



## 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-19-0096-C

### DOCUMENT TITLE

FWS, NRCS WETLAND CONSERVATION ACTIVITIES 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

## GENERAL PERMIT APPLICATION INSTRUCTIONS

A General Permit is available for wetland restorations sponsored by a federal agency under s. 30.2065, Wisconsin Statutes. To qualify for this general permit, your project must meet eligibility standards and must also be designed to meet NRCS 338, 394, 378, 410, 500, 572, 587, 638, and 657 technical standards, which can be found at <http://efotg.sc.egov.usda.gov/treemenuFS.aspx>.

Designing your project to meet these standards helps conserve fish and wildlife habitat, water quality and other public rights which we all enjoy. In addition, this will help us make a prompt decision on your proposal.

**STEP 1: Determine Project Eligibility** by carefully reviewing all terms and conditions to verify the proposed project meets the eligibility standards in Section I and permit conditions in Section V of the statewide general permit, WRGP-2016-WI. If you are not sure if a particular eligibility standard is met, it is suggested that the potential unknowns are discussed prior to permit application with local WMS and/or agency expert. This can be done during an initial site visit or via telephone conversations.

**STEP 2: Submit a Completed Application Package** to the DNR electronically on the Water Permits portal page at <http://dnr.wi.gov/Permits/Water/> and include all required attachments.

**STEP 3: Receive your Permit** within 15 calendar days after the DNR receives your complete application package or you may be requested to provide additional information to verify project meets the terms and conditions of the permit. In some cases, you may be notified that your project requires an individual permit.

Please note that you are responsible for obtaining all necessary local (e.g. city, town, village or county) and U.S. Army Corps of Engineer permits or approvals in addition to any applicable state permits prior to commencing any work at the project site.

### Informational Requirements:

1. **Application form.** A complete, signed application form "Water Resources Application for Project Permits (WRAPP)" (Form# 3500-53) and
2. **Wetland Conservation Federal Form.** Completed sections II and V certifying the project meets the terms and conditions of the eligibility standards listed in Section I and permit conditions in Section V of the statewide general permit, WRGP-2016-WI. For projects that propose dams across a watercourse, please be sure to complete the Additional Information section for each dam.
3. **Site maps** of the project site that include Soil Survey maps, WI Wetland Inventory maps, and recent aerial photographs. All maps must show clear directions to the project site with project and property boundaries clearly labeled. The aerial photo shall also show the locations of each wetland restoration activity clearly labeled (i.e. ditch fill, scrape, etc.).
4. **Photographs** that clearly show the existing project area. Photos should be taken from on the ground to show current conditions of the project area.
5. **Documentation** verifying project will not result in an adverse impact to federal or state threatened/endangered resources and/or cultural/historical resources if the respective databases document these resources within or adjacent to the project site.
6. **Wetland restoration drawing/plans and narrative** reflecting the General Permit Eligibility Standards as listed in the project-specific checklist below. Information to Include:
  - Goal and objective for project.
  - How the project will be carried out - including long-term site management
  - Proposed erosion control measures (temporary & permanent)
  - Disposal location for excavated materials
  - Types of vegetation found in existing wetland and adjacent wetlands
  - Distance from your project to nearest lake, stream or pond

