



## 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-19-0073-C**

### DOCUMENT TITLE

**DREDGING - REMOVAL OF PLANT AND ANIMAL NUISANCE DEPOSITS CHECKLIST**

### PROGRAM/BUREAU

**WATERWAYS PROGRAM**

### STATUTORY AUTHORITY OR LEGAL CITATION

**CH. 30, WIS. STATS.**

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

**12/2/2019**

### DATE FINALIZED

**12/30/19**

### 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.*

12/23/19

Signature

Date

## Dredging – Removal of Plant and Animal Nuisance Deposits General Application Instructions

### Determine eligibility for this general permit:

- Choose an activity decision module on web, <http://dnr.wi.gov/topic/waterways>, **or**
- Review the eligibility criteria below
  - If the project does not meet all of the eligibility standards, apply for an Individual Permit

### Pre-application requirements:

- Must be submitted directly to the local reviewer, <http://dnr.wi.gov/topic/Waterways/contacts.html#county>, and **prior** to submitting the application packet.
- Must include the following information:
  - Name of waterbody and location of project
  - Volume of material to be dredged
  - Brief description of dredging method and equipment, including any containment BMPs to be used
  - Brief description of proposed disposal method and location
  - If a disposal facility is to be used, size of the disposal facility
  - Any previous sediment sampling (including field observations) and analysis data from the area to be dredged or from the proposed disposal site.
  - Copy of a map showing the area to be dredged, the depth of cut, the specific location of the proposed sediment /sampling sites and the bathymetry of the area to be dredged.
  - Anticipated starting and completion dates of the proposed project.

### To apply:

- Apply online using our online ePermitting System at <http://dnr.wi.gov/permits/water>
- Include all required attachments. Each document must be less than 15 megabytes and our online system offers a help guide to reduce file sizes,
- Permit processing review times begin when all of the required application materials are received by the DNR. The department may require additional information to evaluate the project.
- If you have questions regarding your application, contact the local Water Management Specialist for your county <http://dnr.wi.gov/topic/Waterways/contacts.html#county>.

### Please note, prior to starting any work at the project site, you are responsible for:

- Obtain all necessary local (e.g. city, town, village or county) permits.
- Obtain U.S. Army Corps of Engineer permits or approvals, <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.
- Any other applicable state permits

### Required attachments - Forms or documents you upload in our online ePermitting System

1. **Application form** - A complete, signed application form "Water Resources Application for Project Permits (WRAPP)" (Form3500-053).

2. **Application fee** - Payment must be submitted through the ePermitting System as part of the application process. A list of fees can be found at <http://dnr.wi.gov/topic/waterways/documents/PermitDocs/feesheet.pdf>.

3. **Ownership documentation** - (i.e. copy of deed, land contract, current property tax statement/receipt)
4. **Photographs** that clearly show the on-the-ground conditions of the existing project areas. Remember that too much snow cover or vegetation may obscure important details. If possible, have another person stand near the project area for size reference. Color images are preferred.
5. **Site maps** that clearly illustrate the location and perimeter of the project site, and its relationship to nearby water resources (e.g. lakes, rivers, streams or wetlands), major landmarks and roads. Provide copies of relevant maps (e.g. wetland, aerial, topographical, soil, floodplain, or zoning maps), with the project location clearly identified. The department offers a web mapping tool to assist in creating these maps at <http://dnr.wi.gov/topic/surfacewater/swdv/>.
6. **Plans and specifications** that show what you intend to do. Plan drawings should be clear and to scale. Be sure to draw all plans as accurately and detailed as possible. The department reserves the right to require additional information to evaluate the project.
7. **Narrative description** of your proposal on a separate page. Please include:
  - What the project is, purpose of project, and need for the project
  - How you intend to carry out the project, including methods, materials, and equipment
  - Your proposed construction schedule and sequence of work
  - What temporary and permanent erosion control measures will be used
  - The location of any disposal area for dredged or excavated materials
  - For disturbances or fill, provide a description of type, composition, and quality of materials
  - How you plan to avoid, minimize and mitigate impacts to waterways
  - Area (e.g. linear feet) impacted
8. **Proof of pre-application requirement submittal** - This would either be documentation from the local reviewer saying that no sampling will be required, or sampling results from the project area.
9. **Endangered and threatened resources** - 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.
10. **Historical and cultural resources** - If you are aware there is a historical or cultural resource present, you are **required** to contact the Wisconsin State Historical Society to verify and receive documentation that the activity will not result in an adverse impact to these resources.

