

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES
WATERWAY AND WETLAND GENERAL PERMIT
TO REMOVE ACCUMULATED PLANT AND ANIMAL NUISANCE
DEPOSITS FROM BEDS OF NAVIGABLE WATERS**



Permittee: The General Public in Wisconsin

Permit #: WDNR-GP5-2023

Issuing Office: Waterways Program
Wisconsin Department of Natural Resources (Department)

Issuance Date: December 21, 2023

Expiration Date: December 20, 2028

GENERAL PERMIT AUTHORIZATIONS

In compliance with s. 30.20(1), Wis. Stats., no person may remove any material from the bed of any lake, outlying water, or navigable stream unless a contract or permit has been entered into with the Department, authorization has been granted by the legislature, or an individual or general permit has been issued by the Department.

The Department has authority to issue general permits under s. 30.206(1)(am), Wis. Stats., that 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-GP5-2023.

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: WDNR-GP5-2023 does not apply to tribal activities located within the exterior boundary of a reservation.

OTHER AUTHORIZATIONS NECESSARY

WDNR-GP5-2023 authorizations are subject to all applicable terms and conditions specified in this permit. However, WDNR-GP5-2023 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 Clean Water Act s. 404 permits are required for discharges of dredged or fill material to

Waters of the United States, including discharges to federal wetlands. Rivers and Harbors Act Section 10 permits are required for work including the placement of structures and dredging in navigable waters of the United States. Floodplain permits (ch. NR 116, Wis. Adm. Code) or other local zoning permits may be required. Please contact your local zoning authority; county zoning administrator contact information is available at <https://www.wccadm.com/wcca-contacts>.

Additional waterway, dam, and wetland permitting may also be necessary depending on the project size, scope and purpose and need. Please visit <https://dnr.wisconsin.gov/>, keyword “water permitting” for more information.

This permit does not supersede any applicable easement(s) within the project boundary. It is the responsibility of the applicant to ensure that the proposed project does not conflict with existing land use or development restrictions, including easements, applicable to the property. This permit also does not authorize flooding or impeding drainage of the adjacent properties or upstream properties. It is the responsibility of the applicant to secure any necessary easements or other permissions from affected landowner(s).

PROJECT DESCRIPTION AND LOCATION

WDNR-GP5-2023 applies to the removal of accumulated plant and animal nuisance deposits from the bed of any lake, outlying water, or navigable stream of the State in accordance with the regulations established through s. 30.20(1) Wis. Stats.

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-GP5-2023 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-GP5-2023**.

State of Wisconsin Department of Natural Resources
For the Secretary



12/21/2023

Benjamin Callan – Director
Waterways Program

Date

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WDNR-GP05-2023 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the Department in WDNR-GP5-2023. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP5-2023.

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 Service Center, Region Office or Central Office headquarters 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.

Note: Projects that do not meet all standards below are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP5-2023. 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 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 s. 299.01 (4), or material injury to the riparian rights of any riparian owner.

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

SECTION 1. ELIGIBILITY CRITERIA

1. The project purpose is to remove accumulated plant and animal nuisance deposits if the removal does not interfere with public rights in navigable waters.
2. If the project is in the riparian zone as defined in ss. 30.01(5r) and 30.20(3)(a)3., Wis. Stats., the applicant is the riparian owner adjacent the project area, or has the permission of the riparian owner. If the water is a navigable stream, the applicant also has obtained permission of the bed owner (who may be the riparian owner) to remove the accumulated plant and animal nuisance deposit.
3. The project plans minimize adverse impacts on fish movement, fish spawning, egg incubation periods and during high stream flows. The project may not occur during the following time periods:
 - a. September 15th through May 15th for all trout streams; to determine if a waterway is a trout stream, you may use the Department website trout maps.
 - b. September 15th through June 15th on all Great Lakes tributaries upstream to the first dam or barrier.
 - c. November 1st through June 15th for Lake Michigan waters surrounding Door County including Green Bay and all harbors and bays.
 - d. September 15th through July 1st for Lake Superior waters surrounding Douglas County including St. Louis River and all harbors and bays.
 - e. March 1st through June 15th for all other waters.

