

WISCONSIN DEPARTMENT OF NATURAL RESOURCES
WATERWAY GENERAL PERMIT FOR PERMANENT BOAT SHELTERS

Permittee: Riparian Landowners Along Navigable Waterways in Wisconsin

Permit No. WDNR-GP19-2019

Issuing Office: Waterways and Wetlands Section, Bureau of Watershed Management,
Wisconsin Department of Natural Resources (Department)

Issuance Date: April 12, 2019

Expiration Date: April 12, 2024

GENERAL PERMIT AUTHORIZATIONS: In compliance with section 30.12(1) and (2m), Wis. Stats., no person may place any structure upon the bed of any navigable water unless an individual or a general permit has been issued or authorization has been granted by the legislature.

Sections 30.12(1), (2m), and (3) and s. 30.206, Wis. Stats., authorize any person in the State of Wisconsin to perform work in accordance with the terms and conditions of the general permit specified below after satisfying all applicable permit terms and conditions. Please refer to the following sections of this permit for the specific eligibility standards, application requirements, certification requirements and responsibilities, conditions, findings of fact, conclusions of law, and definitions required by WDNR-GP19-2019.

Note: WDNR GP19-2019 does not apply to proposed tribal activities located on Federal Indian Trust Land.

Note: Section 30.12(1g), Wis. Stats., and Wis. Admin. Codes exempt from permitting requirements certain temporary boat shelters that are placed in waters that are **not** designated as having outstanding scenic values.

Note: Section 30.12(2m), Wis. Stats., allows the Department to require that an individual permit or general permit be obtained in lieu of an exemption for activities at certain sites. Work performed in ASNRI designated waters or at a site where the Department requires a permit under s. 30.12(2m), Wis. Stats., may be authorized by this general permit.

Note: Coverage under this permit authorizes the permittee to undertake specified activity/activities in compliance with the above statutes and the terms of this permit, but does not authorize a permittee to undertake any activity prohibited by other applicable federal, state, or local law.

Note: Projects that may impact tribal lands or rights may need additional coordination.

OTHER AUTHORIZATIONS NECESSARY: WDNR-GP19-2019 authorizations are subject to all applicable terms and conditions specified in this permit. However, **WDNR-GP19-2019 authorizations are provisional and require that project proponents obtain any other local, state or federal permits before any work may proceed.** U.S. Army Corps of Engineers permits are required for projects that affect Section 10 Navigable Waters under the Rivers and Harbor Act of 1899. A list of these waters can be found on the U.S. Army Corps of Engineers website at: <http://www.mvp.usace.army.mil/Portals/57/docs/regulatory/RegulatoryDocs/navigable%20waters%20wi.pdf>.

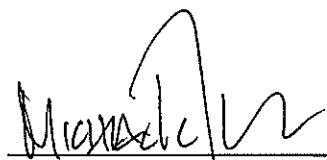
PROJECT DESCRIPTION AND LOCATION: WDNR-GP19-2019 applies to the placement and maintenance of permanent boat shelter(s) on the bed of an inland lake or impoundment. Structures placed in navigable waters are regulated under s. 3012 (1), (2m), 3, and (3m), Wis. Stat. as well as NR 326, Wis. Adm. Code.

The following activities are eligible for coverage under WDNR-GP19-2019:

- Sect. 1A. General Eligibility Criteria
- Sect. 1B. Placement of Permanent Boat Shelters on Lakes more than 500 acres
- Sect. 1C. Placement of Permanent Boat Shelters on Lakes 500 acres or less
- Sect. 1D. Maintenance of Existing Permanent Boat Shelters

GENERAL PERMIT COVERAGE: Unless notified by the Department to the contrary, the effective date of coverage under this general permit is 30 calendar days after a complete application package has been received by the Department at the office designated in the permit application materials provided by the Department. **WDNR-GP19-2019 permit coverage is valid for 5 years after the date on which the project is considered to be authorized or until the project has been completed, whichever occurs first.** Therefore, permit coverage terminates unless another application is submitted to retain coverage under this permit or a reissued version of this permit.

State of Wisconsin Department of Natural Resources
For the Secretary



Michael Thompson - Director
Bureau of Watershed Management

4-12-19

Date

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WDNR-GP19-2019 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GP19-2019. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP19-2019.

