

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES**  
**WATERWAY GENERAL PERMIT TO DREDGE A PREVIOUSLY DREDGED NAVIGABLE**  
**WATERWAY**

Permittee: The General Public in Wisconsin

Permit No. WDNR-GP13-2021

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

Issuance Date: 06/01/2021

Expiration Date: 05/31/2026

**GENERAL PERMIT AUTHORIZATIONS:** In compliance with the provision(s) of section 30.20 (1)(b), Wis. Stats., no person may remove any material from the bed of a navigable waterway such as a lake or stream unless the removal activity is authorized by a waterway general permit or individual permit issued by the Department of Natural Resources (Department) or the discharge is exempt under s. 30.20. The Department has authority to issue wetland general permits under s. 281.36(3g)(a), Wis. Stats.

In compliance with s. 30.20(1t)(a), Wis. Stats., the Department has the authority to issue a waterway general permit under s. 30.206, Wis. Stats., authorizing a person to conduct maintenance dredging or removal material from the bed of a navigable waterway from which material has been previously removed. Pursuant to s. 30.20(1t)(am), Wis. Stats., the applicant is responsible for demonstrating that material has been previously removed from the area for which the person has requested authorization to remove materials from the bed.

A waterway general permit issued by the Department constitutes the water quality certification required by 33 USC 1341(a) (Clean Water Act section 401) for federal permits that authorize the dredging of waters of the state regulated under 33 USC 1344(a) (Clean Water Act section 404).

Section 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-GP13-2021.

**Note:** Projects involving the removal and lease or sale of any material from the bed of any natural navigable lake or any outlying waters must obtain a contract from the Department under s. 30.20(2)(a) and (b), Wis. Stats.

**Note:** WDNR GP13-2021 does not apply to proposed tribal activities located on Federal Indian Trust Land.

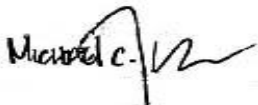
**Note:** Coverage under this permit authorizes the permittee to undertake specified activity/activities in compliance with the above statutes and the terms of this permit, but does not authorize a permittee to undertake any activity prohibited by other applicable federal, state, or local law.

**OTHER AUTHORIZATIONS NECESSARY:** WDNR-GP13-2021 authorizations are subject to all applicable terms and conditions specified in this permit. However, **WDNR-GP13-2021 authorizations do not supersede any other local, state or federal authority so additional permits may be required before any work may proceed.** U.S. Army Corps of Engineers waterway permits are required for dredging of waters of the United States.

**PROJECT DESCRIPTION AND LOCATION:** WDNR-GP13-2021 applies to maintenance dredging of previously dredged areas. Previously dredged areas are areas where material was previously removed from the bed of a navigable water. The previous dredging may have been authorized by the Department or applicants may demonstrate with historical information or documentation that previous dredging, not authorized by the Department, occurred at the project site.

**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-GP13-2021 permit coverage is valid for 5 years after the date the coverage is granted by the department.** If the project is not completed within 5 years after the date of coverage another application must be submitted. If the project scope changes within the valid period of the permit coverage the department may require a new application or modify coverage if the project continues to meet all eligibility criteria. The 5 year timeline is based on the date coverage is granted by the department, not the expiration date of **WDNR-GP13-2021**.

State of Wisconsin Department of Natural Resources  
For the Secretary



---

Michael Thompson - Director  
Bureau of Waterways

05/26/2021

---

Date

## **TABLE OF CONTENTS**

			<b><u>Page(s)</u></b>
<b>SECTION</b>	<b>1</b>	ELIGIBILITY STANDARDS AUTHORIZATION	1
<b>SECTION</b>	<b>2</b>	APPLICATION REQUIREMENTS	2
<b>SECTION</b>	<b>3</b>	CERTIFICATION & RESPONSIBILITIES	6
<b>SECTION</b>	<b>4</b>	GENERAL PERMIT CONDITIONS	7
<b>SECTION</b>	<b>5</b>	FINDINGS OF FACT	10
<b>SECTION</b>	<b>6</b>	CONCLUSIONS OF LAW	11
<b>SECTION</b>	<b>7</b>	DEFINITION OF TERMS	11

### **WDNR-GP13-2021 TERMS AND CONDITIONS**

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GP13-2021. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP13-2021.