Note: Per s. NR 1.02(7), Wis. Adm. Code, the Department identifies and classifies trout streams to ensure adequate protection and proper management of this unique resource. To determine if a waterway is a trout stream, you may use the Designated Waters Theme on Department's Surface Water Data Viewer includes <https://dnr.wisconsin.gov/>, keyword "surface water data viewer".

Note: The local Department Fisheries Biologist may waive or modify timing restrictions in writing. To request waiver or modification of fish spawning timing restrictions for your project, please include a request in the narrative portion of your permit application.

4. Plant and animal nuisance deposits removed from the waterbody may not be placed permanently or temporarily in a wetland, or floodway or re-deposited waterward of the ordinary high water mark (OHWM) of a navigable waterway.
5. The removal of accumulated plant and animal nuisance deposits shall be conducted in a manner that prevents the collection, removal or dispersal of sediment away from the project site to the maximum extent practicable. Temporary sediment control measures used to accomplish this should be completely removed from the waterbody no more than 24 hours after the project is completed.
6. All temporary sediment control measures shall follow all state lighting requirements and cannot obstruct navigation.
7. Only accumulated plant and animal nuisance deposits may be removed. Nuisance deposits do not include aquatic vegetation that is attached or rooted to the bed or is growing and alive and normally present as naturally occurring vegetation. Nuisance deposits do not include the natural deposition of the native lakebed material like sand, cobble, silt, detritus, and other organic material.

8. Live, living or growing plants may not be removed unless the removal is exempt under s. 23.24 (4), Wis. Stats., or complies with the provisions for waiver of the permit requirement under s. NR 109.06, Wis. Adm. Code.
9. Nuisance deposits may not be removed in areas where public rights features as described in s. NR 1.06, Wis. Adm. Code, are located. The location of public rights features can be found at <https://dnr.wisconsin.gov/>, keyword "surface water data viewer".
10. Nuisance deposits may not be removed in waters in coastal wetlands along Lakes Michigan and Superior that are identified as ecologically significant in "The Coastal Wetlands of Wisconsin's Great Lakes" (DNR-CMP project). The Coastal Wetlands of Wisconsin's Great Lakes can be viewed at <https://dnr.wisconsin.gov/>, keyword "surface water data viewer".
11. If the accumulated plant and animal nuisance deposits are located in Outlying Waters, removal shall be limited to locations within the swash zone. For all other locations, removal should be limited to locations below the ordinary high watermark.
12. Removal of accumulated plant and animal nuisance deposits above the ordinary high water mark is a land grading activity and is not authorized under this general permit.
13. The removal is limited to the accumulated plant and animal nuisance deposit only. The removal of bed material other than plant and animal nuisance deposits should be limited to the extent practicable and may not exceed a de minimis amount (2 cubic yards). The removed material may contain trash which should be removed along with the accumulated plant and animal nuisance deposit.
14. This general permit does not authorize the redistribution of native bed and bottom material which includes sand, cobble, silt, detritus, and other organic material or the placement of additional material which includes sand/ stone, etc. below the OHWM.
15. Mechanized equipment used to remove the accumulated plant and animal nuisance deposit shall be designed to remove only nuisance deposits from the bed of the waterway. This includes skimming, scraping, sweeping, sucking, raking, etc. The equipment should be used in a manner that minimizes impacts to the native bed material and surrounding vegetation.
16. Mechanized equipment used should be low ground pressure equipment, including wide-tire vehicles and tracked equipment to minimize rutting on the bed of the waterway.
17. If the accumulated plant and animal nuisance deposits will be removed from an area located in Outlying Waters, and within the swash zone of the waterway, the equipment shall remove the material along a path parallel to the shore.
18. If the removal is conducted within the swash zone on Outlying Waters or waterward of the ordinary high watermark (OHWM) on the exposed bed of other waterways, equipment operation shall cease when rutting occurs. The operator of the vehicle shall immediately restore any rutting of bed material within the swash zone or exposed bed material below the OHWM.
19. Unless using a developed boat launch, equipment used in the removal shall access the site along one path perpendicular to the shore to the extent practicable. Any chosen route to access the site shall minimize the impact to the shoreline and the bed of the waterway.
20. The amount or location of accumulated plant and animal nuisance deposit to be removed should warrant the use of mechanical equipment.
21. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters and wetlands. All erosion and sediment control measures shall meet or exceed the applicable technical standards listed under subchapter III of ch. NR 151, Wis. Adm. Code. Technical

standards to implement the performance standards can be viewed at <https://dnr.wisconsin.gov/>, keyword “stormwater technical standard”.