NOTE: The term "you" and its derivatives, as used in this general permit, means the permittee, which is the landowner. The term "the Department" or "this office" refers to the appropriate Wisconsin Department of Natural Resources (WDNR or DNR) Service Center, DNR Region or Central Office headquarters of the WDNR having jurisdiction over the authorized activity or the appropriate official of that office acting under the authority of the Secretary of the Department.

SECTION 1 – WDNR-GP19-2019 ELIGIBILITY CRITERIA

Any person who places a permanent boat shelter on an inland lake or impoundment where the Department requires a permit under s. 30.12(2m), must meet all of the following standards to be eligible for coverage and authorization under this general permit.

NOTE: Projects that do not meet all standards below are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP19-2019. In these cases, persons may apply for an Individual Permit as outlined in s. 30.208(2), Wis. Stats. The Department also has

authority under s. 30.206(3r), Wis. Stats. to require an individual permit in lieu of a general permit if the Department has determined that the proposed activity is not authorized under WDNR-GP19-2019 or has conducted an investigation and visited the site and has determined that conditions specific to the site require restrictions on the activity in order to prevent significant adverse impacts to the public rights and interest, environmental pollution, as defined in Wis. Stats. s. 299.01 (4), or material injury to the riparian rights of any riparian owner.

A. GENERAL ELIGIBILITY STANDARDS.

1. The boat shelter must be placed and maintained by the owner of adjacent riparian land or his or her agent.
2. 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.
3. The boat shelter may not interfere with the rights of other riparian owners.
4. The boat shelter shall be connected to adjacent uplands by a pier or wharf that is 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.
5. The boat shelter must allow the free movement of water underneath and may not cause formation of land on the bed of the waterway.
6. A boat shelter may include only a single sign necessary to identify the property and may only include lighting essential for safety and mooring.
7. The boat shelter may include a device for lifting a boat and a roof.
8. The boat shelter may only include storage facilities located above the eaves of the roof.
9. The boat shelter may not include walls or sides unless all of the following conditions are met:
 - a. The sides are removed seasonally between December 1 and April 1 annually;
 - b. The sides are made of a flexible material with a minimum openness factor of 5 percent;
 - c. The sides are place no less than 36 inches above the water surface;
 - 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
 - e. The watercraft being berthed has a wooden hull or is designated as a boat with signification historic or cultural value as determined by the state, county or local historical society.
10. The project may not result in 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. 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).

11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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: <http://dnr.wi.gov/topic/stormwater/>.
17. 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.
 - a. Inspect and remove aquatic plants, animals, and mud from your equipment.
 - 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.
 - c. Dispose of aquatic plants and animals in the trash. Never release or transfer aquatic plants, animals, or water from one waterbody to another.
 - d. Wash your equipment with hot (>104°F) or high pressure water, steam clean or allow your equipment to dry thoroughly for 5 days.

18. The boat shelter must comply with applicable provisions of any municipal ordinances adopted under s. 30.12 (3) (a) 6. and (c), Stats.
19. 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.
20. 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.
21. To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, construction or repairs should not occur during any of these periods:
 - 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: <http://dnr.wi.gov/topic/fishing/trout/streammaps.html>
 - b. March 1st through June 15th for ALL OTHER waters.

The regional Department Fisheries Biologist may waive or modify these timing restrictions in writing. To request in writing a written waiver or modification of fish spawning timing restrictions for your project please use the checklist listed available at: <http://dnr.wi.gov/topic/Waterways/contacts.html> to find the county contact for your project to send the requested information.

B. ELIGIBILITY STANDARDS APPLICABLE TO PLACE PERMANENT BOAT SHELTERS IN INLAND LAKES OR IMPOUNDMENTS GREATER THAN 500 ACRES.

1. 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.
2. The boat shelter(s) may not be placed in a waterway designated by federal or state governments as have outstanding scenic value.
3. The boat shelter may not be placed in a waterway designated as an Area of Special Natural Interest (ASNRI)
4. The boat shelter(s) is no more than 24 feet in length unless the watercraft being berthed is longer than 24 feet from bow to stern and has a wooden hull or is designated as a boat with

significant historic or cultural value as determined by the state, county or local historical society.

