US Army Corps
of Engineers
St Paul District

Public Notice

ISSUED: June 1, 2011
EXPIRES: May 31, 2016

REFER TO: GP-002-WI (2010-04712-RMG) **SECTION:404 - Clean Water Act**

ISSUANCE OF REGIONAL GENERAL PERMIT GP-002-WI IN THE STATE OF WISCONSIN EXCEPT WITHIN THE EXTERIOR BOUNDARIES OF INDIAN RESERVATIONS.

1. PURPOSE OF THIS PUBLIC NOTICE

The purpose of this public notice is to announce the issuance of a general permit, GP-002-WI, for the state of Wisconsin (attached).

II. BACKGROUND

On April 17, 2000, the St. Paul District replaced all of the Department of the Army Section 404 nationwide general permits (NWPs) in the state of Wisconsin with a combination of new Section 404 regional general permits (GP) and letter of permission (LOP) evaluation procedures. This integrated package is commonly referred to as GP/LOP-98-WI. GP/LOP-98-WI, originally scheduled to expire on April 16, 2005, was re-authorized for one year and expired April 16, 2006.

On April 17, 2006, the District issued the regional Section 404 GPs as separate and distinct from the LOP procedures identified in GP/LOP-98-WI (MVP administrative record 2005-7181-MTV). This was the first issuance of the GP-002-WI, which expired April 16, 2011. The 2006 version of GP-002-WI was re-authorized April 17, 2011 and expires on May 31, 2011 (MVP administrative record 2011-1076-RMG). The GP-002-WI is currently valid in the State of Wisconsin, except within the exterior boundaries of Indian Reservations.

The St. Paul District proposes to continue to use GP-002-WI in place of the nationwide general permits. Some changes from the 2006 version have been made, partly in response to public comments received, including:

1. Clarification of the activities eligible for authorization pursuant to the Maintenance Activities GP (non-reporting category #1);
2. Clarification of the requirements and categories of activities eligible for the Stream and Wetland Restoration activities GP (non-reporting category #7)
3. An area threshold is proposed for impacts authorized by the Scientific Measurement Devices category (non-reporting category #3);
4. Category #13, Minor Fills, has been revised to authorize discharges of dredged or fill material in waters of the U.S. up to 400 square feet. Previously, this category

was applicable for discharges of up to 500 square feet, but only within those waters regulated by the State pursuant to Chapter 30 Wisconsin Statute.

5. Activities in the City of Superior area subject to the "Superior SAMP" (District permits 199606788 through 199606792) are proposed to be eligible for authorization under the non-reporting GP.
6. Activities within wetlands adjacent to the Kakagon River in Ashland County are no longer proposed to be excluded from the non-reporting GP.
7. The acreage limit for fills associated with the GP for Commercial, Residential, Industrial, Agricultural, Recreational and Public Development (reporting category #10) has been proposed to increase from 0.1 acre (4,356 square feet) to 10,000 square feet (approximately 0.23 acre).
8. Clarification has been provided regarding activities eligible for authorization pursuant to reporting category #6, Completed Enforcement Actions.
9. The content of reporting category #9 (Utility Line Discharges) has been reorganized to provide additional clarity.
10. A reporting category (#12) has been added for Aquatic Habitat Restoration, Establishment, and Enhancement Activities.
11. Finally, the definitions section (3.a.) of GP-002-WI has been expanded from five to ten terms.

III. ADDITIONAL INFORMATION

GP-002-WI is issued according to the provisions of Section 404 of the Clean Water Act and includes consideration of the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

GP-002-WI does not affect any existing or future Department of the Army Section 10 of the Rivers and Harbors Act NWPs, or any other regional GPs in Wisconsin.

GP-002-WI was designed in cooperation with the WDNR to maximize the combined effectiveness of the state and Federal programs.

GP-002-WI may be viewed on the District Internet web site at: http://www.mvp.usace.army.mil/regulatory under the "General Permits and Letters of Permission Procedures" section. Questions may be directed to Mrs. Rebecca Graser in our Waukesha office at (262) 717-9531, extension 3. Inquiries may also be submitted through the website or mailed to: Regulatory Branch, St. Paul District, Corps of Engineers, 180 Fifth Street East, St. Paul, Minnesota, 55101.

FOR THE DISTRICT ENGINEER:

Tamara E. Cameron
Chief, Regulatory Branch

DEPARTMENT OF THE ARMY PERMIT

Permittee: The General Public in Wisconsin

Permit No. GP-002-WI

Issuing Office: St. Paul District United States Army Corps of Engineers

Issuance Date: June 1, 2011

Expiration Date: May 31, 2016

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

GENERAL PERMIT AUTHORIZATIONS: The general public in the state of Wisconsin is authorized to perform work in accordance with the terms and conditions of the general permits (GPs) specified below, after satisfying all applicable permit terms and conditions.

IMPORTANT: Some GP-002-WI authorizations require project proponents to obtain a permit and/or state water quality certification from the Wisconsin Department of Natural Resources (WDNR) before any work is authorized (see permit activities listed in 1.a., 2.a, and Standard Condition 3.b.27). GP-002-WI authorizations are subject to all applicable terms and conditions specified in this permit. In addition, some GP authorizations may be subject to project-specific special conditions that will be specified in the St. Paul District's letter of confirmation. Refer to the appropriate sections of this permit for a description of GP eligible activities, conditions, exclusions and application instructions.

PROJECT DESCRIPTION AND LOCATION: GP-002-WI applies to certain discharges of dredged and/or fill material into waters of the United States, including wetlands, as described herein, in the state of Wisconsin except within the exterior boundaries of Indian Reservations.

Department of the Army General Conditions (applicable to all GP-002-WI authorizations):

1. GP-002-WI expires on May 31, 2016. Unless otherwise specified in the St. Paul District's letter confirming your project complies with the requirements of this GP, the time limit for completing work ends upon the expiration date of GP-002-WI. If you find that you require additional time to complete authorized activities, submit your time extension request to this office for consideration at least three months before the expiration date is reached.

2. You must maintain the activity authorized by GP-002-WI in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity. Should you wish to cease to maintain an activity authorized by the reporting GP (2.a), or abandon it without a good faith transfer; you must obtain a modification of the authorization from this office, which may

require restoration of the area. If you wish to transfer responsibility for completion or maintenance of the project to another, please contact this office so we may provide you with the necessary documentation to transfer the authorization.