<p><b>Eligibility Criteria:</b>          Projects that do not meet all criteria are not eligible for this general permit. If your project does not qualify for this general permit, you may apply for an individual permit.</p>	
<p>The NRCS or the FWS are the project sponsor for the wetland restoration project.          For wetland restoration projects conducted on private lands NRCS and/or FWS have obtained a binding wetland conservation project agreement with the landowner(s).</p>	
<p>The project purpose is wetland conservation (restoration, enhancement, preservation or management of wetlands). For example, this general permit does not authorize the construction of a detention basin in wetlands for stormwater management, even if the detention basin or the project of which the basin is a part will also result in some habitat creation or enhancement. Similarly, this chapter does not authorize a flood control project that may also result in creation or enhancement of some wildlife habitat.</p>	
<p>Project will result in net gains to wetland functions and will not result in a net loss of existing wetland acreage. For example, if the project places fill into an existing wetland, there must be a gain in at least the same amount of wetland as the existing wetland acreage lost due to filling. When assessing wetland functional values use the Wisconsin Rapid Assessment Methodology found at <a href="http://dnr.wi.gov/topic/wetlands/assessment.html">http://dnr.wi.gov/topic/wetlands/assessment.html</a>.</p>	
<p>Site conditions exhibit impacts to topography, soils, native vegetation or hydrology that have degraded a wetland and are potentially reversible.</p>	
<p>Project involves only the following wetland restoration or management activities that are designed and will be constructed to meet following applicable Natural Resources Conservation Service Field Office Technical Guide Standard Conservation Practice 338-Prescribed Burning, 378-Pond, 394-Firebreak, 410-Grade Stabilization Structure, 500-Obstruction Removal, 572-Spoil Spreading, 587-Structure for Water Control, 638-Water &amp; Sediment Control Basin, and 657-Wetland Restoration found at <a href="http://efotg.sc.egov.usda.gov/treemenuFS.aspx">http://efotg.sc.egov.usda.gov/treemenuFS.aspx</a> in Section IV in the Conservation Practices folder.</p> <ol style="list-style-type: none"> <li>1. Drain tile alteration or removal by disabling a section of drain tile or adding a water control structure within the existing tile line in the project area.</li> <li>2. Disabling artificial surface drains by filling lengths of the ditch downstream of the drainage system to be altered. Ditch fills may be added upstream of ditch plugs or ditch fills for the entire length of the ditch. Ditch plugs may be eliminated if the proposed ditch is completely filled with earth.</li> <li>3. Constructing dams or water control structures that include dikes, embankments and low berms to impede surface water drainage or runoff.</li> <li>4. Removing vegetation or post-European settlement deposition, including shallow scrapes, submerged islands and interconnected open water areas</li> <li>5. Altering the hydrology of an area by removing pumps, breaching structures, such as dikes, or re-routing artificial drainage features or manipulation of water control structures.</li> <li>6. Introducing plants, installing and maintaining devices such as staff gauges, water level recording devices, and similar monitoring equipment</li> </ol>	
<p>Project activities will occur only within artificial ditches that have no prior stream history and will not occur in navigable waters with stream history.</p>	
<p>Project proposals that include the activities listed in s. NR353(3) to (5) and have existing wetlands on or adjacent to the project area are eligible for this general permit only if <b>both</b> of the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. Agricultural crops, invasive wetland species or early successional hydrophyte species dominate the project area</li> <li>2. The proposed activities will not cause significant adverse impact to undisturbed wetland plant communities on-site or adjacent to the project area</li> </ol>	

<p>Project will not negatively impact a cold water community, as defined in NR102.04(3)(a). The project <b>is not</b> eligible for this general permit for the following scenarios:</p> <ul style="list-style-type: none"> <li>a. Project will result in a permanent flow or discharge that drains to a cold water community.</li> <li>b. The artificial ditch has permanent flow that discharges to a cold water community, unless the project fills the entire ditch or disables an entire tile line without increasing pooling or ponding. This scenario includes drain tiles with permanent flow that discharge to the artificial ditch.</li> <li>c. The artificial ditch has intermittent flow that discharges to cold water community, unless the project fills the entire ditch or fills a portion of the ditch starting at the beginning point of the ditch and continues to fill the ditch toward the cold water stream.</li> <li>d. Scrape is proposed in an area with evidence of spring activity.</li> <li>e. Partial tile breaks unless they include an in-line water control structure to raise the water table.</li> </ul>	
<p>The project will not block fish passage to existing spawning areas.</p>	
<p>Project will not result in an adverse impact to historical or cultural resources and will comply with s. 44.40, Wisconsin Statutes. If there is a historical or cultural resource present you have contacted the Wisconsin State Historical Society to verify and receive documentation that the project will not result in an adverse impact to the resource.</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>	
<p>Project activities will not take place in or result in the conversion of sedge meadows, forested wetlands, rare wetland community types such as calcareous fens, and undisturbed wetland plant communities, such as wetlands dominated by non- invasive native hydrophytes on sites where hydrology has not been altered.</p>	
<p>Project sites that have existing wetlands on or adjacent to the project meet the criteria that is applicable to the wetland community listed below:</p> <p><b>Wetland Community A:</b> A degraded wetland plant community dominated by agricultural crops, early successional hydrophytes, invasive plants (native or non- native) or non-native plants. No restrictions are placed on the wetland restoration activity method(s) selected. To determine which species are considered invasive, go to DNR’s website at <a href="http://dnr.wi.gov">http://dnr.wi.gov</a> and search for “invasive plants”.</p> <p><b>Wetland Community B:</b> A wetland plant community dominated by a mix of invasive, early successional, non-native and non-invasive native plants. This wetland plant community type must also exhibit site alterations, such as ditching or tiling, that have effectively impacted wetland hydrology. Restrictions are placed on the wetland restoration activity method selected. Wetland restoration activity selected to restore the wetlands natural or original hydrology is restricted to the following methods: (1) ditch fills; (2) ditch plugs; (3) tile breaks and (4) tile removals. Earth disturbing activities, such as scrapes necessary for borrow material, shall be restricted to invasive or non-native plant species dominated areas.</p>	
<p>Any dam or water control structure placed across a watercourse does not exceed the definition of a small dam and dam failure will not endanger life, health or property. Wetland conservation projects that propose construction of large dams must be reviewed through the individual permit process. NOTE: Small Dams have a structural height of less than or equal to 6 feet <b>or</b> a structural height of less than 25 feet provided that the maximum storage capacity is less than 50 acre-feet. Please reference “Large Dam vs. Small Dam Diagram” for the criteria of a small dam versus a large dam. This diagram can be found by searching for “wetland restoration permits” on the DNR’s website at <a href="http://dnr.wi.gov">http://dnr.wi.gov</a>.</p>	
<p>Project will not result in adverse impacts to adjacent properties, unless appropriate signed agreements have been made with the affected landowners. For example, project activities that result in water</p>	

