

# DNR Industrial Sand Mine Permitting near Waterways and Wetlands



# Regulatory Overview

Waterway permits required near public (navigable) waterways

Wetland permits required for discharges (fill) to wetlands

# Public (Navigable) Waterway

- Floats the smallest recreational craft
- On a reoccurring basis
- And has a defined bed and bank
- Determined by DNR



# Wetland

- Hydric (wetland) soils
- Dominance of wetland plants
- Hydrology (water present in soil or at surface)
- Defined by ACOE 1987 manual



# Navigable Waters-Wetland Laws

- s. 30.19 Stats- Ponds/Grading
- s. 30.195 – Stream realignment
- s. 30.20 – Dredging
- s. 30.123- Bridges/Culverts
- NR 340 – Non-metallic Mining Code
  
- s. 281.36 Stats – Wetland
- NR 103 – Wetland Water Quality Stds.

# Jurisdiction

Wis. Stats. Section 30.19 requires permits for the following activities:

- Construct, dredge, or enlarge any artificial water body that connects with a navigable waterway.
- The construction of a pond or waterway that is within 500 feet of a navigable waterway
- Grading in excess of 10,000 square feet on the bank of a navigable waterway.

# Jurisdiction

- Wis. Stats. 30.20 requires permits to remove material from below the ordinary high water mark of navigable waters
- Wis. Stats. 30.195 requires permits to change the course or straighten a navigable stream
- Wis. Stats. 30.123 requires permits for bridge/culvert over navigable water

# NR 340 Nonmetallic Mining Reclamation – Navigable Waters

- DNR Permitting Implementation Code
- Recognizes the sensitivity of stream/lakebed
- Extra protection to Outstanding Resource Waters
- Defines the application process and decision process
- Code does not apply to sites < 1 acre  
(note: Ch 30 laws still apply)



# Permit Application



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## Nonmetallic mining

If you want to mine rotten granite, stone, rock, sandstone, clay, peat, sand, gravel or other nonmetallic substance, for resale, construction or personal use a permit and/or fee may be required.



Nonmetallic mining

### Exemptions and permits

- There are no exemptions for non-metallic mining.
- [Water Permits](#) - choose the "Waterway and wetland" tab and then find activity "Nonmetallic mining."

A permit is required to:

- [dredge](#) materials from the bed of any lake, stream or pond;
- to create a [pond](#) within 500 feet of navigable water; or
- to move earth ([grade](#)) in excess of 10,000 square feet on the bank of navigable water. Fees are required.

**Note:** If the non-metallic mining is associated with current cranberry growing operations and will result in mineral product being sold, the department has developed [guidance \[PDF\]](#) to clarify permitting and statutory exemptions defined for

# Approval Standards

- Will not injure public rights or interests including fish and game habitat in navigable waters;
- Will not cause environmental pollution as defined in s. 299.01(4);
- Comply with platting/sanitation laws;
- No material injury to the rights of any riparian owners on any body of water affected will result.

# Permit Conditions

- 10 yr renewable permit with financial assurance
- Compliance with project dimensions
- Ponds in floodplain are public including dedicated public access
- Stockpiling and storage consistent with floodplain rules
- Staged and final reclamation
- Reclamation plan consistent with NR 135
- Other as needed to protect the public interests

# Steep , high bank reclamation



# Low bank, wetland restoration/reclamation



# Wetland Permitting

- Wetland Delineation
- Pre-application meeting
- Submit application
- Completeness Review
- Public informational Hearing (IP)
- Decision

# Wetland Permit options:

- General Permits (GPs): Smaller wetland impacts (10,000 s.f.) meeting eligibility requirements and permit requirements
- Individual Permits (IPs): Larger wetland impacts and more complicated projects where pre-application meeting and compensatory mitigation is required.



# Standards for issuing wetland IPs:

- Least environmentally damaging practicable alternative taking into consideration practicable alternative that **AVOID** wetland impacts
- All practicable measures taken to **MINIMIZE** wetland impacts
- Proposed project will not result in **SIGNIFICANT ADVERSE IMPACTS** to wetland functional values, water quality or in other significant adverse environmental consequences



# New Mitigation Law

- Mitigation required for IP's
- Types of mitigation
  - Purchase bank credits (preferred)
  - In-lieu fee option not available at this time
  - Permittee-responsible project (aka 'on-site')
- Collaborate with A

# Enforcement Options

- Notice of Non-compliance
- Citation
- Notice of Violation
- Enforcement Meeting
- Referral to Dept. of Justice





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