3. If you discover any previously unknown historic or archaeological remains while accomplishing any activity authorized by GP-002-WI, you must immediately stop work and notify this office of what you have found. The St. Paul District will initiate the federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. You must allow representatives from this office and the WDNR to inspect the proposed project site and the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of GP-002-WI.

5. If a conditioned water quality certification has been issued for your project by the WDNR, you must comply with the conditions specified in the certification as special conditions to this permit.

6. You must also comply with the other GP-002-WI terms and conditions specified below as well as any project specific conditions imposed by the St. Paul District.

Further Information:

1. Congressional Authorities: Authorization to undertake the activities described above is pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), **only**. Work that also requires authorization under Section 10 of the Rivers and Harbors Act must be authorized separately through other GPs or individual permits.

2. Limits of this Authorization:

a. GP-002-WI does not obviate the need to obtain other federal, state, or local authorizations required by law.

b. GP-002-WI does not grant any property rights or exclusive privileges.

c. GP-002-WI does not authorize any injury to the property or rights of others.

d. GP-002-WI does not authorize interference with any existing or proposed federal project.

3. Limits of Federal Liability. In authorizing work, the Federal 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 United States 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 permit.

4. Reliance on Applicant's Data. The determination by this office that an activity is not contrary to the public interest will be made in reliance on the information provided by the applicant.

5. Reevaluation of Decision. This office may reevaluate its decision on an authorization at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. The applicant fails to comply with the terms and conditions of this general permit.

b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

A reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the permit and for the initiation of legal action where appropriate.

6. This office may also reevaluate its decision to issue GP-002-WI at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7.

This GP-002-WI becomes effective when the federal official, designated to act for the Secretary of the Army, has signed below.

for Michael J. Price
Colonel, Corps of Engineers
District Engineer

5/31/11
Date

GP-002-WI ACTIVITIES, PROVISIONS, AND CONDITIONS

This describes the Section 404 general permit authorization procedures implemented by the St. Paul District Corps of Engineers (Corps) in GP-002-WI.

Persons proposing to do work should note that, in ALL cases, GP-002-WI requires that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable. Also, activities that would adversely affect federal endangered plant or animal species or certain cultural or archaeological resources, or that would impair reserved Native American tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights, are not eligible for authorization under GP-002-WI.

1. NON-REPORTING GENERAL PERMIT.

The following discharges, for a single and complete project, that comply with all terms and conditions of GP-002-WI are authorized by this GP. **No application or notification to the Corps is required under this GP. Project proponents may proceed with the described discharges after very carefully making sure that the work will meet all applicable terms and conditions of GP-002-WI.** Project proponents with non-reporting activities should consult the Wisconsin Department of Natural Resources (WDNR) and local governments concerning state and local permit requirements (see Standard Condition: 3.b.27., below).

Note that certain areas and activities are EXCLUDED from this non-reporting GP described in section 1.b., below.

a. ACTIVITIES ELIGIBLE FOR AUTHORIZATION BY THE NON-REPORTING GP:

1. Maintenance Activities.
Discharges of dredged or fill material for the repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or fill, or any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that they affect not more than ½ acre of waters of the United States, including wetlands. The structure or fill is not to be put to uses differing from those specified in the original authorization or most recently authorized modification. Minor deviations are allowed where necessary to conform to modern construction practices, materials, construction codes, or safety standards. This GP may be used for the replacement of bridge abutments and culverts, side-slope flattening, reconditioning of roadbeds and the temporary placement of mats necessary to conduct maintenance activities. This GP may not be used for the addition of new lanes on roadways. This GP authorizes the minimal impact repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill that does not qualify for the Section 404(f) exemption for maintenance.

2. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities.
Section 404 discharges for fish and wildlife harvesting devices and activities such as pound nets, crayfish/minnow traps, duck blinds, clam digging; and small fish attraction devices. This GP does not authorize artificial reefs, impoundments, or semi-impoundments of waters of the United States for the culture or holding of motile species.

3. Scientific Measurement Devices.
Section 404 discharges for staff gages, tide gages, water recording devices, water quality testing and improvement devices and similar structures. Small weirs and flumes constructed primarily to record water quantity and velocity are also authorized. The discharge of fill material into waters of the United States must be limited to 150 square feet.

4. Survey Activities.
Section 404 discharges for survey activities including core sampling, seismic exploratory operations, and plugging of seismic shot holes and other exploratory-type bore holes. Drilling and the discharge of excavated material from test wells for oil and gas exploration is not authorized by this GP; the plugging of such wells is authorized. Fill placed for roads, pads and other similar activities is not authorized by this GP. The discharge of drilling mud and cuttings may require a permit under the National Pollutant Discharge Elimination System Program (Section 402 of the Clean Water Act).

5. Oil Spill/Hazardous Substances Containment/Cleanup.
Activities required for the containment and cleanup of oil and hazardous substances which are subject to the National Oil and Hazardous Substances Pollution Contingency Plan, (40 CFR Part 300), provided that the work is done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR 112.3. In addition, if a Regional Response Team exists in the area, they must concur with the proposed containment and cleanup action plan to be eligible for this GP. Discharges for such containment and cleanup are authorized by this GP; however, all appropriate governmental units, as well as the Corps, shall be informed of any such discharges as soon as practical.

6. Removal of Vessels.
Minor discharges of dredged or fill material required to remove wrecked, abandoned, or disabled vessels, or remove man-made obstructions to navigation. This GP does not authorize the removal of vessels listed or determined eligible for listing on the National Register of Historic Places unless the District Engineer determines that the work would be done in compliance with the "Historic Properties" standard condition (see Standard Condition: 3.b.12., below). This GP does not authorize maintenance dredging, shoal removal, or river bank snagging. Vessel disposal in waters of the United States may need a permit from the United States Environmental Protection Agency (EPA) (see 40 CFR 229.3).

7. Stream and Wetland Restoration Activities.
Stream Restoration projects (under paragraphs (i) through (iii) below) which are subject to regulation under Chapters 30 and/or 31 of Wisconsin State Statute must be approved by the WDNR to qualify for authorization pursuant to this GP.

