



## 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-19-01 -C

### DOCUMENT TITLE

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### 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

## Fish Habitat Structures General Permit 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
  - o 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>.

### 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/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](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
- Indicate whether to allow**, as part of your permit coverage, to let **new fish sticks sites on the same lake to be afforded coverage under your general permit at a later date** with no additional fee.

**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.

<b>General Eligibility Standards</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.	
The boat shelter must be placed and maintained by the owner of adjacent riparian land or his or her agent.	
The boat shelter must be placed and maintained entirely within the riparian owner's riparian zone and may not interfere with public rights in navigable waters.	
The boat shelter may not interfere with the rights of other riparian owners.	
The boat shelter shall be connected to adjacent uplands by a pier or wharf that is in compliance with applicable county, state and federal regulations. The supporting structure for the permanent boat shelter may be placed atop or adjacent to the structure.	
The boat shelter must allow the free movement of water underneath and may not cause formation of land on the bed of the waterway.	
A boat shelter may include only a single sign necessary to identify the property and may only include lighting essential for safety and mooring.	
The boat shelter may include a device for lifting a boat and a roof.	
The boat shelter may include storage facilities located above the eaves of the roof.	

<p>The boat shelter may not include walls or sides unless all of the following conditions are met:</p> <ul style="list-style-type: none"> <li>a. The sides are moved seasonally between December 1 and April 1 annually;</li> <li>b. The sides are made of a flexible material with a minimum openness factor of 5 percent;</li> <li>c. The sides are placed no less than 36 inches above the water surface;</li> <li>d. The watercraft being berthed is registered under ch. 30 subch. V, Wis. Stat. or is exempt from registration requirements under s. 30.51, Wis. Stat; and</li> <li>e. The watercraft being berthed has a wooded hull or is designated as a boat with significant historic or cultural value as determined by the state, county or local historical society.</li> </ul>	
<p>The project may not result in adverse impacts to 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). The project also may not cause more than minimal adverse environmental impacts, materially interfere with navigation, or have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to Wis. Stats. s. 30.206(1)(am).</p>	
<p>The boat shelter must be placed on an inland lake or impoundment, the Mississippi river, the Wolf river from Lake Butte des Morts to the upstream limits of the village of Fremont, and the Fox river from the DePere dam to Lake Winnebago . The structure may not be placed Great Lakes waters or on rivers or streams. The project is not eligible for authorization under a "Superior SAMP" permit reviewed by the City of Superior, Wisconsin.</p>	
<p>The project will not adversely impact wetlands such as emergent marshes containing wild rice, southern sphagnum bogs as defined in s. 281.36(3g)(d)5m, Wis. Stats., boreal rich fens, or calcareous fens.</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>The project 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>The activity will not result in adverse impacts to historical or cultural resources and will comply with s. 44.40, Wis. Stats., as determined by the Department.</p>	

<p>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. Admin. Code. The technical standards are found at:  <a href="http://dnr.wi.gov/topic/stormwater/">http://dnr.wi.gov/topic/stormwater/</a>.</p>	
<p>The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested areas not be used on other non-infested areas.</p> <ol style="list-style-type: none"> <li>a. Inspect and remove aquatic plants, animals, and mud from your equipment.</li> <li>b. Drain all water from any of your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, hoses, sheet pile, and pumps.</li> <li>c. Dispose of aquatic plants and animals in the trash. Never release or transfer aquatic plants, animals, or water from one waterbody to another.</li> <li>d. Wash your equipment with hot (&gt;104°F) or high pressure water, steam clean or allow your equipment to dry thoroughly for 5 days.</li> </ol>	
<p>The boat shelter must comply with applicable provisions of any municipal ordinances adopted under s. 30.12 (3) (a) 6. and (c), Stats.</p>	
<p>The project will not occur in a mapped floodplain (official Federal Emergency Management Agency (FEMA) or local zoning map) OR if the project does occur within a mapped floodplain the project will meet the local government's floodplain zoning standards and obtain applicable local floodplain development permit.</p>	
<p>The applicant must obtain any other local, state or federal permits before any work may proceed. This may include applicable U.S. Army Corps of Engineers wetland permits, local floodplain development permits, stormwater permits, and shoreland zoning permits.</p>	
<p>To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, construction or repairs should not occur during any of these periods:</p> <ol style="list-style-type: none"> <li>a. September 15th through May 15th for all trout streams and upstream to the first dam or barrier on the Root River (Racine County), 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 at:  <a href="http://dnr.wi.gov/topic/fishing/trout/streammaps.html">http://dnr.wi.gov/topic/fishing/trout/streammaps.html</a></li> <li>b. March 1st through June 15th for ALL OTHER waters.  <b>The regional Department Fisheries Biologist may waive or modify these timing restrictions in writing.</b> To request in writing a written waiver or modification of fish spawning timing restrictions for your project please use the checklist listed available at:  <a href="http://dnr.wi.gov/topic/Waterways/contacts.html">http://dnr.wi.gov/topic/Waterways/contacts.html</a> to find the county</li> </ol>	

<p>contact for your project to send the requested information.</p>	
<p><b>Eligibility Standards Applicable to Place Permanent Boat Shelters in Inland Lakes or Impoundments Greater than 500 Acres</b></p>	
<p>The project purpose is the placement of a permanent boat shelter(s) for the purposes of providing cover for a watercraft berth place on lakes or flowages of more than 500 acres or on the following rivers: the Mississippi river; the Wolf river from Lake Butte des Morts to the upstream limits of the village of Fremont; or the Fox river from the De Pere dam to Lake Winnebago.</p>	
<p>The boat shelter may not be placed in a waterway designated as an Area of Special Natural Interest (ASNRI).</p>	
<p>Unless a boat shelter houses a boat with a wooden hull or one designated as a boat with significant historic or cultural value as determined by the state, county or local historical society, the boat shelter width measured at the outside of the eaves must be:</p> <p>No greater than 12 feet on lakes less than 1000 acres in size; or              No more than 14 feet on lakes greater than 1000 acres in size.</p> <p>Note: Boat shelter width as measured on the outside of the eaves.</p>	
<p>A boat shelter roof shall be pitched not less than 1 foot nor more than 2.5 feet from the roof peak to the bottom of the eaves.</p>	
<p>No more than 2 cubic yards of lakebed material may be removed to install the permanent boat shelter.</p>	
<p>No more than 1 permanent boat shelter may be placed per parcel. No more than one additional temporary boat shelter may be placed for the first 100 feet of the riparian owner's shoreline footage and no more than one additional boat shelter for each additional 50 feet of the riparian owner's shoreline footage. For purposes of this subdivision, shoreline footage is measured along a straight line connecting points where property lines meet the ordinary high-water mark.</p>	
<p><b>Eligibility Standards Applicable to Maintain Permanent Boat Shelters in Inland Lakes or Impoundments</b></p>	
<p>Aesthetic features of the permanent boat shelter may be modified so long as they do not significantly decrease light penetration to the surface water and are within the original footprint of the structure.</p>	
<p>Permanent boat shelters that were previously permitted may be repaired without additional permits provided the repairs are within the scope and footprint of the original permit and do not have a significant adverse impact to fishery spawning or fishery spawning habitat.</p>	