5. 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:
 - a. No greater than 12 feet on lakes less than 1000 acres in size; or
 - b. No more than 14 feet on lakes greater than 1000 acres in size.

Note: Boat shelter width as measured on the outside of the eaves.

6. 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.
7. No more than 2 cubic yards of lakebed material may be removed to install the permanent boat shelter.
8. 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.

C. ELIGIBILITY STANDARDS APPLICABLE TO PLACE PERMANENT BOAT SHELTERS IN INLAND LAKES OR IMPOUNDMENTS LESS THAN 500 ACRES.

1. The boat shelter may not be placed in a waterway designated as an Area of Special Natural Interest (ASNRI)
2. 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 between 200 and 500 acres in size.
3. The lake or flowage must be located in a coastal county and have a maximum water depth of at least 35 feet and a mean water depth of at least 15 feet.
4. The structure(s) may not be placed in a waterway designated by federal or state governments as have outstanding scenic value.
5. The structure(s) may not be placed in an ASNRI waterway.
6. The structure(s) is no more than 24 feet in length unless the watercraft being berthed is longer than 24 feet from bow to stern and has a wooden hull or is designated as a boat with

significant historic or cultural value as determined by the state, county or local historical society.

7. The boat shelter width measured at the outside of the eaves is no greater than 12 feet unless the watercraft being berthed is wider than 12' side to side and has a wooden hull or is designated as a boat with significant historic or cultural value as determined by the state, county or local historical society.
9. 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.
8. No more than 2 cubic yards of lakebed material may be removed to install the permanent boat shelter.
9. 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.
10. A permanent boat shelter may not be placed if the owner's riparian property also contains a boathouse over navigable waters or within 75 feet of the ordinary high water mark.

D. ELIGIBILITY STANDARDS APPLICABLE TO MAINTAIN PERMANENT BOAT SHELTERS IN INLAND LAKES OR IMPOUNDMENTS.

1. Existing permanent boat shelters originally placed prior to September 1, 1991, may be repaired (not enhanced) provided the repairs are within the scope and footprint of the original structure so long as all of the following apply:
 - a. The structure is not extending extend beyond the line of navigation or an approved pierhead line.
 - b. The structure will be repaired in such a way that it is not visually intrusive as visualized from shore.
 - c. The existing boat shelter continues to be functional for boat storage.

Note: If full replacement of an existing shelter is required because the shelter has lost full functionality, the replaced shelter must comply with all conditions in 1A and 1B to qualify for the general permit.
2. 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.
3. 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.

SECTION 2: WDNR-GP19-2019 APPLICATION REQUIREMENTS FOR COVERAGE

You are required to comply with the following application requirements:

1. After you have carefully confirmed the proposed water quality improvement activity meets all the terms and conditions of this permit you must submit a *complete application package* as outlined in item 6 below to the Department. Pursuant to s. 30.206 (3), Wis. Admin. Code, the complete application package should be received a minimum of 30 calendar days before the desired project start date. Permit application materials can be found and submitted online at <http://dnr.wi.gov/permits/water>.
2. Unless notified by the Department to the contrary, the effective date of coverage under this permit is 30 calendar days after the designated DNR office receives a complete application package (s. 30.206 (3)(b), Wis. Stat.).
3. The Department has one opportunity to request that you provide additional information necessary to verify compliance with the terms and conditions of this permit. If additional information is needed, the Department will notify you within 30 calendar days after receiving your application package. If the Department makes a request for additional information, the 30-day period is paused on the date the person applying for authorization receives the request for additional information. The clock remains paused until the date that the Department receives the information at the designated DNR office, at which point the clock resumes from the point it was initially stopped (s. 30.206 (3)(a), Wis. Stat.).
4. As provided under ch. 30, Wis. Stats., the Department may determine the project is not eligible for this general permit and require the project be reviewed through the individual permit process outlined in ch. 30, Wis. Stats. If the Department determines your project is not eligible for this permit, you will be notified within 30 calendar days after your complete application package is received by DNR.
5. A complete application package must include all of the following information:
 - a. Complete and Signed Application Form certifying project meets the terms and conditions of WDNR-GP19-2019. This form can be found at <http://dnr.wi.gov/permits/water>.
 - b. Permit fees except if the waterway project is *funded* in whole or in part by a state or federal agency which is exempt from permit fees under s. 30.28(3), Wis. Stat.
 - c. A copy of the deed or similar proof of ownership of the site where the activity will occur. If you do not own the site, also include proof of any notice(s) and permission(s) required under Section 1A standard number 15 of this General Permit.
 - d. Project plans that include final project design and construction including a project diagram that shows all of the following:
 - i. The location of the completed project relative to any Ordinary High Water Mark (OHWM) or wetland boundaries with the location and size of all proposed wetland impacts (if applicable).
 - ii. The methods, materials, and equipment that will be used to carry out the project.