**Eligibility criteria:**

Projects that do not meet all criteria are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP5-2013. For projects that do not qualify for WDNR-GP5- 2013, you may apply for an individual permit as outlined in section 30.208(2), Wis. Stats.

Project purpose is to remove accumulated plant and animal nuisance deposits if the removal does not interfere with public rights in navigable waters.

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<p>If the water is a navigable stream, the applicant also has obtained permission of the bed owner (who may be the riparian owner) to remove the accumulated plant and animal nuisance deposit.</p>	
<p>The applicant is the riparian owner. <b>Or, if the project location is in the riparian zone landward of the line of navigation (3 foot water depth) the applicant has obtained PERMISSION of the riparian owner</b> to remove the accumulated plant and animal nuisance deposit.</p>	
<p>The applicant is the riparian owner. <b>Or if the project location is waterward of the line of navigation (3 foot water depth), the applicant has NOTIFIED the riparian owner</b> of the intention to remove the accumulated plant and animal nuisance deposit.</p>	
<p><b>Fish Spawning</b> - To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, the removal of accumulated plant and animal nuisance deposits <b>may not be removed</b> during the following time periods: September 15th through May 15th for trout streams; and the Root River (Racine County), Kewaunee River (Kewaunee County), and Strawberry Creek (Door County) upstream to the first dam or barrier.</p> <p>To determine if a waterway is a trout stream, you may use the WDNR website trout maps which can be found at <a href="http://dnr.wi.gov/topic/fishing/trout/streammaps.html">http://dnr.wi.gov/topic/fishing/trout/streammaps.html</a>          March 1st through June 15th for ALL waters.</p> <p>The regional Department Fisheries Biologist may waive or modify timing restrictions in writing. <a href="http://dnr.wi.gov/topic/fishing/people/fisheriesbiologists.html">http://dnr.wi.gov/topic/fishing/people/fisheriesbiologists.html</a></p>	
<p>Plant and animal nuisance deposits removed from the waterbody may not be placed permanently or temporarily in a wetland, or floodway or re-deposited waterward of the ordinary high water mark (OHWM) of a navigable waterway.</p>	
<p>The removal of accumulated plant and animal nuisance deposits shall be conducted in a manner that prevents the collection, removal or dispersal of sediment away from the project site to the maximum extent practicable. Temporary sediment control measures used to accomplish this should be completely removed from the waterbody no more than 24 hours after the project is completed.</p>	
<p>All temporary sediment control measures shall follow all state lighting requirements and cannot obstruct navigation.</p>	
<p>Only accumulated plant and animal nuisance deposits may be removed. Nuisance deposits do not include aquatic vegetation that is attached or rooted to the bed or is growing and alive and normally present as naturally occurring vegetation. Nuisance deposits do not include the natural deposition of the native lakebed material like sand, cobble, silt, detritus, and other organic material.</p>	
<p>Live, living or growing plants may not be removed unless the removal is exempt under 23.24 (4), stats., or complies with the provisions for waiver of the permit requirement under s. NR 109.06, Wis. Admin. Code.</p>	
<p>Nuisance deposits may not be removed in areas where public rights features as described in s. NR 1.06, Wis. Admin. Code are located. The location of public rights features can be found at the following website <a href="http://dnrmmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&amp;runWorkflow=DesignatedWaters">http://dnrmmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&amp;runWorkflow=DesignatedWaters</a></p>	