<p>impoundment cannot flood or impede drainage of the adjacent properties. NOTE: Some wetland conservation projects may involve several landowners that have signed on to binding NRCS and FWS agreements that includes their property within the boundaries of the wetland conservation project.</p>	
<p>Project will not occur in a mapped floodplain (official Federal Emergency Management Agency (FEMA) or local zoning maps) or if project does occur within a mapped floodplain NRCS or FWS will meet the local governments floodplain zoning standards by following the 8-step process outlined in Executive Order 11988 to identify floodplain impacts, investigate alternatives and if no feasible alternative is available, take the necessary steps to mitigate any harms caused by the project. This order can be found at <a href="http://www.fema.gov">http://www.fema.gov</a> and search for "executive order 11988".</p>	
<p>Erosion control measures will be implemented that adequately control or prevent erosion, and prevent damage to waterways and wetland soils and meet or exceed the technical standards for erosion control outlined in NR 151, WI Administrative Code in subchapter V. To find these standards go to <a href="http://dnr.wi.gov">http://dnr.wi.gov</a> and search for "storm water technical standards".</p>	
<p>Repairs (not enhancements) associated with this project are allowed without additional permits provided the repairs are within the original scope and footprint of the original permit.</p>	

### NR 353 General Permit Dam Checklist

For new dams, embankments or other water retention structures across a watercourse. If project involves multiple dam structures, please provide the following information for each structure.

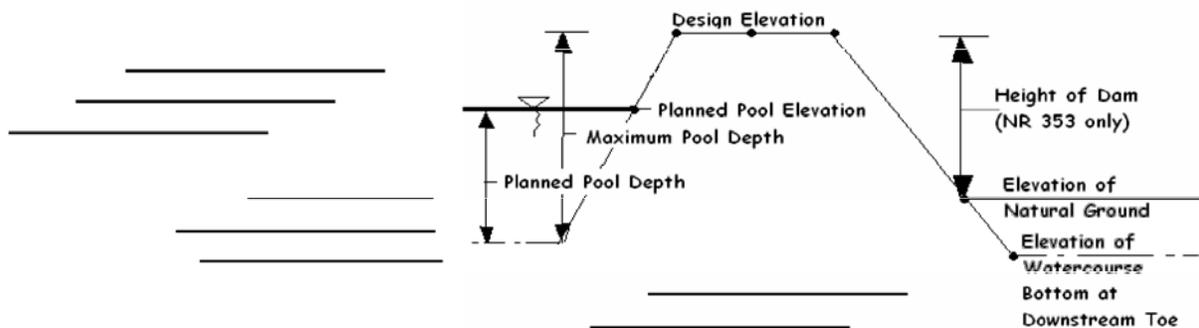
#### Dam structure:

1. Elevation (design elevation) of top of embankment (low point in embankment crest)
2. Elevation of the natural ground (low point) at the downstream toe of the embankment
3. Drainage area (square miles)
4. Planned pool elevation
5. Elevation of watercourse bottom at toe
6. Planned pool surface area (acres)
7. Maximum pool surface area (acres)
8. Planned storage (from bottom of impoundment to design elevation)
9. Structural height (difference between design elevation and elevation of watercourse at downstream toe) (feet)
10. Design storm frequency/duration (if calculated for standard) (year) (hour)
11. Design total discharge (if calculated for standard) (reservoir routing may reduce peak spillway outflow) (cfs)