- iii. Top, side, and cross section plan profiles with appropriate measurements for the proposed project.
- iv. The construction schedule and sequence of work.
- v. Area impacted for projects that impact waterways.
- vi. The location of any disposal area for dredged or excavated materials, if applicable.
- e. Maps of the project site and floodplain information. This may include: topographic map, floodplain information, aerial photographs, most recent Soil Survey map, and WI Wetland Inventory map. All maps must show basic map elements (e.g., scale) and clear directions to the project site with project and property boundaries clearly labeled. The aerial photo shall also show the locations of all proposed wetland fill or discharge clearly labeled, if applicable.
- f. Current photographs that represent existing site conditions where the project will occur.
- g. For repairs, documentation showing that the structure was previously authorized or has been in place prior to September 1, 1991 and the scope of repairs maintains the dimensions of original structure.
- h. If emergent vegetation is present, a copy of a concurred with wetland delineation, a wetland delineation conducted by an assured wetland delineator or a waiver by the WDNR Water Management Specialist (WMS) stating that a delineation is not needed.
- i. Documentation that the project will either not result in an adverse impact to federal or state threatened/endangered resources and/or cultural/historical resources or that further investigation is needed to verify these impacts will not be needed.

SECTION 3: WDNR-GP19-2019 CERTIFICATION AND RESPONSIBILITIES

You certify and agree that upon submittal of a complete application package to DNR, the wetland project will be conducted in compliance with all the terms and conditions of WDNR-GP19-2019.

SECTION 4: WDNR-GP19-2019 GENERAL PERMIT CONDITIONS

The applicant agrees to comply with the following conditions:

1. **Application.** You shall submit a complete application package to the Department as outlined in the application materials and section 2 of this permit. If requested, within a reasonable timeframe you shall furnish the Department any information it needs to verify compliance with the terms and conditions of this permit.
2. **Certification.** Acceptance of general permit WDNR-GP19-2019 and efforts to begin work on the activities authorized by this general permit signifies that you have certified the project meets all eligibility standards outlined in Section 1 of this permit and that you have read, understood, and agreed to follow all terms and conditions of this general permit.
3. **Reliance on Applicant's Data.** The determination by this office that a confirmation of authorization is not contrary to wetland water quality standards will be based upon the information provided by the applicant and any other information required by the WDNR.

4. **Project Plans.** This permit does not authorize any work other than what is specifically described in the notification package and plans submitted to the Department and is certified by you to comply with the terms and conditions of WDNR-GP19-2019.
5. **Expiration.** This WDNR-GP19-2019 expires on April 30, 2024. The time limit for completing an activity authorized by the provisions of WDNR-GP19-2019 ends 5 years after the date on which the activity is considered to be authorized under WDNR-GP19-2019 or until the activity is completed, whichever occurs first, regardless of whether WDNR-GP19-2019 expired before the activity is completed.
6. **Other Permit Requirements.** You are responsible for obtaining any other permit or approval that may be required for your project by local zoning ordinances, other local authority, other state permits, and by the U.S. Army Corps of Engineers before starting your project.
7. **Authorization Distribution.** You must supply a copy of the permit coverage authorization to every contractor working on the project.
8. **Project Start.** You shall notify the Department using the information provided on the confirmation of coverage letter you receive before starting any activity and again not more than 5 days after each activity is completed.
9. **Permit Posting.** You must post a copy of this permit coverage letter at a conspicuous location on the project site before beginning the permitted activity. The copy of the permit coverage letter must remain posted at that location until at least five days after the area where the activity took place is stabilized. You must also keep a copy of the permit coverage letter and the approved plan available at the project site at all times until the project is complete.
10. **Permit Compliance.** Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action which may result in revocation of coverage under this permit. Additionally, if any applicable conditions of this permit are found to be invalid or unenforceable, the remainder of the permit conditions remain enforceable.
11. **Construction Timing.** Once waterway work below the OHWM begins, all construction activities in those waterways must be continuous until the work is completed and the site is stabilized.
12. **Construction.** No other area of the waterway may be disturbed except the area designated in the submitted plans.
13. **Project Completion.** Within one week after completing the regulated activity, you shall submit to the Department a statement certifying the project complies with all the terms and conditions of this permit, and photographs of the activities authorized by this permit. This statement must reference the Department-issued docket number and be submitted to the Department staff member that authorized coverage.