22. 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.
23. The activity shall not result in significant adverse impacts to fishery spawning habitat, including obstruction of fish passage, or adversely affect bird breeding areas or substantially disrupts the movement of species that normally migrate from open water to upland or vice versa (i.e., amphibians, reptiles and mammals) as determined by the Department.
24. 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.
25. Follow the most recent Department approved washing and disinfection protocols and Department approved best management practices to avoid the spread of invasive species as outlined in ch. NR 40, Wis. Adm. Code. These protocols and practices can be found on the at <https://dnr.wisconsin.gov/>, keyword “invasive species BMPs”.
26. The project will not occur in a mapped floodplain (official Federal Emergency Management Agency (FEMA) or local zoning map), or if the project is located in a regulated floodplain, the applicant has certified that they are working to or have obtained applicable floodplain permits or approvals from the local zoning authority.

SECTION 2. APPLICATION REQUIREMENTS

1. After you have carefully confirmed the proposed activity meets all the terms and conditions of this permit you must submit a complete application package to the Department as outlined in item 6 below. Pursuant to s. 30.206 (3), 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 <https://dnr.wisconsin.gov/>, keyword “water permit”.
2. In accordance with s. 30.206(3)(b), Wis. Stats, unless notified by the Department to the contrary, the effective date of coverage under this permit is 30 calendar days after the Department receives a complete application package.
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 Department office, at which point the clock resumes from the point it was initially stopped.
4. As provided under ch. 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 ch. 30.208, 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 Department.
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-GP5-2023. This form can be found at <https://dnr.wisconsin.gov/>, keyword “water permit”.
- b. Permit fees as shown on the fee sheet at <https://dnr.wisconsin.gov/>, keyword “Waterway Permit Fee” except as follows:
 - Waterway projects authorized under ch. 30, Wis. Stats., funded in whole or in part by a state or federal agency are exempt from permit fees under s. 30.28(3), Wis. Stats.
- 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 by Section I, standards 2 and 3 of this General Permit.
- d. A signed permit checklist that confirms the applicant understands the eligibility standards specified in Section 1.
- e. Project plans that include final project design and construction including a project diagram that shows all of the following:
 - i. The location of the plant and animal nuisance deposit relative to the OHWM, or swash zone (if applicable).
 - ii. The location of the mechanized equipment access point to the shoreline.
 - iii. The location where any dredge material will be temporarily deposited.
 - iv. The location of silt fences or any other sediment control devices.
- f. A narrative description of the project, including:
 - i. The methods, materials, and equipment that will be used to carry out the project.
 - ii. The location and type of temporary and permanent silt fences or any other sediment/erosion control devices.
 - iii. The construction schedule and sequence of work.
 - iv. The total area (square feet) impacted by the project.
 - v. The location of any disposal area for dredged or excavated materials.
- g. Maps of the project site with information that includes: most recent Soil Survey map, WI Wetland Inventory map, topographic map, floodplain information, and aerial photographs. 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 disturbances, clearly labeled.
- h. Current photographs that represent existing site conditions where the project will occur. Photos must show a clear and unobstructed view of the waterway and/or wetlands within the project area. (i.e., not covered in snow/ice/thick vegetation, etc.)
- i. Documentation verifying the project will not result in an adverse impact to federal or state threatened/endangered resources. Documentation options include:
 - 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.

- 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 at <https://dnr.wisconsin.gov/>, keyword “NHI public portal”.
 - If the ER Preliminary Assessment from the NHI Public Portal shows that "further actions are required" then submit a Department or Certified ER Review letter. This request form for an ER Review letter and a list of Certified Reviewers is located at <https://dnr.wisconsin.gov/>, keywords “ER review request”.
- j. Documentation verifying the project will not result in an adverse impact to federal or state cultural/historical resources.

SECTION 3. CERTIFICATION & RESPONSIBILITIES

You certify and agree that upon submittal of a complete application package to Department, the project will be conducted in compliance with all the terms and conditions of WDNR-GP5-2023.

