



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-19-0107-C

DOCUMENT TITLE

STREAM HABITAT PROJECTS DESIGNED BY GOVERNMENT AGENCIES 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

Stream Habitat Projects Designed by Government Agencies

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

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>.
- Projects must be approved by the DNR Fisheries Biologist before the application is submitted. Applicants will be prompted to upload a statement from the Fisheries Biologist approving the project along with the other required application materials. To find the Fisheries Biologist for your county, visit <http://dnr.wi.gov/topic/fishing/people/fisheriesbiologists.html>.

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

- Obtaining all necessary local (e.g. city, town, village or county) permits.
- Obtaining U.S. Army Corps of Engineer permits or approvals <http://www.mvp.usace.army.mil/Missions/Regulatory.aspx> for more information about the U.S. Army Corps of Engineers.
- Obtaining any other applicable state permits. In order to determine whether any other state permits are required, use WDNR's decision module at <http://dnr.wi.gov/topic/waterways>.

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)" (Form 3500-053).
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, 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. Please refer to this sample drawing for assistance developing your plans and specifications, http://dnr.wi.gov/topic/Waterways/sample_drawings/FishSticks.pdf.

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. 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.

9. 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 the “general standards for waterway projects” criteria are not eligible for the general permit. Projects may meet the eligibility standards for some specific activities and not others. If your project meets the eligibility standards for some specific activities and not others, you can conduct the activities that the project meets the standards for or you may apply for an individual permit. Your acceptance of coverage under this permit and your efforts to begin work on the project signify that you have read, understood and agreed to follow all conditions of this permit.	
General Standards for Waterway Projects	
Placement of the structure will not result in significant adverse impacts to the public rights and interests, cause environmental pollution as defined in Wis. Stats. s. 299.01(4), or result in material injury to the riparian rights of any riparian owner pursuant to Wis. Stats. s. 30.206(3r)(a)2., nor will it cause more than minimal adverse environmental impacts, materially interfere with navigation, nor have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to Wis. Stats. s. 30.206(1)(am).	
The applicant or co-applicant is the riparian owner, or the applicant or co-applicant has obtained written permission of the riparian owner to place a structure, impact wetlands or remove material from the waterway.	
The DNR can be the sole applicant for projects that will occur within a streambank protection easement, fisheries or wildlife management easement. The Department should share all applications and permits with the landowner. The permitted activity will adhere to the purposes/scope for which the easement was granted and the entire project is contained within the area burdened by the easement.	
Projects must be designed by the WDNR, NRCS, LCD or other county agencies, or USFW Service or other government agency. The project must be approved by the DNR Fisheries Biologist. A complete application package will include a written approval from the DNR Fisheries Biologist. A current list of Department Fisheries Biologists can be found at: http://dnr.wi.gov/topic/fishing/people/fisheriesbiologists.html	