This GP does not cover any conversion of sedge meadow or forested wetland to other wetland types. This GP covers Section 404 activities in waters of the United States associated with the restoration and enhancement (see definitions: 3.a.6 through 3.a.10, below) of degraded wetlands and riparian areas, the creation of wetlands and riparian areas, and the restoration and enhancement of non-Section 10 streams and open water areas on:

(a) Non-federal public and private lands, in accordance with the terms and conditions of a binding wetland enhancement, restoration or creation agreement between the landowner and the United States Fish and Wildlife Service (USFWS) or the Natural Resources Conservation Service (NRCS); or

(b) Any federal land; or
(c) Any public or private land by a state agency.

This GP cannot be used to authorize activities for the conversion of a natural stream to another aquatic use, such as the creation of waterfowl impoundments. This GP cannot be used to authorize channelization of a stream or the placement of rock rip rap, and does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed. Projects including the placement of rock rip rap may better qualify for bank stabilization review, category 1.a.11. or reporting GP 2.a.12., below. However, this GP may be used to relocate aquatic habitat types on the project site, provided there are net gains in aquatic resource functions, values, and no net loss of aquatic resource acreage. For example, this GP may authorize the creation of an open water impoundment in an emergent wetland, provided the emergent wetland is replaced by creating that wetland type in the adjacent uplands.

Reversion: For enhancement, restoration and creation projects conducted pursuant to paragraph (b) and (c) above, this GP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its condition prior to the enhancement, restoration, or creation project. In such cases, a separate permit would be required at that time for any reversion. For restoration, enhancement and creation projects conducted as specified in paragraph (a), this GP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or creation activities) within five years after expiration of a limited term wetland restoration or creation agreement (such as Wetland Reserve Program) or permit, even if the discharge occurs after this authorization expires. The five year reversion limit does not apply to agreements specified in paragraph (a) that do not include time limits. The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the federal agency executing the agreement or permit. Prior to any reversion activity, the permittee or the appropriate federal agency must notify the District Engineer and include the documentation of the prior condition. Once an area has reverted back to its prior physical condition, it will be subject to whatever the Corps regulatory requirements will be at that future date. Because projects that would be authorized by this permit are designed to enhance the aquatic environment, mitigation will not be required for the work.

8. Moist Soil Management for Wildlife Maintenance Activities.
Discharges of dredged or fill material for maintenance activities associated with existing moist soil management infrastructure for wildlife performed on non-tidal federal, tribal or state owned or managed properties, for the purpose of continuing ongoing, site-specific, wildlife management activities where soil manipulation is used to manage habitat and feeding areas for wildlife. Such activities include, but are not limited to: the repair, maintenance or replacement of existing water control structures; the repair or maintenance of dikes; and plowing or disking to impede succession, prepare seed beds, or establish fire breaks. Sufficient vegetated buffers must be maintained adjacent to all open waterbodies, streams, etc., to preclude water quality degradation due to erosion and sedimentation. This GP does not authorize the construction of new dikes, roads, water control structures, etc. associated with the management areas. This GP does not authorize converting wetlands to uplands, impoundments or other open waterbodies.

9. Emergency Watershed Protection - Rehabilitation.
Work done or funded by the NRCS qualifying as an "exigency" situation (requiring immediate action) under its Emergency Watershed Protection Program (7 CFR Part 624) and work done or funded by the Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 509.13).

10. Outfall Structures.
This activity is authorized under the non-reporting GP provided that the work is regulated and approved by the WDNR under Chapter 30.12 Wisconsin State Statutes. Activities related to construction of outfall structures and associated intake structures where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted, or which are otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act). This GP only authorizes those intake structures that are directly associated with an authorized outfall structure.

11. Bank Stabilization.
This activity is authorized under the non-reporting GP provided that the work is regulated and approved by the WDNR under Chapter 30.12 Wisconsin State Statutes. Discharges of dredged or fill material for bank stabilization activities necessary for erosion prevention provided that no material is placed in wetlands and the bank stabilization activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark. (Bank stabilization projects that exceed one cubic yard per running foot or that otherwise do not qualify for this non-reporting GP may be eligible for authorization under a different GP, a letter of permission or a standard individual permit).

12. Boat Ramps.
This activity is authorized under the non-reporting GP provided that the work is regulated and approved by the WDNR under Chapter 30.12 Wisconsin State Statutes. Discharges required for the construction of boat ramps provided the discharge into waters of the United States does not exceed 50 cubic yards of concrete, rock, crushed stone, or gravel into forms, or placement of pre-cast concrete planks or slabs (unsuitable material that causes unacceptable chemical pollution or is structurally unstable is not authorized); the boat ramp does not exceed 20 feet in width; the base material is crushed stone, gravel or other suitable material; the excavation is limited to the area necessary for site preparation and all excavated materials are removed to the upland; and no material is placed in special aquatic sites, including wetlands. Dredging to provide access to the boat ramp may be authorized by another GP, letter of permission, or individual permit pursuant to Section 10 if located in navigable waters of the United States.

13. Minor Fills.
This activity is authorized under the non-reporting GP provided that the work is regulated and approved by the WDNR pursuant to NR 299 and/or Chapter 30/31; or the work is exempt from regulation by the state under Chapter 30.12(1g). Discharges of dredged and/or fill material for a single and complete project that would result in filling, draining (including full or partial diversion of flows), excavating or inundating not more than 400 square feet of waters of the United States, including wetlands. This authorization may not be used more than once by a permittee or landowner in a manner that would cumulatively impact more than 400 square feet of waters of the United States for a single and complete project (see definition of a "single and complete project" at 3.a.5., below).

b. AREAS/ACTIVITIES EXCLUDED FROM THE NON-REPORTING GP:

1. Diversions of water. This permit may not be used to authorize all or any portion of a project that would divert more than 10,000 gallons/day of surface water or groundwater into or out of the Great Lakes Basin.

2. In the Pleasant Prairie, Wisconsin, area identified in Corps permit 198700323, only discharges for bank stabilization, limited to one cubic yard per running foot, are eligible for authorization under this part of GP-002-WI.