14. **Proper Maintenance.** You must maintain any structure authorized by WDNR-GP19-2019 in good condition and in conformance with the terms and conditions of this permit using best management practices.
15. **Site Access.** Upon reasonable notice, you shall allow access to the site to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance with the terms and conditions of WDNR-GP19-2019 and applicable laws.
16. **Erosion and siltation controls.** The project site shall implement erosion and sediment control measures that adequately control or prevent erosion and prevent damage to wetlands as outlined in s. NR 151.11(6m), Wis. Admin. Code. These standards can be found at the following website: http://dnr.wi.gov/topic/stormwater/standards/const_standards.html. 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.
17. **Equipment use.** If applicable, equipment used in the wetlands must be low ground weight equipment as specified by the manufacturer specifications.
18. **Wetland protection.** You shall not store any vegetation, material, or equipment in wetlands unless authorized to do so through an approved project design. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex, if applicable.
19. **Invasive Species.** All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by using best management practices to avoid the spread of invasive species as outlined in ch. NR 40, Wis. Adm. Code. For more information, refer to <http://dnr.wi.gov/topic/Invasives/bmp.html>. Keyword: "equipment operator" or "invasive bmp".
20. **Federal and State Threatened and Endangered Species.** WDNR-GP19-2019 does not affect the DNR's responsibility to ensure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats., and applicable state laws. No DNR authorization under this permit will be granted for projects found not to comply with these acts/laws. 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. Documentation options include:
 - a. An ER Review Verification Form showing that the project is covered by the Broad Incidental Take Permit for no/low impact activities and therefore does not require a review.
 - b. An ER Preliminary Assessment from the NHI Public Portal stating that no further actions are necessary or that further actions are recommended. The NHI Public Portal is located here: <http://dnr.wi.gov/topic/erreview/publicportal.html>.

- c. If the ER Preliminary Assessment from the NHI Public Portal shows that “Further actions are required” then submit one of the following:
 - i. A DNR ER Review letter. This request form for an ER Review letter is located here: <http://dnr.wi.gov/topic/erreview/review.html>.
 - ii. A Certified ER Review letter. The list of Certified Reviewers is located here: <http://dnr.wi.gov/topic/ERReview/Documents/CertifiedReviewers.pdf>.

21. **Special Concern Species.** If the Wisconsin National Heritage Inventory lists a known special concern species to be present in the project area you will take reasonable action to prevent significant adverse impacts or to enhance the habitat for the species of concern.

22. **Historic Properties and Cultural Resources.** WDNR-GP19-2019 does not affect the DNR’s responsibility to ensure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No DNR authorization under this permit will be granted for projects found not to comply with these acts/laws. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.

23. **Preventive Measures.** Measures must be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at **1-800-943-0003**.

24. **Suitable fill material.** All fill authorized under this permit must consist of clean suitable soil, as defined by s. NR 500.03(214), Wis. Admin. Code, free from hazardous substances as defined by s. 289.01(11), Wis. Stats., and free from solid waste as defined by s. 289.01(33), Wis. Stats.

25. **Standard for Coverage.** Wetland impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.

26. **Transfers.** Coverage under this permit is transferable to any person upon prior written approval of the transfer by the Department.

27. **Limits of State Liability.** In authorizing work, the State Government does not assume any liability, including for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the State in the public interest.

- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this General Permit WDNR-GP19-2019.

28. **Enforcement.** The Department may enforce violations of the terms and conditions of WDNR-GP19-2019 under the provisions of ss. 30.292 and 30.298, Wis. Stats.

29. **Rescission.** This office has the ability to rescind coverage under this general permit if information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.