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.

The project must meet **all** the following standards to be eligible for coverage and authorization under this general permit. Persons proposing to do work should note that Section 30.20(1t)(am), Wis. Stats. requires applicants to provide adequate documentation that the proposed project area has been previously dredged. Section 30.206, Wis. Stat. requires that applicants meet all of the following standards to be eligible for coverage and authorization under this general permit and s. 30.20, Wis. Stats.

**NOTE:** Projects that do not meet all standards below are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP13-2021. 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 conditions specific to the site require additional restrictions on the discharge to provide reasonable assurance that the project will result in no significant adverse impacts to the public rights and interest in the navigable water.

**Note:** Projects that may impact tribal lands or a legally recognized treaty right may need additional coordination.

## SECTION 1 – WDNR-GP13-2021 ELIGIBILITY CRITERIA

### A. GENERAL STANDARDS APPLICABLE TO REMOVE MATERIAL OR DREDGE PREVIOUSLY DREDGED AREAS

1. The project purpose is maintenance dredging of material from an area from which material has previously been removed (as defined in section 7).
2. The dredging may not exceed the volume of or extend beyond the dimensions of the previous dredging project.
3. The project purpose is not to harvest bait such as mayfly nymphs.
4. The total amount of material removed from the area shall be less than 3000 cubic yards, unless the dredging project is for the removal of material associated with the maintenance of a municipal harbor, a municipal or commercial marina, or an access channel that is located on an Outlying Water or the Mississippi River, in which case the amount of material removed shall be less than 50,000 cubic yards.
5. If the project area includes a riparian zone of interest, the applicant must be the riparian owner for this riparian zone or have permission of the riparian owner to dredge the bottom material in this area.
6. Projects proposed in locations with existing recorded deed restrictions within the project area, including easements limiting construction and land use activities, are not eligible for this general permit.

**Note:** Department Chs. 30 and 281 Wis. Stats. permits do not supersede any legal restrictions on the use of land

7. The dredging may not be located in a public rights feature as described in s. NR 1.06, Wis. Adm. Code, or in an area of special natural resource interests as described in s. NR 1.05, Wis. Adm. Code, unless the Department previously authorized the project in which case the project may be eligible.
8. The dredging may not be located in a body of water designated as a [wild rice water](#) under a written agreement between the Department and the Great Lakes Indian Fish and Wildlife Commission.
9. The dredged material may not contain any hazardous substances or result in the exposure or release of hazardous substances.
10. The dredging may not impact a sediment cap, cover, installed barrier or other engineer controls that have been installed as part of a federal or state environmental remediation to

manage contaminated sediment.

11. Projects that involve the removal of material in areas of concentrated ammunition fall, such as waterways near gun ranges, must conduct a thorough collection and laboratory analysis of the potential dredged material in compliance with ch. NR 347, Wis. Adm. Code. A project is ineligible for this general permit if the results of this analysis demonstrate that the sediment is contaminated or the dredging would result in environmental pollution, as defined in s. 299.01(4), Wis. Stats.
12. The project will not flood or impede drainage of the adjacent properties or upstream properties unless appropriate signed agreements have been made with affected landowners.
13. The project will not have a significant adverse impact to fishery spawning or fishery spawning habitat. To minimize adverse impacts on fish movement, fish spawning, and egg incubation periods, material may not be removed during any of these periods:
  - September 15th through May 15th for all trout streams; to determine if a waterway is a trout stream, you may use the WDNR website trout maps which can be found at <https://dnr.wisconsin.gov/topic/Fishing/trout/streammaps.html>
  - September 15th through June 15th on all Great Lakes tributaries upstream to the first dam or barrier.
  - November 1<sup>st</sup> through June 15<sup>th</sup> for Lake Michigan waters surrounding Door County including Green Bay and all harbors and bays.
  - September 15<sup>th</sup> through July 1<sup>st</sup> for Lake Superior waters surrounding Douglas County including St. Louis River and all harbors and bays.
  - March 1st through June 15th for ALL OTHER waters.