3. The non-reporting GP does not authorize any activity in:

   A. Federal and state Wild and/or Scenic Rivers. All regulated activities in these rivers, including stream and wetland restoration activities by a government agency, require evaluation under a Corps reporting general permit, letter of permission, or standard individual permit procedure.

   B. Calcareous fens as identified by WDNR, and wetlands within 300 feet of such fens. All regulated activities in these areas require evaluation under Corps standard individual permit procedures (except oil - hazardous material spill confinement and cleanup described at 1.a.5. above).

   C. Coastal wetlands in ridge and swale complexes as identified on WDNR maps, and wetlands adjacent to the Mink River in Door County or the Bad River in Ashland County.

NOTE: Unless otherwise noted, activities excluded above may be eligible for authorization under a reporting GP, a letter of permission, or a standard individual permit.

c. APPLICATION/EVALUATION PROCEDURES UNDER THE NON-REPORTING GP:

An activity authorized by the non-reporting portion of this GP may commence when project proponents have carefully confirmed that the activity will be conducted in compliance with all terms and conditions of GP-002-WI. No application to the Corps is required; however, if requested, the Corps will confirm whether or not proposed work is authorized by the non-reporting GP. Persons proposing to do work should note that conditions of the GP require that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable. Activities that would adversely affect federal endangered plant or animal species or certain cultural/archaeological resources are not authorized by this non-reporting general permit. Information about federal and state endangered species may be obtained by contacting the United States Fish and Wildlife Service at (920) 866-1717 (information on state species may be found by contacting the WDNR at (608) 266-7012). The Corps's website (www.mvp.usace.army.mil/regulatory/) also contains a link to the United States Fish and Wildlife Service list of federal and state endangered species for each Wisconsin county. Information concerning cultural resources may be obtained by contacting the State Historic Preservation Office at (608) 264-6505. Project proponents are encouraged to contact these agencies early in project planning to help avoid violations of federal law and potentially lengthy project delays.

2. REPORTING GENERAL PERMIT.

The following discharge activities, for a single and complete project, that comply with all terms and conditions of GP-002-WI are eligible for authorization under the reporting GP. **Persons proposing to do**

work should note that conditions of GP-002-WI require that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable.

Note that certain areas and activities are EXCLUDED from this reporting GP as described in section 2.b., below.

Applicants for all activities should consult with the WDNR and local governments concerning state and local permit requirements.

a. ACTIVITIES ELIGIBLE FOR AUTHORIZATION BY THE REPORTING GP:

1. Activities excluded from authorization by the non-reporting GP because they are in a coastal wetland area described at 1.b.3.C, above. These proposals must also comply with Standard Condition 3.b. 28, below.

2. United States Coast Guard Approved State or Federally Funded Bridges.
Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided such discharges have been authorized by the United States Coast Guard as part of the bridge permit. Causeway and approach fills are not included.

3. Return Water From Upland Contained Disposal Areas.
Return water from upland, contained dredged material disposal areas. The dredging itself requires a Section 10 permit if located in navigable waters of the United States. The return water from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d) even though the disposal itself occurs on the upland and thus does not require a Section 404 permit. Authorization under this GP satisfies the technical requirement for a Section 404 permit for the return water where the quality of the return water is controlled by the state through the Section 401 certification procedures.

4. Hydropower Projects.
Discharges of dredged or fill material associated with (a) small hydropower projects at existing reservoirs where the project, which includes the discharge of dredged or fill material, is licensed by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920, as amended; and has a total generating capacity of not more than 5000 KW; or (b) hydropower projects for which the FERC has granted an exemption from licensing pursuant to Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708) and Section 30 of the Federal Power Act, as amended.

5. Cleanup of Hazardous and Toxic Waste.
Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. For discharges in special aquatic sites, including wetlands, the application must include a delineation of affected special aquatic sites, including wetlands. Court ordered remedial action plans or related settlements are also authorized by this GP. This GP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

6. Completed Enforcement Actions.
Any discharge of dredged or fill material remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with either:

(a) The terms of a signed written Corps non-judicial settlement agreement resolving a violation of Section 404 of the Clean Water Act or the terms of an EPA 309(a) order resolving a violation of Section 404 of the Clean Water Act, provided that:

(i) The unauthorized activity affected no more than 5 acres of waters of the United States;

(ii) The settlement agreement provides for environmental benefits, to an equal or greater degree, than the environmental detriments caused by the unauthorized activity to be authorized by this GP; and

(iii) The District Engineer issues a verification letter authorizing the activity subject to the terms and conditions of this GP. The District Engineer's verification letter shall include a specified completion date and may also include additional conditions not inconsistent with the settlement agreement or 309(a) order; or

(b) The terms of a final federal court decision, consent decree, or settlement agreement resulting from an enforcement action brought by the United States for violation of Section 404 of the Clean Water Act; or

(c) The terms of a final court decision, consent decree, settlement agreement, or non-judicial settlement agreement resulting from a natural resource damage claim brought by a trustee or trustees for natural resources (as defined by the National Contingency Plan at 40 CFR Part 300, Subpart G) under Section 311 of the Clean Water Act, Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, Section 1002 of the Oil Pollution Act of 1990, or the Park System Resource Protection Act at 16 U.S.C. 19jj, to the extent that a Corps permit is required.

Compliance with the terms of the underlying court decision, consent decree, settlement agreement, non-judicial settlement agreement, or 309(a) order that pertain to the retention, placement, protection or maintenance of the discharges authorized by this permit are conditions of this GP. A violation of this GP occurs if the permittee does not comply with the terms of this GP or the pertinent terms of the underlying court decision, consent decree, judicial/non-judicial settlement agreement, or 309(a) order. This GP does not apply to any discharges occurring after the date of the decision, consent decree, or agreement that are not in compliance with the underlying order or settlement agreement. For purposes of this authorization, the term "violation of Section 404 of the Clean Water Act" includes both violations of Section 404 and violations of Section 301 of the Act involving discharges regulated under Section 404.

