



## WISCONSIN DEPARTMENT OF NATURAL RESOURCES NOTICE OF FINAL GUIDANCE & CERTIFICATION

Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

### DOCUMENT ID

WW-19-0047-C

### DOCUMENT TITLE

FISH HABITAT – WING DEFLECTOR EXEMPTION CHECKLIST

### PROGRAM/BUREAU

WATERWAYS PROGRAM

### STATUTORY AUTHORITY OR LEGAL CITATION

CH. 30, WIS. STATS.

### DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

11/25/19

### DATE FINALIZED

12/23/19

### DNR CERTIFICATION

*I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.*

12/16/19

Signature

Date

Certain activities in navigable waters are exempt from needing a permit under chapter 30, Wisconsin Statutes. Using this checklist, you can determine if your project qualifies for an exemption.

Your proposed wing deflector is eligible for an exemption if your project will meet all the following conditions:

- The wing deflector may not be located in an area of special natural resource interest (ASNRI) or within a public rights feature (PRF) – see the Designated Waters Search on DNR’s website to determine if your waterway is an ASNRI, PRF or has another special designation.
- The wing deflector may be placed and maintained only by a riparian.
- The wing deflector shall be placed entirely within the riparian’s zone of interest.
- The wing deflector must be placed solely for the purpose of improving fish habitat.
- The riparian shall report the placement of the structure to the local department fisheries biologist within 30 days after placement. The report shall contain a description of the project and its purpose, the name of the waterway and a map showing where the structure was placed.
- A deposit of sand, gravel or stone may be associated with the placement of a wing deflector provided the deposit is limited to the area immediately underneath or within one foot of the structure and is less than 2 cubic yards.
- Dredging is not allowed for the placement of a wing deflector.
- To protect fish habitat during spawning seasons, the wing deflector may not be placed during the following time periods:
  - (a) For trout streams and perennial tributaries to trout streams, September 15 through May 15.
  - (b) For all waters not identified in (a) and south of State Highway 29, March 15 through May 15.
  - (c) For all waters not identified in (a) and north of State Highway 29, April 1 through June 1.
- Design and placement of wing deflectors shall follow the prescriptions in Trout Stream Therapy by Robert L. Hunter in Guidelines for Management of Trout Stream Habitat in Wisconsin by Ray J. White and Oscar L. Brynildson, or according to NRCS Field Office Technical Guide (FOTG), Practice Standard 395, Stream Habitat Improvement and Management.

Note: Copies of these publications may be inspected by contacting your local department fisheries biologist, and are available at many public libraries. NRCS Practice Standard 395 can be found at [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs143\\_025692.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs143_025692.pdf)

- Wing deflectors may only be placed in navigable streams which are less than 5 feet wide, measured from ordinary high water mark to ordinary high water mark.
- Wing deflectors may not extend more than 25% across the stream width.
- Proper erosion control measures shall be used during installation (to prevent soils from eroding into the waterway), removed after work is complete, and any disturbed areas restored.
- Endangered Resources Review: The applicant is not required, but is encouraged to request an endangered resources (ER) review letter before applying for the permit. Information on how to obtain a review can be found by visiting the website at <http://dnr.wi.gov/topic/ERReview/Review.html>. The applicant can also visit the NHI Public Portal, <http://dnr.wi.gov/topic/ERReview/PublicPortal.html>, to determine if a full ER Review is required. Read the ‘What is an ER Preliminary Assessment and what do the results mean?’ section to determine follow-up steps.

If your proposed project meets all of these conditions, the project is exempt from permitting. Keep a copy of this checklist for future reference. If your proposed project does not meet all of these conditions, submit a permit application to the Department. To obtain permit information search for it on our website at [www.dnr.wi.gov](http://www.dnr.wi.gov) under the topic “Waterway and Wetland Permits.”