The regional Department Fisheries Biologist may waive or modify these timing restrictions in writing. please use the pre-application process identified above and submit the required information, and proposed project timing, to the appropriate Waterway program contact who can be found at: <http://dnr.wi.gov/topic/Waterways/contacts.html>.

14. Temporary water control structures must be placed in a manner that prevents the collection, removal, or dispersal of sediment away from natural surface waters, including wetlands, to the maximum extent practicable. Temporary sediment control measures used to accomplish this should be completely removed from the wetland and/or waterbody after the structure installation activity is completed and the site is stabilized.
15. The project may not result in significant adverse impacts to the public rights and interests, cause environmental pollution as defined in Wis. Stat. s. 299.01(4), or result in material injury to the riparian rights of any riparian owner pursuant to Wis. Stat. s. 30.206(1)(ag). 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)(ag)2.

16. A project **is not** eligible for this general permit if it has the potential to negatively impact a cold water community as defined in s. NR 102.04(3)(a), Wis. Admin. Code, or the project is proposed in an area with evidence of spring activity.
17. A project is not eligible for this general permit if it has the potential to significantly impact native aquatic plant species and significantly increases the risk for aquatic invasive species to spread in the area.
18. 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.
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 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.
21. 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/>.
22. All equipment used for the project, including but not limited to tracked vehicles, hoses, sheet piles, and pumps, shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.
23. 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.

24. Dredging shall be conducted to minimize the re-suspension of sediment to the maximum extent practicable.
25. 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 disrupt 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.
26. Dredged materials may not be placed in a wetland, floodway or re-deposited below the ordinary high water mark of a navigable waterway unless a plan is submitted and approved by the Department. The plan shall identify the duration of placement, potential impacts to flood flows, and erosion control measures utilized to protect the wetland or navigable waterway. Re-deposition of dredged material below the ordinary high water mark of a navigable waterway must comply with the standards in NR 347.07(4), Wis. Adm. Code.

Note: The placement of dredged material into a wetland will require a state wetland permit unless the project qualifies for a wetland permitting exemption pursuant to s. 281.36, Wis. Stats.

Note: Re-deposition of dredged material may require additional WPDES permitting.

Note: U.S. Army Corps of Engineers wetland permits may also be required to place dredged material in federal wetlands.

27. Projects involving the removal and then the lease or sale of any material from the bed of any navigable lake or of any outlying waters are not eligible for this general permit unless the material is to be beneficially reused and the sale is only to offset costs incurred from the dredging and/or beneficial reuse. The lease or sale of dredged material from a navigable lake or outlying water requires a dredging contract from the Department under s. 30.20(2)(a), Wis. Stats. prior to completing the project.

## **SECTION 2: WDNR-GP13-2021 APPLICATION REQUIREMENTS FOR COVERAGE**

You are required to comply with the following application requirements:

1. After you have carefully confirmed the proposed dredging activity meets all the terms and conditions of this permit you must submit a *complete application package* as outlined in item 5 below to the Department. Pursuant to s. 30.206(3)(a), Wis. Stats., 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. Stats.).

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. Stats.).
4. As provided under s. 30.206(3r), 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 s. 30.206(3r), 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-GP13-2021. This form can be found at <http://dnr.wi.gov/permits/water>.
  - b. Permit fees except as follows:
    - i. Waterway projects are exempt from waterway permit fees under s. 30.28, Wis. Stat., *only* if the project is *funded* by a federal or state agency.
  - c. Project plans which include a project diagram depicting final project design and include all of the following:
    - i. The temporary and permanent location the dredged materials will be placed after the dredging occurs.
    - ii. Project location relative to the Ordinary High Water Mark
    - iii. Length, width and depth of the proposed dredging
    - iv. The location of erosion control measures to be utilized during the dredging operation and disposal of the material.
  - d. Narrative describing the project including information such as method of dredging, dewatering, transportation of the dredged material, location of the equipment during the dredging operations, and approximate duration of the project.
  - e. Proof that the site has been previously dredged and what the specifications were of the historic dredging activity.
  - f. A copy of the results from any sediment sampling as required under ch. NR 347, Wis. Adm. Code unless waived by the WMS.
  - g. Maps of the project site with information that includes:
    - i. The riparian lines on both sides on the property extending from the OHWM to the line of navigation and the riparian zone area from the OHWM to the line of navigation.
    - ii. The proposed disposal location.
  - h. If wetlands are near the dredging or disposal site, 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 verifying the project will not result in an adverse impact to federal or state threatened/endangered resources and/or cultural/historical resources.
- j. If applicable, written authorization from all riparian owners that they agree to the dredging within their riparian zone of interest.

