



## 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-19-0108-C

### DOCUMENT TITLE

WETLANDS ESTABLISHED INCIDENTAL TO CONSTRUCTION ACTIVITIES WETLAND DISCHARGE 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

## Wetlands Established Incidental to Construction Activities General Permit Application Checklist

The General Permit (WDNR-GP16-2017) is available under section 281.36 (3g), Wis. Stats. for a permanent or temporary discharge to or fill of wetlands of no more than 2 acres if it is a wetland formed in uplands incidental to certain construction activities. To qualify for this general permit, your project must meet all eligibility standards listed below and all other terms and conditions outlined in WDNR-GP16-2017.

### 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 for this general permit:

- Apply online at <http://dnr.wi.gov/permits/water>
- Include all required attachments. Failure to include all of the required information will result in an incomplete permit application and delay the processing of your permit.
- 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 the project does not meet all of the eligibility standards, then apply for an Individual Permit
  - The Department also has authority under s. 281.39(3g) (i), Wis. Stats. To require an individual permit in lieu of a general permit, if the Department has determined that conditions specific to the site require additional restrictions on the discharge or fill to provide reasonable assurance that no significant adverse impacts to wetland functional values will occur.

### 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)" (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/swdvw/>. Be sure to include:

- Clear directions to the project site with project and property boundaries clearly labeled
- Wisconsin Wetland Inventory Map
- Soil Survey Map
- Topographic Map
- Floodplain Map
- Recent Aerial map of site area with the locations of all proposed wetland fill/crossings clearly labeled.

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.

- Plans showing the proposed disturbance or fill (both temporary and permanent), including the location, dimensions and area of wetland impact.
- Cross-section view(s) for each wetland impact area
- Location of any waterways and wetlands, including dimensions and area of impact, and description of wetland type.

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, equipment, and long-term site management
- Your proposed construction schedule and sequence of work
- What temporary and permanent erosion control measures will be used
- The temporary and permanent location of any disposal area for excavated materials, if applicable
- 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
- Description of the type, composition and quantity of material proposed to be used for the discharge or fill
- If temporary wetland impacts, provide a detailed restoration plan

8. **Wetland Delineation Report** is required. Wetland delineation reports either need to be conducted by an Assured Delineator (<http://dnr.wi.gov/topic/Wetlands/assurance.html>) or to have received concurrence from either WI DNR Wetland ID program (<http://dnr.wi.gov/topic/Wetlands/identification.html>) or by the US Army Corps of Engineers (ACOE) prior to submittal of the application. The Department's local reviewer and the applicant(s) may agree in advance that a delineation is not necessary for the given site or area of impact. If this is true, please submit documentation from the local reviewer at the time of application.

9. **Alternatives Analysis** - Provide clear, detailed documentation on how the wetland impact was avoided subject to the eligibility criteria of this general permit and minimized. Include the following information:

- Background or description of the project
  - Describe the purpose and need for the project, and explain why the project must impact wetlands
  - Explain the limiting of the scope of the avoidance of wetlands at this site
- Alternatives
  - Describe any alternative designs to minimize wetland impacts such as a narrower structure with less vegetation removal. (e.g. reduce the size of the structure or facility, reduce the width of the road, reduce the side slopes of the road, remove or reduce sidewalks, choose a different structure type if there is a waterway crossing, etc.)
  - For each of the alternatives you identified:

- Explain and provide documentation on why you eliminated the alternative from consideration (e.g. cost comparisons, safety issues, logistical, technological, design choice – such as wetland or soil type, hydrology, or topography, weight bearing needs, etc.)
- Explain what you plan to do to minimize adverse effects on the wetlands during your project (e.g. erosion control, minimize vegetation clearing for construction, avoid more sensitive wetland types, timing of construction, other best management practices, etc.)

**10. 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.

**11. 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-GP16-2017. For projects that do not qualify for WDNR-GP16-2017, you may apply for a wetland individual permit as outlined in section 281.36(3m), Wis. Stats.

1. The project will impact a wetland, created as a result of grading and construction activities, that was not identified on a concurred with wetland delineation completed for the project at its inception.	
2. Project purpose is to conduct construction activities to build or expand commercial, residential, industrial or municipal development associated with a single and complete project.	
3. A concurred with wetland delineation was completed for a project, and grading and construction activities were commenced but not completed within five years of the original wetland delineation.	
4. Not more than 10 years has elapsed since the concurrence of the original wetland delineation was completed or an assured wetland delineator completed their report, or not more than 15 years has elapsed since the concurrence of the original wetland delineation was completed or an assured wetland delineator completed their report for current Green Tier – Tier 2 participants in good standing at the time of the application for coverage under this general permit and that have successfully completed an audit cycle without major non-conformances.	
5. A new wetland delineation was completed and received WDNR or US Army Corps of Engineers (ACOE) concurrence or an assured delineator and the new delineation shows wetlands on the project site that were not present in the original concurred with delineation.	
6. The purpose of the project is not to fill wetlands previously identified on the original concurred with wetland delineation.	
7. The project is not eligible for authorization under a "Superior SAMP" permit reviewed by the City of Superior, Wisconsin.	
8. Project applicant is the landowner or easement holder or otherwise has legal authorization to proceed.	
9. Project discharge does not affect more than 2 acres of wetland as part of a single and complete project.	
10. Discharge will not occur in any of the following wetland resources: Great Lakes ridge and swale complexes, inter-dunal wetlands, coastal plain marshes, emergent marshes containing wild rice, southern sphagnum bogs, boreal rich fens, or calcareous fens.	

<p>11. For the purposes of this GP, if any of the following conditions are documented, the department shall presume that for those newly identified wetland areas there are no practicable alternatives to <u>avoid</u> an impact of the newly delineated wetlands as follows:</p> <ul style="list-style-type: none"> <li>a. If the developer or municipality has installed sewer, water, other utilities or roads to facilitate planned development based on a municipal approval or municipal-approved plat.</li> <li>b. If the developer or municipality has undertaken significant site preparation work including: grubbing, rough site grading, or other activity within the development that has significantly altered site topography or drainage patterns within the development.</li> </ul>	
<p>12. Subject to the provisions in paragraph 11, the proposed project <u>minimizes</u> wetland impacts to the greatest extent practicable.</p>	
<p>13. Subject to the provisions in paragraph 11, the discharge will cause only minimal adverse environmental effects.</p>	
<p>14. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex.</p>	
<p>15. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters and wetlands. All erosion control measures shall meet or exceed the Department approved technical standards of ss. NR 151.11 and 151.12, Wis. Adm. Code. The technical standards are found at: <a href="http://dnr.wi.gov/topic/stormwater/">http://dnr.wi.gov/topic/stormwater/</a></p>	
<p>16. 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>17. The activity shall not result in significant adverse impacts to fishery spawning habitat, including obstruction of fish passage, or adversely affect bird breeding areas or substantially disrupts the movement of species that normally migrate from open water to upland or vice versa (i.e. amphibians, reptiles and mammals) as determined by the Department.</p>	
<p>18. 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>19. If the project purpose is to expand an existing solid waste disposal facility within the boundaries of the property where the existing facility is located or on property immediately adjacent to the existing solid waste disposal facility, then the facility must have a valid feasibility determination from the department.</p>	