SECTION 5: WDNR-GP19-2019 FINDINGS OF FACT

1. The Department has determined that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will cause only minimal adverse environmental impacts, will not materially interfere with navigation, and will not have an adverse impact on the riparian property rights of adjacent riparian owners pursuant to s. 30.206(1)(am), Wis. Stats., nor result in significant adverse impacts to the public rights and interest, cause environmental pollution as defined in s. 299.01(4), or result in material injury to the riparian rights of any riparian owner pursuant to s. 30.206(3r)(a)2., Wis. Stats., if completed in accordance with this permit.
2. Pursuant to s. NR 299.04(1), Wis. Admin. Code, the Department has reasonable assurance that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will meet all applicable water quality standards.
3. The Department and the applicant have completed all procedural requirements, and projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will comply with all applicable requirements of WDNR-GP19-2019, ch. 30, Wis. Stats., and ch. NR 326, Wis. Admin. Code.

SECTION 6: WDNR-GP19-2019 CONCLUSIONS OF LAW

1. The Department has authority under 30.12(1), (2m), and (3) and s. 30.206, Wis. Stats., to issue this general permit.
2. The Department has determined that issuance of this general permit is a prior compliance action under s. NR 150.20(3)(b), Wis. Admin. Code, based on the Environmental Analysis and Environmental Impact Statements prepared previously for statewide general permits. The Department has determined that on that basis we have complied with ch. NR 105, Wis. Admin. Code, and s. 1.11, Wis. Stats.

SECTION 7: WDNR-GP19-2019 DEFINITION OF TERMS

For the purposes of this general permit, you accept the following definitions:

1. Area of special natural resource interest for purposes of this permit means the areas listed in s. 30.01 (1am), Wis. Stats., and identified by the department in s. NR 1.05, Wis. Admin. Code.
2. Coastal counties include Kenosha, Racine, Milwaukee, Ozaukee, Sheboygan, Manitowoc, Kewaunee, Door, Brown, Oconto, Marinette, Douglas, Bayfield and Ashland Counties.
3. Complete Application Package means a completed and signed application, the information specified in Section 2 of this permit and any other information which can reasonably be required from an applicant that the department needs to make a decision.
4. Department means the Department of Natural Resources or WDNR.
5. Dredged material means any material removed from the bed of a navigable waterway by dredging. The bed of a navigable waterway extends landward to the OHWM.
6. Fill material has the meaning given in 33 CFR 323.2(e), and means material placed wetlands where the material has the effect of replacing any portion of a wetland with dry land; or changing the bottom elevation of any wetland. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in a wetland. The term fill material does not include trash or garbage.
7. Flowage, for the purpose of this general permit, includes a river segment, channel or basin where water levels are controlled by a dam and can include a series of lakes or flowages which have a connection which is commonly navigated by motorized craft and which have a common water level.
8. Invasive Plants are non-native or native plant species that invade natural plant communities and wild areas replacing desirable native vegetation. For a listing of common invasive plants found in Wisconsin visit DNR's website at <http://dnr.wi.gov/invasives/plants.asp>.
9. Impact to wetlands includes temporary or permanent conversion of a wetland.
10. Navigable waterway means any body of water with a defined bed and banks that is navigable under Wisconsin law. In Wisconsin, a body of water is navigable if it is capable of floating on a regularly recurring basis the lightest boat or skiff used for recreation or any other purpose. This incorporates the definition at s. 30.01(4m), Wis. Stats., and current case law, which requires a watercourse to have a bed and banks, *Hoyt v. City of Hudson*, 27 Wis. 656 (1871), and requires a navigable waterway to float on a regularly recurring basis

the lightest boat or skiff, *DeGayner & Co., Inc. v. DNR*, 70 Wis. 2d 936 (1975); *Village of Menomonee Falls v. DNR*, 140 Wis. 2d 579 (Ct. App. 1987).

11. Ordinary high water mark (OHWM) means the point on the banks or shore up to which the presence and action of water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognizable characteristic.
12. Riparian means an owner of land abutting a navigable waterway.
13. Stabilize means the process of making a site steadfast or firm, minimizing soil movement by the use of practices such as mulching and seeding, sodding, landscaping, paving, graveling or other appropriate measures.
14. Wetland has the meaning in s. 23.32, Wis. Stats., and 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.