#### Outlet/Spillway:

1. Outlet structure type, location, elevations, dimensions, joint treatment, corrosion protection
2. Principal spillway type, location, elevations, dimensions, materials
3. Auxiliary spillway type, location, elevations, dimensions, materials
4. Auxiliary spillway construction in natural undisturbed soils or show stability/erosion analysis
5. Drawdown facilities
6. Trash rack
7. Access for gate operation
8. Anti-vortex device

#### Example drawing



## Definition of Terms

1. **Artificial Ditch** means a constructed channel that was not previously a natural stream that holds or conveys water some portion of the year, which may or may not connect to another waterbody. Artificial ditches are typically excavated or dug on agricultural lands to improve drainage and enhance crop production.
2. **Cold Water Community** includes surface waters capable of supporting a community of cold water fish and other aquatic life, or serving as a spawning area for cold water fish species. This subcategory includes, but is not restricted to, surface waters identified as trout water by the Wisconsin Department of Natural Resources.
3. **Complete Application Package** means a completed and signed application, the information specified in Section II and V of the Wetland Conservation Federal Form and any other information which can reasonably be required from an applicant that the department needs to make a decision.
4. **Conversion** means alterations made to existing wetlands that result in a change in wetland classification from one wetland community type to another (i.e. conversion of a sedge meadow to a shallow marsh or a forested wetland to a wet meadow).
5. **Creation** means the construction of a wetland in an area that was not wetland in the past.
6. **Dams** are any artificial barrier in or across a watercourse which has the primary purpose of impounding or diverting water. A dam includes structures such as embankments, dikes, weirs, water control structures and ditch plugs. A complete ditch fill is not considered a dam.
7. **Degraded** means a wetland subjected to deleterious activities such as drainage, excessive nutrient runoff, grazing, cultivation, increased stormwater input and partial filling, to the extent that the natural wetland characteristics are compromised and where wetland function is reduced.
8. **Ditch Fills** are complete or partial closure of an artificial surface drainage system (main and/or laterals) in hydric soil, applied to disable or render inoperable existing wetland drainage. A combination of soil, vegetation and woody debris may be used, and compaction is not required. This practice can be used in conjunction with a ditch plug at the lower end of the ditch fill.
9. **Ditch Plugs** are a partial block installed in an artificial drainage system in hydric soils, applied to disable or render inoperable existing wetland drainage. Earth fill used in ditch plug construction must be free of vegetation and compacted into place for a minimum distance as specified in NRCS Wetland Restoration Practice Standard 657.
10. **Dominated** refers to those plant species with a vegetative cover of 20% or more.
11. **Drain Tile Removal** is the destruction or impairment of a subsurface drainage system in hydric soils, used to disable or render inoperable existing wetland drainage. Tile drains encountered can be made of clay, concrete or plastic and typically exist as a single tile line or series of tile lines installed as a network, typically 36 – 48 inches below the soil surface. In very flat agricultural landscapes with high water tables, tile drains may include pumping stations and underground storage tanks that must be removed in addition.
12. **Enhancement** is alterations made to existing wetlands that result in a net increase in wetland function (i.e. vegetation management techniques or changes to the hydrologic regime). Wetland enhancement generally does not include wetland conversion, unless the purpose of the

conversion is to return the wetland to known pre-disturbance conditions AND also represents a net increase in wetland function.