SECTION 4. 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 application requirements section 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 coverage under general permit WDNR-GP5-2023 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 above 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 Department.
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-GP5-2023.
5. Expiration. The time limit for completing an activity authorized by the provisions of WDNR-GP52023 ends 5 years after the date on which the activity is authorized under WDNR-GP5-2023 or until the activity is completed, whichever occurs first, regardless of whether WDNR-GP5-2023 expired before the activity is completed. The Department’s use of general permit WDNR-GP5-2023 established under s. 30.206(1)(am), Wis. Stats., expires on December 20, 2028.
6. Written authorization for modification of scope. Any modification to the waterway impacts authorized under this general permit must be approved by the Department in writing to ensure that the project continues to meet the general permit eligibility in section 1. Separate permitting is necessary if the modified project scope no longer meets general permit eligibility.
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. The Department may revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action.
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. Once wetland work begins, all construction activities in those wetlands 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 area of the wetland or waterway may be disturbed beyond 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 the activity authorized by WDNR-GP5-2023 in good condition and in conformance with the terms and conditions of this permit using best management practices. Any structure or fill authorized shall be properly maintained to ensure no additional impacts to the remaining wetlands and waterways.
15. Site Access. Upon reasonable notice, you shall allow access to the site to any Department employee who is inspecting the project's construction, operation, maintenance or permit compliance with the terms and conditions of WDNR-GP5-2023 and applicable laws.
16. Frequency, Area, and Volume. Once work is authorized by this permit, there is no limit to:
 - the number of nuisance deposit removal activities in the project area,
 - the area of shoreline that can be included in the accumulated plant and animal nuisance deposit removal project area, or
 - the volume of accumulated plant and animal nuisance deposits removed from the project area during a single activity.
17. 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 subch. III of ch. NR 151, Wis. Adm. Code. The technical standards to implement these performance standards can be found at <https://dnr.wisconsin.gov/>, keyword "stormwater technical standards". 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.
18. Equipment Use. The equipment used in waterways and wetlands must be low ground weight equipment as specified by the manufacturer specifications.

19. 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.
20. Invasive Species. All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by following the most recent Department approved washing and disinfection protocols and Department approved best management practices to avoid the spread of invasive species as outlined in ch. NR 40, Wis. Adm. Code. These protocols and practices along with a factsheet for equipment operators can be found at <https://dnr.wisconsin.gov/>, keyword "invasive species BMPs".
21. Federal and State Threatened and Endangered Species. WDNR-GP5-2023 does not affect the Department'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 Department 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.
22. 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.
23. Historic Properties and Cultural Resources. WDNR-GP5-2023 does not affect the Department's responsibility to ensure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No Department 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.
24. 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.**
25. Suitable Fill Material. All fill authorized under this permit must consist of clean suitable soil, as defined by s. NR 500.03(214), Wis. Adm. 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.
26. Standard for Coverage. Wetland impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.
27. Transfers. Coverage under this permit is transferable to any person upon prior written approval of the transfer by the Department.
28. Dam Transfers. No transfer of ownership of the dam may take place without proper authority under s. 31.21, Wis. Stats.

29. Reevaluation of Decision. The Department may suspend 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-GPXX-20XX.
- b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.

SECTION 5. FINDINGS OF FACT

1. 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-GP5-2023, ch. 30, Wis. Stats, and chs. NR 102, 103, 150, 299, and 300, Wis. Adm. Code.
2. The Department has determined that the issuance of this general permit, with conditions, will not injure public rights or interests, cause environmental pollution as defined in s. 299.01(4), Wis. Adm. Code, or result in material injury to the rights of any riparian owner.
3. The Department has determined that activities subject to this permit, with conditions, 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.
4. The Department has determined pursuant to water quality standards under ch. NR 102, Wis. Adm. Code, that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit individually and cumulatively will only result in minimal adverse environmental effects.
5. Pursuant to s. 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.

SECTION 6. CONCLUSIONS OF LAW

1. The Department has authority under ss. 30.20 and 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. 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 s. 1.11, Wis. Stats.
3. Issuance of coverage under this general permit constitutes federal Water Quality Certification under 33 U.S.C. s. 1341 if the project has not already been certified through a separate action.

SECTION 7. DEFINITION OF TERMS

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

1. "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.