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<p>No activity is authorized which is not in compliance with Wisconsin’s Endangered Species Law (s. 29.604 Wis. Stats) and Section 7 of the Federal Endangered Species Act.</p>	
<p>Fish Spawning. To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, structures may not be placed during the following periods:</p> <ul style="list-style-type: none"> • September 15th through May 15th for all trout streams and upstream to the first dam or barrier on the Root River (Racine County), the Kewaunee River (Kewaunee County), and Strawberry Creek (Door County). To determine if a waterway is a trout stream, you may use the WDNR website trout maps which can be found at http://dnr.wi.gov/topic/fishing/trout/streammaps.html • March 1st through June 15th for ALL other waters. • The regional Department Fisheries Biologist may waive or modify timing restrictions in writing. To find your biologist and request in writing a waiver or modification of fish spawning timing restrictions for your project, use the WDNR website at: http://dnr.wi.gov/topic/fishing/people/index.html. 	
<p>Unless the intended purpose of the project is to facilitate sediment mobility or deposition (i.e., in-stream habitat restoration), structures must be placed in a manner that prevents sediment from collecting, removing, or dispersing 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>Temporary sediment control measures may not materially obstruct navigation or stream flow.</p>	
<p>Live, living or growing aquatic plants may not be removed unless the removal is exempt under Wis. Stats. s. 23.24(4) or complies with the provisions for waiver of the permit requirement under Wis. Admin. Code s. NR 109.06.</p>	
<p>Erosion control measures must meet or exceed the technical standards for erosion control approved by the Department under Wis. Admin. Code subch. V of ch. NR 151. Any area where topsoil is exposed during construction must be immediately seeded and mulched or riprapped to stabilize disturbed areas and prevent soils from being eroded and washed into the waterway. Note: These standards can be found at the following website: http://dnr.wi.gov/topic/stormwater/standards/.</p>	
<p>Unless part of a permanent stormwater management system, all temporary erosion and sediment control practices must be removed upon final site stabilization. Areas disturbed during construction or installation must be restored.</p>	
<p>Projects that may impact tribal lands or rights may need additional coordination.</p>	
<p>Unless allowed in order to create a thalweg in a previously channelized stream, this general permit does not authorize any realignment in the course of a navigable stream or removal of material from the bed of any waterway except for what is necessary to place the structure.</p>	
<p>Placement of the structure shall conform to the requirements of Wis. Admin. Code ch. NR 116, Wisconsin’s Floodplain Management Program, if applicable.</p>	
<p>Any grading, excavation and land disturbance shall be confined to the minimum area necessary for the placement and repair of the structure.</p>	
<p>All equipment used for the project shall be designed and properly sized to minimize the amount of sediment that can escape into the water.</p>	
<p>Placement, repair and removal of the structure shall minimize the removal of trees, shrubs and other shoreline vegetation above the ordinary high water mark, unless those species are adversely impacting the riparian and/or stream habitat. Accumulated brush, debris and other obstructions that are trapped in or underneath the structures shall be regularly removed to prevent upstream flooding and maintain structural integrity.</p>	
<p>The permittee shall submit a series of photographs to the department within one week of placing the structures on this site. The photographs shall be taken from different vantage points and depict all work authorized by the permit.</p>	

A deposit of sand, gravel, or stone may be associated with the placement of a wildlife habitat structure, provided the deposit is limited to the area underneath or within one foot of the structure and is less than 2 cubic yards.	
The wildlife habitat structure shall be placed solely for the purpose of improving wildlife habitat.	
Dredging under Wis. Stats. s. 30.20(1g)(b)1 is allowed for the placement of a wildlife habitat structure provided the dredging removes only the amount needed to place the structure and that amount does not exceed 2 cubic yards.	
Wildlife habitat structures shall be designed and constructed of rock or unpainted wood or of materials that are non-gloss earth tone colors that blend into a natural shoreline setting during leaf-on condition.	
Wildlife habitat structures may not impair navigational use of a waterway.	
Wildlife habitat structures must be designed by the DNR, NRCS, LCD or other county agencies, or USFW Service and be approved by the Local WDNR Wildlife Biologist.	
The installation of the following habitat structures is allowed: Backwater Hook, Basking Logs/Escape Logs, Backwater Refuge, Turtle/snake Hibernaculum, Vertical Bird Nesting Banks, nesting platforms or similar habitat structures.	
Eligibility Standards- Removing Material From or Adding Material to the Bed of a Previously Channelized Stream to Create a Thalweg	
<u>In addition to the general standards for waterway projects</u> , the following standards apply to a project to remove excess material from or place needed material upon the bed of a previously channelized stream to create a thalweg.	
Stream Channel Modification proposed to create a thalweg within a previously channelized stream may impact a maximum of 2,000 feet in each mile of stream for the purpose of stream restoration only if it is accompanied by all the following: <ul style="list-style-type: none"> • Appropriate sediment control, dewatering, and disposal of materials in an upland location, if necessary. • Any placement of material is limited to the amount needed to ensure bank continuity upstream and downstream. • The amount of material requested to be removed is justified by a longitudinal stream profile. • The amount of material requested to be placed is justified by a series of cross-sectional profiles showing channel widening. • Documentation of any prior channelization with a plan-view survey showing the existing and abandoned stream channels. Longitudinal stream profiles and cross-sectional profiles must also be used to document existing conditions and provide evidence for restoration activities. Profiles should show existing conditions and post restoration conditions. 	
Material added for the purpose of confining a stream channel shall be designed to prevent erosion of the recreated bank.	
Eligibility Standards- Permanent Ford Crossings	
<u>In addition to the general standards for waterway projects</u> , the following standards apply to all ford crossings.	
Ford placement may not occur in a Public Rights Feature (PRF) as described in Wis. Admin. Code s. NR 1.06. Locations of Public Rights Features (PRF) can be found using the Department's Surface Water Data Viewer (SWDV) located here: http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=DesignatedWaters	
Fords may only be placed in areas that are identified as the Driftless Area and Prairie Pothole Region, or the Southeastern Wisconsin Till Plains and Chikwaukee Prairie Region.	

