting must be avoided to the maximum extent practicable.

10. Alterations to Hydrology. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal hydrology or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

11. Adverse effects from impoundments. If the discharge creates an impoundment of water, adverse effects on the aquatic system shall be minimized to the maximum extent practicable.

12. Waterfowl breeding areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

13. Navigation. No activity may cause more than a minimal adverse effect on navigation.

14. Aquatic life movements. No

activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

15. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

16. Wetland water quality standards. All work or discharges to a nonfederal wetland resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable State water quality and effluent standards on a continuing basis.

17. Preventive measures. Measures must be adopted to prevent potential pollutants from entering the isolated wetland. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the isolated wetland as a result of spillage, natural runoff, or flooding.

18. Disposal sites. If dredged or excavated material is placed on an upland disposal site (not in the wetland) the site must be securely diked or contained by an acceptable method that prevents the return of potentially polluting materials to the wetland by surface runoff or by leaching. The containment area, whether bulkhead or upland disposal site, must be fully completed prior to the placement of any dredged material.

19. Suitable fill material. All fill (including riprap), if authorized under this permit, must consist of suitable material (e.g, no trash, debris, car bodies, asphalt, etc.,) free from toxic

pollutants in other than trace quantities(see Section 307 of the Clean Water Act) and upon visual inspection be free of invasive and exotic plant species. In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, the State Historic Preservation Officer (SHPO) must be notified prior to the use of the new site. Evidence of this consultation with the SHPO will be forwarded to the applicable DNR Service Center.

20. Water intakes/activities. An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse. Sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water quality.

21. Spill contingency plan. A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at **1-800-943-0003** and the U.S. Coast Guard at telephone number **1-800-424-8802**.

22. Other permit requirements. No NFWGP-WI authorization eliminates the need for other local, state or Federal authorizations.

23. The applicant shall allow the WDNR reasonable entry and access to the discharge site to inspect the proposed discharge for compliance

with this certification and applicable laws and to inspect permitted discharges for compliance with this certification and applicable laws.

24. If any conditions of this certification are found to be invalid or unenforceable, certification for all activities to which that condition applies is denied.

25. The applicant receives written Confirmation (excluding non-reporting activities) from the department that their proposed activity(s) is consistent with the requirements of NFWGP-WI, and the department confirms that the applicant has adequately demonstrated that no other practicable alternative exists which would not adversely impact wetlands and would not result in other significant adverse environmental consequences and the Department confirms that the activity is consistent with the requirements of NR 103.08, Wis. Adm. Code.

Note: An application fee is required for authorization under NFWGP-WI.