<p>Nuisance deposits may not be removed in waters in coastal wetlands along Lakes Michigan and Superior that are identified as ecologically significant in “The Coastal Wetlands of Wisconsin’s Great Lakes” (DNR–CMP project). The Coastal Wetlands of Wisconsin’s Great Lakes can be found at the following website <a href="http://dnr.wi.gov/topic/wetlands/cw/">http://dnr.wi.gov/topic/wetlands/cw/</a></p>	
<p>If the accumulated plant and animal nuisance deposits are located in Outlying Waters, removal shall be limited to locations within the swash zone. For all other locations, removal should be limited to locations below the ordinary high watermark.</p>	
<p>Removal of accumulated plant and animal nuisance deposits above the ordinary high watermark is a land grading activity and is not authorized under this general permit.</p>	
<p>The removal is limited to the accumulated plant and animal nuisance deposit only. The removal of bed material other than plant and animal nuisance deposits should be limited to the extent practicable and may not exceed a de minimus amount (2 cu. yds.). The removed material may contain trash which should be removed along with the accumulated plant and animal nuisance deposit.</p>	
<p>This general permit does not authorize the redistribution of native bed and bottom material which includes sand, cobble, silt, detritus, and other organic material or the placement of additional material which includes sand/stone, etc. below the OHWM.</p>	
<p>Mechanized equipment used to remove the accumulated plant and animal nuisance deposit shall be designed to remove only nuisance deposits from the bed of the waterway. This includes skimming, scraping, sweeping, sucking, raking, etc. The equipment should be used in a manner that minimizes impacts to the native bed material and surrounding vegetation.</p>	
<p>Mechanized equipment used should be low ground pressure equipment, including wide-tire vehicles and tracked equipment to minimize rutting on the bed of the waterway.</p>	
<p>If the accumulated plant and animal nuisance deposits will be removed from an area located in Outlying Waters, and within the swash zone of the waterway, the equipment shall remove the material along a path parallel to the shore.</p>	
<p>If the removal is conducted within the swash zone on Outlying Waters or waterward of the ordinary high watermark (OHWM) on the exposed bed of other waterways, equipment operation shall cease when rutting occurs. The operator of the vehicle shall immediately restore any rutting of bed material within the swash zone or exposed bed material below the OHWM.</p>	
<p>Unless using a developed boat launch, equipment used in the removal shall access the site along one path perpendicular to the shore to the extent practicable. Any chosen route to access the site shall minimize the impact to the shoreline and the bed of the waterway.</p>	
<p>The amount or location of accumulated plant and animal nuisance deposit to be removed should warrant the use of mechanical equipment.</p>	
<p>The activity will not result in adverse impacts to historical or cultural resources and will comply with s. 44.40, Wisconsin Statutes as determined by the department.</p>	
<p>The project site shall implement erosion and sediment control measures that adequately control or prevent erosion, and prevent damage to waterways and wetlands as outlined in NR 151.11(6m), Wis. Adm. Code. These standards can be found at the following website: <a href="http://dnr.wi.gov/topic/Stormwater/standards/const_standards.html">http://dnr.wi.gov/topic/Stormwater/standards/const_standards.html</a> Any area where topsoil is exposed during the project should be immediately seeded and mulched to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway.</p>	

<p>To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Follow the most recent department approved washing and disinfection protocols and department approved best management.</p>	
<p>Practices to avoid the spread of invasive species as outlined in NR 40, Wis. Adm. Code. These protocols and practices can be found on the department website at <a href="http://dnr.wi.gov/topic/Invasives/bmp.html">http://dnr.wi.gov/topic/Invasives/bmp.html</a> Keyword: "equipment operator".</p>	
<p>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 a species as identified under the Federal Endangered Species Act.</p>	