2. "Dam" means any artificial barrier in or across a watercourse which has the primary purpose of impounding or diverting water. A dam includes all appurtenant works, such as a dike, canal or powerhouse.
3. "Department" means the Department of Natural Resources.
4. "De minimis" activity means the dredging of less than 2 cubic yards in a calendar year from a specific waterbody or disturbance of bottom material during the manual removal of aquatic plants that meet the requirements of s. NR 109.06(2), Wis. Adm. Code.
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. "Dredging" means any part of the process of the removal or disturbance of material 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 purposes of ch. 30, Wis. Stats., dredging does not include "de minimis" activities.
7. "Floodplain" has the meaning in ch. NR 116, Wis. Adm. Code, which means the land which has been or may be hereafter covered by flood water during the regional flood.

Note: Information for floodplain regulations and ordinances is available online at <https://dnr.wisconsin.gov/>, keywords "floodplain regulations".

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 <https://dnr.wisconsin.gov/>, keyword "invasive plants".
9. "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. Stats. s. 30.13, the line of navigation is the municipal pierhead line.

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. "Outlying waters" has the meaning in ss. 30.01(4r) and 29.001(63), 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.
13. "Plant and animal nuisance deposit" or "nuisance deposit" means a recent and natural deposit of dead or dying plant and animal material within the swash zone or below the OHWM of a waterway that may occur as a result of drift and deposition. Plant and animal material can include mussel shells, dead fish, Cladophora or similar natural, biological-based material. The deposit can be caused by wave action due to wind or other causes and is in a quantity that is causing

an annoyance, damage, or health issue to the public or waterway. Plant and animal nuisance deposit does not include aquatic vegetation that is attached or rooted to the bed or is growing and alive and normally present as naturally occurring vegetation, nor does plant and animal nuisance deposit include the natural deposition of the native lakebed material like sand, cobble, silt, detritus, and other organic material or substrate that may contain seasonally dormant native plant propagules.

14. "Public rights feature" has the meaning in s. NR 1.06, Wis. Adm. Code.

Note: "Public Rights Feature" means any of the following:

- b) Fish and wildlife habitat, including specific sites necessary for breeding, nesting, nursery and feeding. Physical features constituting fish and wildlife habitat include stands of aquatic plants; riffles and pools in streams; undercut banks with overhanging vegetation or that are vegetated *above*; areas of lake or streambed where fish nests are visible; large woody cover.
- c) Physical features of lakes and streams that ensure protection of water quality. Physical features that protect water quality include stands of aquatic plants (that protect against erosion and so minimize sedimentation), natural streambed features such as riffles or boulders (that cause turbulent stream flow and so provide aeration).
- d) Reaches of bank, shore or bed that is predominantly natural in appearance (not man-made or artificial) or that screen man-made or artificial features. Reaches include those with stands of vegetation that include intermixed trees, shrubs and grasses; stands of mature pines or other conifer species; bog fringe; bluffs rising from the water's edge; beds of emergent plants such as wild rice, wild celery, reeds, arrowhead.
- e) Navigation thoroughfares or areas traditionally used for navigation during recreational boating, angling, hunting or enjoyment of natural scenic beauty. Physical features indicative of navigation thoroughfares includes shallow water areas typically used by wading anglers or areas frequently occupied by regularly repeated public uses such as water shows.

23. "Riparian" means an owner of land abutting a navigable waterway.

24. "Riparian Zone" has the meaning given in ss. 30.01(5r) and 30.20(3)(a)3., Wis. Stats.

25. "Rutting" is defined as an elongated depression 6 inches deep or more that is caused by wheels or tracks of machinery, equipment or other vehicles. The depth of the rut is measured from the original lakebed surface to the bottom of the depression. If individual lug depressions are visible, the depth would be measured to the lesser of the two depths (e.g., the top of the lug). Measurements are not cumulative.

26. "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.

27. "Swash zone" as defined by the United States Army Corps of Engineers Coastal Engineering Manual, means the zone of wave action on the beach, which moves as water levels vary, extending from the limit of run-down to the limit of run-up.

Note: The "swash zone" does not typically include areas that are stabilized with vegetation. The United States Army Corps of Engineers Coastal Engineering Manual can be found at: <http://www.usace.army.mil/publications/eng-manuals/>

28. "Wetland" has the meaning in s. 23.24., Wis. Stats., and NR 103.02(5), Wis. Adm. Code, 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.