7. Temporary Construction, Access and Dewatering.
Temporary structures and discharges, including cofferdams needed for construction activities or access fills or dewatering of construction sites; provided the associated permanent activity was previously authorized by the Corps or the United States Coast Guard, or for bridge construction activities not subject to federal regulation. Appropriate measures must be taken to maintain near-normal downstream flows and to minimize flooding. Fill must consist of appropriate materials and be placed in a manner that will not be eroded by expected high flows. Temporary fill must be entirely removed to upland areas following completion of the construction activity and the affected areas restored to the pre-project conditions. Construction mats may be placed in wetland areas for up to two weeks during the growing season unless otherwise specified in the Corps verification letter. Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use. Structures left in place after cofferdams are removed require a Section 10 permit if located

in navigable waters of the United States (See 33 CFR Part 322). The application for this GP must demonstrate reasonable measures to avoid and minimize impacts to aquatic resources, as well as include a restoration plan describing how the site will be restored to pre-project conditions. The District Engineer will add special conditions to verification letters, where necessary, to ensure that adverse environmental impacts are minimal. Such conditions may include: limiting the temporary work to the minimum necessary; requiring seasonal restrictions; modifying the restoration plan; and requiring alternative construction methods. This GP does not authorize temporary structures or fill associated with mining activities or the construction of marina basins that have not been authorized by the Corps.

8. Structural Discharges.
Discharges of material such as concrete, sand, rock, etc. into tightly sealed forms or cells where the material will be used as a structural member such as a utility pole, bridge support, ramp surface, or retaining wall. This activity does not include building foundations or other structures such as pilings intended for use as building supports.

9. Utility Line Discharges.
Activities required for the construction, maintenance and repair of utility lines (for this GP, a "utility line" is defined below) and associated facilities in waters of the United States as follows:

(a) Utility lines: The construction, maintenance, or repair of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in preconstruction contours. Material resulting from trench excavation may be temporarily side-cast (up to two weeks during the growing season) into waters of the United States, provided that the material is not placed in such a manner that it is dispersed by currents or other forces. In wetlands, the top 6" to 12" of the trench shall be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). For example, utility line trenches can be backfilled with clay blocks to ensure that the trench does not drain the waters of the United States through which the utility line is installed. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

(b) Utility line substations: The construction, maintenance, or expansion of a substation facility associated with a power line or utility line in waters of the United States.

(c) Foundations for overhead utility line towers, poles, and anchors: The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and digital messages, and radio and television communication. The term "utility line" does not include activities which drain a water of the United States, such as drainage tile, or french drains; however, it does apply to pipes conveying drainage from another area.

Loss of waters of the United States associated with projects authorized by paragraphs (a) through (c) may not exceed a sum total of 10,000 square feet (see exclusion at 2.b.4., below). For the purposes of this GP, loss of

waters of the United States includes the filled area plus waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project. Jurisdictional waters temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours, elevation, and wetland type are not included in the 10,000 square foot limitation. Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous wetland, mitigation may be required to reduce the adverse effects of the project to the minimal level.

This GP may also authorize temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work. Mechanized land clearing necessary for the construction, maintenance, or repair of utility lines and the construction, maintenance and expansion of utility line substations, and foundations for overhead utility lines is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of waters of the United States that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, and foundations. Excess material must be removed to upland areas immediately upon completion of construction.

If using directional-drilling method of utility line installation, the applicant must provide the Corps a detailed narrative describing water supply intake(s) and recapture and disposal methods for used drilling fluids. This plan must describe the correctional steps to be taken in the event of a leak, either through the substrate into the waterbody or waterway, or onto the upland area with possible return to the waterbody or waterway.

10. Commercial, Residential, Industrial, Agricultural, Recreational and Public Development (including roads for these purposes).
Discharges of dredged or fill material for a single and complete project (see 3.a.5., below) that directly and/or indirectly impact by filling, draining, excavating and/or inundating not more than 10,000 square feet of wetland/water area for commercial, residential, industrial or recreational development projects, including associated roads. This reporting GP does NOT include access paths across water or wetland areas to provide upland access to a waterbody for any purpose. It is important for applicants for this GP to include information with their application that clearly shows that an alternatives analysis has been conducted and the proposed work is the least environmentally damaging practical method of accomplishing the project purpose. This will minimize delays in federal and state evaluation procedures and increase the chance that the project will receive prompt and favorable review.

11. Wildlife Ponds.
Discharges of dredged or fill material for the construction of wildlife ponds that impact (see 3.a.1., below) not more than 1 acre of waters of the United States. The wildlife ponds shall be constructed with irregular shorelines, shallow sideslopes (e.g., 8-foot H to 1-foot V), and shall not exceed 5-feet of water depth. Excess fill material not needed for construction of the pond must be removed to an upland location. The primary purpose of this activity must be wildlife habitat improvement. This GP does not authorize the discharge of fill material for the construction of wildlife ponds in forested wetlands, sedge meadows or calcareous fens.

12. Aquatic Habitat Restoration, Establishment, and Enhancement Activities.
This GP does not cover any conversion of sedge meadow or forested wetland to other wetland types. Activities in waters of the United States associated with the restoration, enhancement, and creation (see 3.a.,

below) of wetlands and riparian areas and the restoration and enhancement of streams and other open waters, provided those activities result in net increases in aquatic resource functions and no net acreage loss of waters of the United States.

Activities authorized by this GP may not result in a discharge of dredged or fill material into more than 2 acres of waters of the United States. Activities authorized by this GP include, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms; the installation of current deflectors; the enhancement, restoration, or establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to restore or establish stream meanders; the backfilling of artificial channels and drainage ditches; the removal of existing drainage structures; the construction of small nesting islands; the construction of open water areas; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities.

This GP does not authorize stream channelization. The District Engineer's verification letter may include project specific conditions limiting the placement of riprap. This GP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., stream to wetland or vice versa) or uplands.

This GP does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested or sedge meadow wetland previously existed. However, this GP may be used to relocate aquatic habitat types on the project site, provided there are net gains in aquatic resource functions, values, and no net loss of aquatic acreage. For example, this GP may authorize the creation of an open water impoundment in an emergent wetland, provided the emergent wetland is replaced by creating that wetland type in the adjacent uplands.

This GP can be used to authorize compensatory mitigation projects, including banks and in-lieu fee programs. Once an area has been created, restored, or enhanced, it will be subject to all applicable Corps regulatory requirements. Because projects that would be authorized by this permit are designed to enhance the aquatic environment, mitigation will typically not be required for the work.

b. <u>AREAS/ACTIVITIES EXCLUDED FROM THE REPORTING GP:</u>

1. Diversions of Water. This GP may not be used to authorize all or any portion of a project that would divert more than 10,000 gallons of surface or groundwater into, or out of, the Great Lakes Basin daily.