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A ford shall be designed and constructed to prevent structural failure and shall be maintained in good condition at all times.	
A ford can only be constructed if associated with a fish habitat project.	
A ford shall only be located in a stream.	
A ford shall be constructed only at a location where the stream is less than 100 feet wide, the stream depth is less than 2 feet deep, and the streambed does not contain more than 6 inches of silt and organic sediment.	
A ford shall have its top surface at the same level as the natural streambed immediately upstream and downstream from the ford. The placement of the ford may not result in the creation of an impoundment or dam upstream or a waterfall or riffle area downstream.	
The approach road to the ford may not have <i>bank slopes</i> steeper than 5-foot horizontal to one-foot vertical (5H:1V) toward the stream; <i>Side slopes</i> must be constructed to facilitate drainage away from the road surface and to minimize runoff flowing directly into the navigable waterway.	
Construction of the ford may not occur during periods of high stream flow or high water conditions where the flow is not confined to the immediate stream channel.	
Eligibility Standards- Certain Projects May Impact Wetlands	
This section only applies to a project whose purpose is to do any of the following: <ul style="list-style-type: none"> • Place, replace, or maintain a fish or wildlife habitat structure on a stream or river where the project will result in impacts to wetlands within the project area. • Add material for stream restoration which will result in impacts to wetlands within the project area. • Disturb wetlands for the purpose of bank shaping, temporary spoil storage, temporary haul roads, temporary staging of habitat materials and equipment. Material may be temporarily stored in wetlands during the growing season for a period of up to 90 days. 	
The project purpose is to place a fish or wildlife habitat structure.	
This permit does not authorize any new permanent roads in wetlands.	
This GP does not cover any conversion of sedge meadow or forested wetland to other wetland types.	
The proposed project will avoid and minimize wetland impacts to the greatest extent practicable and will cause only minimal adverse environmental impacts.	
The project shall not result in more than 10,000 square feet (0.23 acres) of permanent wetland fill and no more than 2 acres of total temporary wetland impact associated with habitat structures, repair, maintenance, or removal. Disturbance should include only the amount of wetland fill necessary to properly construct and stabilize the project and shall minimize alteration of critical features of waterway or wetland habitats by following the practicable alternatives analysis.	
Cutting/clearing of woody vegetation at grade (no stump removal allowed) will meet the Best Management Practices (BMP) for Forest Roads construction/location and Riparian Management Zones (RMZ) associated with navigable streams. All non-native species can be removed as needed within RMZ. Note: BMP's can be found in the Wisconsin's Forestry Best Management Practices for Water Quality Field Manual.	
Except where permanent fill is authorized, all wetlands shall be restored to pre-existing elevations and hydrology. Where permanent fill is authorized, the project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex.	
Projects that impact wetlands must comply with Wis. Admin. Code ch. NR 103.	
Project activities will not take place in or result in adverse impacts to any of the following: <ul style="list-style-type: none"> • Great Lakes ridge and swale complexes. • Interdunal wetlands. • Coastal plain marshes. 	