### **SECTION 3: WDNR-GP13-2021 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-GP13-2021.

### **SECTION 4: WDNR-GP13-2021 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-GP13-2021 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-GP13-2021
5. **Expiration.** This WDNR-GP13-2021 expires on 5/31/2026. The time limit for completing an activity authorized by the provisions of WDNR-GP13-2021 ends 5 years after the date on which the activity is considered to be authorized under WDNR-GP13-2021 or until the activity is completed, whichever occurs first, regardless of whether WDNR-GP13-2021 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 before starting construction.
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.** The department may modify or revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit, or if the Department determines the project will be detrimental to wetland water quality standards. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action. Additionally, if any applicable conditions of this permit are found to be invalid or unenforceable, authorization for all activities to which that condition applies is denied.
11. **Construction Timing.** Once wetland work begins, all wetland construction activities must be continuous to the extent practicable. During periods of inactivity in wetlands, the site must be stabilized until the work is resumed and completed.
12. **Construction.** No other portion of the wetland 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 erosion control measures needed for the activity authorized by WDNR-GP13-2021 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-GP13-2021 and applicable laws.
16. **Erosion and siltation controls.** Any upland project prep sites and/or disposal sites 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](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.** The equipment used in the waterway 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.
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-GP13-2021 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-GP13-2021 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. **Standard for Coverage.** Waterway impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.
25. **Transfers.** Coverage under this permit is transferable to any person upon prior written approval of the transfer by the Department.
26. **Reevaluation of Decision.** The Department may suspend, modify or revoke authorization of any previously authorized activity and may take enforcement action if the following occur:
  - a. The applicant fails to comply with the terms and conditions of WDNR-GP13-2021.
  - b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
  - c. Significant new information surfaces which the Department did not consider in reaching the original public interest decision.

## **SECTION 5: WDNR-GP13-2021 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 § 30.206(1)(am), Wis. Stats., nor result in significant adverse impacts to the public rights and interest, cause environmental pollution as defined § 299.01(4), Wis. Stats., or result in material injury to the riparian rights of any riparian owner pursuant to § 30.206(1)(ag)2., Wis. Stats., if completed in accordance with this permit.
2. Pursuant to § NR 299.04(1), Wis. Adm. 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 has determined pursuant to wetland water quality standards under § NR 103.03, Wis. Adm. Code, and § 281.36(3g)(d), Wis. Stats., that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will only result in minimal adverse environmental effects.
4. For activities authorized under this general permit, the Department has determined that projects

that meet all eligibility criteria, for which all information required in the application requirements section above, and for which the Department has not required a wetland individual permit pursuant to § 281.36(3g)(i), Wis. Stats, have adequately avoided and minimized wetland impacts to the greatest extent practicable and will result in minimal adverse environmental impacts. This finding is based on the information submitted in accordance with the application requirements listed above and the fact that the project scope is confined to the project area, which is limited to the minimum area needed to place, replace, or maintain the project.

5. 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-GP13-2021, § 281.36(3g) and ch. 30, Wis. Stats., and chs. NR 102,103,150, 299, and 310, Wis. Adm. Code.

## **SECTION 6: WDNR-GP13-2021 CONCLUSIONS OF LAW**

1. The Department has authority under §§ 30.12, 30.19, 30.20, 30.206, 281.36, and 31.12(5) Wis. Stats., to issue this general permit.
2. The Department has determined that issuance of this general permit is a prior compliance action under § NR 150.20(3)(b), Wis. Adm. 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 chs. NR 102 and 103, Wis. Adm. Code, and § 1.11, Wis. Stats.
3. Issuance of coverage under this general permit constitutes federal Water Quality Certification under 33 U.S.C. s. 1341.