2. Activities in the City of Superior, Wisconsin, eligible for authorization under a "Superior SAMP" permit are not eligible for authorization under the reporting GP (Corps permits 199606788 through 199606792).

3. The reporting GP does not authorize any activity in calcareous fens as identified by the WDNR, and waters of the United States within 300 feet of such fens. All regulated activities in these areas require evaluation under Corps individual permit procedures.

4. Listed impaired waters. For activities 2.9.b. (utility line substations) and 2.9.c. (foundations for utility

towers), this GP may not be used to authorize projects that involve filling, draining, or inundating more than 0.1 acre of wetland/water in waterbodies, and adjacent wetlands, that are listed on the EPA-approved list of Wisconsin impaired waters pursuant to Section 303(d) of the Clean Water Act. This exclusion applies only to those impaired waters that are listed for one or more of the following reasons: nutrients, dissolved oxygen (DO), ammonia, suspended solids, turbidity, sediment, streambank erosion, flow habitat, hydrological modification, wetland loss, siltation and organic enrichment. Such projects in these areas may be eligible for evaluation under a letter of permission or standard individual permit procedure.

c. APPLICATION/EVALUATION PROCEDURES UNDER THE REPORTING GP:

Applicants must submit a complete application to both the Corps and the WDNR using the joint state-federal application form that is available from the Corps and WDNR offices and on the websites of both agencies. Upon receipt of a permit application, the Corps will commence to review the proposed activity to determine eligibility for the reporting GP. In some cases, the Corps may require a wetland delineation prepared in accordance with the 1987 Corps of Engineers Wetland Delineation Manual (including applicable Regional Supplement) before the application will be considered complete. The Corps will complete its review as noted below and send the applicant a letter advising of the outcome. If the Corps decision is to issue a reporting GP, the Corps confirmation letter to the applicant will be a reporting GP verification letter. The Corps will simultaneously send a copy of the letter to the WDNR.

ENDANGERED SPECIES AND CULTURAL RESOURCES REVIEW.

The Corps review will include a determination concerning compliance of the project with Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act. Projects found not to comply with either or both of these Acts will not be authorized under the GP or any other Corps authorization until actions are taken so that compliance with both acts is assured. The Corps federal endangered species review will consist of Corps staff consulting appropriate reference materials including endangered species information published by the USFWS in informational brochures and on Internet web pages and any other available data, information or specific guidance provided by USFWS. Corps staff will be aware of locations where endangered species are known or likely to be present and of the types of activities that may affect those species. Corps staff will directly consult with USFWS staff concerning proposals which appear to have potential to affect listed species. The review will include Corps and/or USFWS site inspections of specific project sites, and/or formal Section 7 interagency consultation where necessary. In addition, during federal review of reporting GP applications, Corps staff will consult state endangered species information made available by the WDNR. Corps staff will consult with WDNR staff concerning proposals that appear to have potential to affect state listed species.

The Corps federal cultural resources review will be conducted in a manner similar to the endangered species review. The National Register of Historic Places will be consulted to determine the presence or absence of known cultural resources. Corps regulatory staff will be aware of areas that have a high probability to contain important cultural resources and will consult Corps cultural resource staff concerning questionable projects. Corps regulatory or cultural resource staff will consult with the State Historic Preservation Office on appropriate projects. Cultural resource surveys and/or formal consultation with the President's Advisory Council on Historic Preservation will be conducted where necessary.

COMPENSATORY MITIGATION

Complete applications for activities involving a discharge of dredged or fill material into waters of the United States must minimally include a statement regarding compensatory mitigation (33 CFR Part 325.1). This statement must describe how impacts to waters of the United States are to be compensated for, or a statement explaining why compensatory mitigation should not be required for the proposed impacts.

Verification letters issued by the Corps may require compensatory mitigation in accordance with 33 CFR Part 332 for any impacts authorized under a reporting GP if a determination is made that the functions lost or impaired by the proposed project are of high value or otherwise warrant replacement. These determinations are made on a case-by-case basis, however, projects that adversely affect 10,000 square feet or more of waters of the United States routinely require compensation. Applicants whose project requires compensatory mitigation should include a mitigation plan prepared in accordance with 33 CFR Part 332, and may utilize the *Guidelines for Wetland Compensatory Mitigation in Wisconsin*. The plan prepared should describe the measures proposed to ensure that the activity complies with the Section 404(b)(1) guidelines (40 CFR 230). Compensatory mitigation that is proposed to satisfy state or local requirements may, but will not necessarily, satisfy the federal requirement.

Work is authorized under the reporting GP when the project proponent receives confirmation of both a reporting GP verification letter from the Corps AND confirmation from the WDNR that state water quality certification has been granted or waived for the project. Also note Standard Condition 28 concerning the need for Wisconsin Coastal Management Program certification for activities in coastal wetlands in ridge and swale complexes as identified on WDNR maps, and wetlands adjacent to the Mink River in Door County or the Bad River in Ashland County.

3. GP-002-WI PROVISIONS

a. GP-002-WI DEFINITIONS:

1. Calculation of Aquatic Impact Thresholds: For those activities with threshold limits, impacts shall be determined by calculating area of waters of the United States filled plus the impacts to waters of the United States that are excavated, inundated, or drained as a result of the regulated discharge.

2. Fill Material: Fill material, as defined in 33 CFR 323.2, means material placed in waters of the United States where the material has the effect of:
   (i) Replacing any portion of a water of the United States with dry land; or
   (ii) Changing the bottom elevation of any portion of a water of the United States.

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 the waters of the United States. The term fill material does not include trash or garbage.

3. Loss of Waters: This term refers to aquatic resources filled or otherwise permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change its use. The loss of streambed includes the linear feet of

streambed that is filled, excavated, or flooded. Waters of the United States temporarily filled, flooded, excavated, or drained but restored to preconstruction contours and elevations after construction are not typically included in the measurement of loss of waters of the United States. However, temporary fill in waters of the United States is regulated by Section 404.

4. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose.