13. **Early Successional Hydrophyte** means a plant adapted to quickly colonize open, disturbed wetlands, which does not persist over time and is replaced by perennials that hold space and persist over time. Examples of these plants include nut sedge (*Cyperus spp.*), nettle (*Urtica dioica*), smartweed (*Polygonum spp.*), wild millet (*Echinochloa spp.*), ragweed (*Ambrosia spp.*), Beggar's tick (*Bidens spp.*) and foxtail (*Setaria spp.*).
14. **Forested Wetlands** are those areas with > 17 trees per acre with > 50% canopy of trees > 3-inch DBH (diameter at breast height).
15. **Functional Values** means the physical, chemical and biological process or attributes that occur in a wetland and the benefit society derives from certain functions as listed in s. NR 103.03(1), Wis. Adm. Code and include the following: (1) Floral Diversity; (2) Fish and Wildlife Habitat; (3) Flood Protection; (4) Water Quality Protection; (5) Shoreline Protection; (6) Groundwater Recharge and Discharge and (7) Aesthetics, Recreation, Education and Science. To assess wetland functional values please use the Wisconsin Rapid Assessment Methodology. This methodology can be found by searching for "wetland assessment" on the DNR's website at <http://dnr.wi.gov>
16. **Intermittent Flow** typically will cease flowing for weeks or months each year especially in the summer months when lack of rainfall runoff or soil moisture will dry out drainage systems. The time period to determine intermittent versus permanent flow is typically July through Sept in most years with average weather conditions.
17. **Invasive Plants** are non-native or native plant species that invade natural plant communities and wild areas replacing desirable native vegetation. To determine which species are considered invasive, you may reference DNR's website at <http://dnr.wi.gov> and search for "invasive plants".
18. **Large Dams** have a structural height of 25 feet or more and maximum storage capacity of more than 15 acre-feet of water; or have a structural height of more than 6 feet and a maximum storage capacity of 50 acre-feet of water.
19. **Management** means actions taken at a wetland to establish and maintain desired habitat and human use conditions including water level manipulations, herbicide application, wetland species introduction and control, burning, vegetation cutting, fencing, monitoring, signage and vandalism repair.
20. **Maximum Storage Capacity** means the total volume of water in acre-feet capable of being stored behind a dam at the maximum water surface elevation before overtopping would occur using the design elevation.
21. **Monoculture** means a single plant species occupying a large area.
22. **Permanent Flow** typically occurs throughout the year and flow will be present even during the summer months when lack of rainfall runoff or soil moisture will dry out intermittent drainage systems. The time period to determine intermittent versus permanent flow is July through Sept in most years with average weather conditions.
23. **Post European Settlement Deposition** means sediment accumulated over original hydric soils

since European settlement of the area.

24. **Preservation** means the protection of ecologically important wetlands in perpetuity through implementation of appropriate legal and physical mechanisms.
25. **Project Sponsor** means NRCS or FWS has supervision over of all phases of the wetland restoration project from project design through project construction and is responsible for making sure the project and all parties involved comply with the terms and conditions of this permit WRGP-2016-WI.
26. **Re-establishment** or restoration of wetlands means the re-introduction of wetland vegetation AND wetland hydrology to an area where these vegetative and hydrologic qualities previously existed (re-establishment of hydric soils may rarely be required). This alteration results in the re-establishment or restoration of previously existing wetland.
27. **Small Dams** have a *structural height* of less than or equal to 6 feet **or** a *structural height* of less than 25 feet provided that the *maximum storage capacity* is less than 50 acre-feet. Please reference "Large Dam vs. Small Dam Diagram" for the criteria of a small dam versus a large dam. This diagram can be found by searching for "wetland restoration permits" on the DNR's website at <http://dnr.wi.gov>.
28. **Structural Height** means the difference in elevation in feet between the point of lowest elevation of the top of the dam before overtopping and the lowest elevation of the natural stream or lake bed at the downstream toe of the dam.
29. **Water Control Structures** are typically installed as fixed crest weirs or variable weirs, these devices are used to manipulate water levels to a desired elevation for a prescribed period of time. Examples of fixed crest weir structures include: pipes and culverts, rock spillways, drop-inlet spillways, and sheet-piling structures. Variable weir structures include: in-line stop-log structures, stop-log pipe structures (half- round or full-round risers), sheet-piling weirs with stop log channels and radial gate or screw gate pumping systems.
30. **Watercourse** means a running stream of water; a natural stream fed from permanent or natural sources, including rivers, creeks, runs and rivulets. There must be a stream, usually flowing in a particular direction, though it need not flow continuously. It may sometimes be dry. It must flow in a definite channel, having a bed or banks, and usually discharges itself into some other stream or body of water. It must be something more than a mere surface drainage over the entire face of the tract of land, occasioned by unusual freshets or other extraordinary causes.
31. **Wetland** means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wetland conditions.
32. **Wetland Conservation** means activities used in the restoration/re-establishment, enhancement, preservation and management of wetlands.
33. **Wetland Scrapes** are shallow excavations, typically 12" to 36" maximum depth, located in hydric soils. This practice is used to enhance wetland wildlife habitat condition, to remove accumulated sediment, to expose the water table, or to remove unwanted invasive native or non-native plants and is often applied in conjunction with other wetland restoration techniques such as ditch fills and embankments. Size varies between 10,000 – 60,000 sq. ft. with 8:1 or flatter side slopes and irregular shape.