## **SECTION 7: WDNR-GP13-2021 DEFINITION OF TERMS**

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

1. Access channel means an area that is deeper than the surrounding areas that provides access to a municipal harbor, municipal or commercial marina or other area that provides access to Outlying Waters.
2. Area of special natural resource interest for purposes of this permit means only the following areas listed in s. 30.01 (1am), Wis. Stats., and identified by the department in s. NR 1.05, Wis. Admin. Code:
  - a. A state natural area designated or dedicated under ss. 23.27 to 23.29, Wis. Stats., and shown on a map published on the Department's Internet site.
  - b. A surface water identified as a trout stream by the Department in s. NR 1.02(7), Wis. Admin. Code, and shown on a map published on the Department's Internet site.
  - c. A surface water identified as an outstanding or exceptional resource water

under s. 281.15, Wis. Stats., and shown on a map published on the Department's Internet site.

- d. A body of water designated as a wild rice water under a written agreement between the Department and the Great Lakes Indian Fish and Wildlife Commission and shown on a map published on the Department's Internet site.
  - e. A body of water in a wetland along Lake Michigan or Lake Superior that the Department has identified as an ecologically significant coastal wetland and shown on a map published on the Department's Internet site.
  - f. A river that is included in the national wild and scenic rivers system or designated as a wild river under s. 30.26, Wis. Stats., and shown on a map published on the Department's Internet site.
  - g. The portion of a body of water that contains a sensitive area and shown on a map published on the department's Internet site.
  - h. A unique and significant wetland specified by the Department in a special wetland inventory study or a special area management plan and shown on a map published on the department's Internet site.
3. Commercial marina means a facility containing piers, wharves and other mooring spaces, where the riparian property is not owned by a municipality but is open to the general public, and where the primary purpose of the facility is to provide boats or boat slips either for rent or for free.
  4. 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.
  5. Department means the Department of Natural Resources or WDNR.
  6. 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.
  7. Dredging means any part of the process of the removal or disturbance of material from below the OHWM or from the bed of a navigable waterway; transport of the material to a disposal, rehandling or treatment facility; treatment of the material; discharge of carriage or interstitial water; and disposal of the material. For the purpose of Ch. 30, Stats., dredging does not include "de minimus" activities as defined in Wis. Adm. Code s. NR 345.03(2).
  8. 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.
  9. Hazardous substance has the meaning given in Wis. Stats. s. 292.01(5).

10. 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>.
11. Impact to wetlands includes temporary or permanent conversion of a wetland.
12. Line of navigation means the depth contour where the water is 3 feet deep at its maximum depth based on the normal summertime low levels on the waterway or summer minimum levels where established by Department order. **Note:** Where a municipality has adopted an ordinance establishing a municipal pierhead line authorized under Wis. Stat. s. 30.13, the line of navigation is the municipal pierhead line.
13. Municipal harbor means a port, inlet or area of a body of water where the port, inlet or area is normally sheltered from heavy seas and in which a vessel can navigate and safely moor.
14. Municipal marina means a facility containing piers, wharves and other mooring spaces where the riparian property is owned by a municipality and is open to the general public, and where the primary purpose of the facility is to provide boats or boat slips for rental or for free.
15. 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).
16. 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.
17. Outlying waters has the meaning given in ss. 30.01(4r) and 29.001(62), Wis. Stats., and means Lake Superior, Lake Michigan, Green Bay, Sturgeon Bay, Sawyer's Harbor and the Fox River from its mouth up to the dam at De Pere.
18. Previously dredged area means an area below the OHWM of a navigable waterway from which material was historically removed through exemption or permit or at a period of time when a permit was not needed.
19. Public rights feature has a meaning in Wis. Adm. Code s. NR 1.06.
20. Riparian means an owner of land abutting a navigable waterway.
21. Riparian zone means the area from the shore to the line of navigation adjacent to the riparian property.

22. 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.
23. 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.