5. Single and Complete Project: For purposes of GP-002-WI, the term "single and complete project" means the total project proposed by the project proponent. For example, if construction of a residential development or linear project such as a road or utility line affects several different areas of waters of the United States, the cumulative total of all filled areas is the basis for deciding the project's total wetland/water impact. For "phased" developments, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose whether or not other phases were constructed.

6. Wetland Creation: The construction of a wetland in an area that was not wetland in the past.

7. Wetland Restoration: Re-introduction of wetland vegetation AND wetland hydrology to an upland area where these vegetative and hydrologic qualities previously existed (re-establishment of hydric soil may rarely be required). This alteration results in the restoration of previously existing wetland.

8. Wetland Conversion: Alterations to an existing wetland that result in a change in wetland classification (i.e. the conversion of a wet meadow to a shallow marsh, or a forested wetland to wet meadow).

9. Wetland Enhancement: Alterations made to existing wetlands that result in a net increase in wetland function (i.e. vegetation management techniques or changes to the hydrologic regime). Wetland enhancement generally does not include wetland conversion, unless the purpose of the conversion is to return the wetland to known pre-disturbance conditions AND also represents a net increase in wetland function.

10. Stream Restoration and/or Enhancement: Alterations to an existing and/or previously existing stream corridor that result in a naturalization of the corridor, including activities that mimic natural features or return the stream corridor to a pre-disturbance condition. Generally, this includes installation of vortex weirs, current deflectors, small habitat structures, riffle and pool stream structure, and modifications of the stream bed and/or banks to restore stream meanders, selective removal of non-native vegetation, and the backfilling of artificial channels. Stream enhancement and restoration does not generally include significant artificial changes to the stream corridor such as widespread bank armoring with non-biodegradable materials (i.e. riprap) or conversion of adjacent wetlands that would not meet the definition of wetland enhancement (see 3.a.9., above).

b. GP-002-WI STANDARD CONDITIONS:

1. Discretionary Authority.
The Corps retains discretionary authority to require a standard individual permit review of any activity eligible for authorization under GP-002-WI based on concern for the aquatic environment.

2. Federal Trust Responsibility to Indian Tribes.
Projects the Corps finds to have potential to affect tribal interests will be coordinated with the appropriate Indian Tribal governments. The Tribe's views and the federal trust responsibility will be considered in the Corps evaluation. Based on treaty rights, no activity or its operation may impair reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

3. Form and Confirmation of Authorization.
Every GP-002-WI authorization that requires submission of an application will be confirmed in writing by the Corps. Any confirmation issued may include required special conditions.

4. Grandfather Provision.
Activities that were determined to be non-reporting under GP-002-WI prior to May 31, 2011 AND that had commenced prior to that date shall be completed no later than April 16, 2013. Reporting activities previously confirmed by our office in writing as authorized under GP-002-WI (expiration dates April 16, 2011 or May 31, 2011), continue to be authorized under the terms of the Corps project verification letter.

5. Case-by-Case Conditions.
The authorized activity must comply with any special conditions that may have been added by the Corps or by a state, tribe, or the United States Environmental Protection Agency in its Section 401 Water Quality Certification or consistency determination under the Coastal Zone Management Act. Such conditions will be specifically identified in any Corps authorization.

6. Avoidance and Minimization.
Discharges of dredged or fill material into waters of the United States must be avoided and minimized to the maximum extent practicable (please see 3.a.4., above for a definition of practicable).

7. State Water quality Certification and Coastal Zone Management (CZM) Consistency Determination.
Some GP-002-WI authorizations may not be valid unless and until the WDNR has confirmed that the activity complies with state water quality certification and/or CZM consistency determination is obtained from or waived by the Wisconsin Coastal Management Program. If such a condition applies, it will be noted in the Corps authorization letter for the project. Refer to conditions 27 and 28 at the end of this document.

8. Proper Maintenance.
Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

9. Erosion and Siltation Controls.
Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date. Work should be done in accordance with state-approved published practices.

Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion. Cofferdams shall be constructed and maintained so as to prevent erosion into the water. If earthen material is used for cofferdam construction, sheet piling, riprap or a synthetic cover

must be used to prevent dam erosion. All non-biodegradable erosion controls must be removed within two weeks of site stabilization unless otherwise conditioned in the Corps project confirmation letter.

10. Removal of Temporary Fills.
Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation. The timeframe for completing this removal shall be:

(a) Not later than the timeframe stipulated in the activity description (unless extended in writing by our office);
(b) Not later than the timeframe stipulated in our office's confirmation letter; or
(c) Not longer than two weeks from the date the temporary fill was placed in waters of the United States (condition (c) applies only if a timeframe is not otherwise established by applying (a) or (b) above).

11. Federal Threatened and Endangered Species.
GP-002-WI does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 7 of the Federal Endangered Species Act (see 3(b)27a.x.(a) for information regarding Chapter 29.604 Wisconsin State Statute).

(a) 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 (ESA) or which is likely to destroy or adversely modify the critical habitat of such species. Permittees shall notify the Corps if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is authorized.
(b) Authorization of an activity under GP-002-WI does not authorize the take of a threatened or endangered species as defined under the federal ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the United States Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the United States Fish and Wildlife Service and National Marine Fisheries Service, WDNR or their world-wide web pages on the internet.

12. Historic Properties, Cultural Resources.
GP-002-WI does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 106 of the National Historic Preservation Act (NHPA). No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) is authorized, until the Corps has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must include notification to the Corps in the permit application if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the NRHP, and shall not begin the activity until notified by the Corps that the requirements of the NHPA have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the NRHP. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Office must be contacted for further instruction.

13. Spawning Areas.
Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

14. Obstruction of High Flows.
To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

15. Adverse Effects from Impoundments.
If the discharge creates an impoundment of water, adverse effects on the aquatic system due to the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

16. Waterfowl Breeding Areas.
Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

17. Navigation.
No activity may cause more than a minimal adverse effect on navigation.

18. Aquatic Life Movements.
No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

19. Equipment.
Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

20. Water Quality Standards.
All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable federal, state, and local water quality and effluent standards on a continuing basis.

21. Preventive Measures.
Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a way that allows them to enter the watercourse as a result of spillage, natural runoff, or flooding.

22. Disposal Sites.
If dredged or excavated material is placed on an upland disposal site (above the ordinary high-water mark), the site must be securely diked or contained by an acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. Construction of containment areas, whether bulkhead or upland disposal site, must be complete prior to the placement of any dredged material.

23. Suitable Fill Material.
All fill (including riprap), if authorized under this permit, must consist of suitable material (e.g. no trash,

debris, car bodies, asphalt, etc.,) free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, the State Historic Preservation Office (SHPO) must be notified prior to the use of the new site. Evidence of this consultation with the SHPO will be forwarded to the Corps.

24. Water Intakes/Activities.
An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse. Sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water quality.

25. Spill Contingency Plan.
A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. 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 Emergency Management Duty Officer at 1-800-943-0003 and the National Response Center at telephone number 1-800-424-8802.

26. Other Permit Requirements.
No Corps GP-002-WI authorization eliminates the need for other local, state or Federal authorizations, including but not limited to National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) permits.

27. State Section 401 Certification Conditions and Limitations (dated April 28, 2011):
(a) GENERAL CONDITIONS:

i. The applicant shall allow the WDNR reasonable entry and access to the discharge site to inspect the proposed discharge for compliance with this certification and applicable laws and to inspect permitted discharges for compliance with this certification and applicable laws.

ii. Once wetland work commences, all wetland construction activities must be continuous (on a daily basis) until the project is completed and the site is stabilized.

iii. The removal of vegetative cover and exposure of bare ground must be restricted to the minimum amount mulching, sodding, diversion of surface runoff, installation of straw bales or silt screens, construction of settling basins, or similar methods as soon as possible after removal of the original ground cover as described in the Wisconsin Construction Site Handbook (BMP's).

iv. This permit has been issued with the understanding that any construction equipment used is the right size to do the job, and can be brought to and removed from the project's site without unreasonable harm to vegetative cover or fish or wildlife habitat.

v. Final site stabilization requires the re-establishment of native vegetation and must not contain any exotic species.

vi. Flush all other equipment with hot water of 105° F. to 110° F. for a period of 30 minutes or hot water of 140° F. for a period of 5 minutes; or, instead of flushing equipment, leave the equipment in a sunny location so that it dries completely (at least five full days).

vii. Inspect all equipment surfaces, scrape off any attached mussels, remove any aquatic plant materials (fragments, stems, leaves, or roots), and dispose of removed mussels and plants in a garbage can prior to leaving the water access area.

viii. You must ensure that all equipment used for the project has been adequately de-contaminated for zebra mussels prior to being used in other waters of the state. All equipment that comes in contact with infested waters including, but not limited to, tracked vehicles, barges, boats, turbidity curtain, sheet pile, and pumps must be thoroughly disinfected.

ix. If any conditions of this certification are found to be invalid or unenforceable, certification for all activities to which that condition applies is denied.

x. The following activities are not eligible for certification under this water quality certification action for GP-002-WI:

(a) Activities likely to jeopardize the continued existence of a state designated threatened or endangered species or a species proposed for such designation or which is likely to destroy or adversely modify the habitat of such species.
(b) Activities that result in adverse impacts to fishery spawning habitat or adversely affect avifauna breeding areas or substantially disrupt the movement of those species that normally migrate from open water to upland or vice versa (i.e. amphibians, reptiles and mammals).
(c) Activities detrimental to waters of the state, including wetlands, that would adversely affect designated areas of special natural resource interest as defined in NR 103.04, Wis. Adm. Code.
(d) Activities, individually or cumulatively, detrimental to waters of the state, including wetlands, that would further the substantial degradation of designated impaired waters of the state.

xi. Applicants seeking authorization under this regional general permit (except the non-reporting general permit) shall complete a Joint State/Federal Permit Application and submit two copies of each to the appropriate local COE office and the local WDNR Water Management Permit Intake Specialist. Applications for water quality certification must be complete as determined by the WDNR. Please note an application fee is required for state water quality certification activities identified under Section II below.

(b) <u>WATER QUALITY CERTIFICATION:</u>

i. The WDNR grants water quality certification for the <u>Non-Reporting GP</u> subject to compliance with all applicable conditions in GP-002-WI and compliance with conditions 3.b.27(a)i. through xi. above.

ii. The WDNR grants water quality certification for projects that satisfy all applicable conditions of GP-002-WI under the <u>Reporting GP</u> subject to the <u>General Conditions</u> above, and:

iii. The applicant receives written confirmation from the department that their proposed activity(s) is

consistent with the requirements of NR 299 Water Quality Certification, Wis. Adm. Code, and the Department confirms that the applicant has adequately demonstrated that no other practicable alternative exists which would not adversely impact wetlands and would not result in other significant adverse environmental consequences and the Department confirms that the activity is consistent with the requirements of NR 103.08, Wis. Adm. Code.

iv. Certification for Hydropower Projects under this General Permit is conditionally approved when the applicant has received State Individual Water Quality Certification under the FERC regulatory process.

NOTE: If additional information is needed, or if heavy snow or ice cover prevents WDNR from completing their review, the normal processing time for confirming activities eligible for authorization under this certification may be extended (by written notice from WDNR to the applicant).

(c) NOTICE OF APPEAL RIGHTS:

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

To request a contested case hearing pursuant to section 227.42, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources.

This determination becomes final in accordance with the provisions of NR 299.05(7), Wisconsin Administrative Code, and is judicially reviewable when final. For judicial review of a decision pursuant to Sections 227.52 and 227.53, Wisconsin Statutes, you have 30 days after the decision becomes final to file your petition with the appropriate circuit court and to serve the petition on the Secretary of the Department of Natural Resources. The petition must name the Department of Natural Resources as the respondent.

Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. This notice is provided pursuant to section 227.48(2), Stats.

28. Wisconsin Coastal Management Program (WCMP) Conditions.
The WCMP's Federal consistency determination for GP-002-WI provides that no GP-002-WI authorization for an activity taking place in coastal wetlands identified as ridge and swale complexes and/or wetlands adjacent to the Mink River (Door County), and the Kakagon and Bad Rivers (Ashland County) will be valid unless and until a Federal consistency determination is granted or waived by the WCMP. This requirement therefore is incorporated as a permit condition of GP-002-WI. Applicants will be notified of this condition in the Corps's GP reporting authorization for projects in these areas.