

Updating Waterway and Wetland Administrative Rules

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Scope

- Seeking to update 4 rules:
 - NR 300, time limits and fees for permitting
 - NR 301, water regulation enforcement
 - NR 305, time limits for water regulation decisions
 - NR 310, procedures for exemptions, GPs, IPs, notices, hearings and administrative review



Goals

- Reduce administrative code redundancy through consolidation
- Update administrative procedures for waterway regulations to align with statutory requirements
- Update fee system

Will NOT change activity-specific and project-specific eligibility

General Outline

- **Subchapter I – Regulatory Decisions**
- NR 300.04 Waterway exemptions
- NR 300.05 Wetland exemptions
- NR 300.06 Waterways and wetland general permits
- NR 300.07 Waterways and wetland individual permits
- NR 300.08 Notices and public comment
- NR 300.09 Individual permit decision
- NR 300.10 Dam individual permits
- NR 300.11 Waterway and wetland permit fees
- **Subchapter II – Water Quality Certification**
- NR 300.12 General
- NR 300.13 Notification
- NR 300.14 Process
- NR 300.15 Waiver
- NR 300.16 Individual water quality certification decisions
- **Subchapter III – Regulatory Services**
- NR 300.17 Navigability and ordinary high water mark determinations
- NR 300.18 Wetland determinations
- **Subchapter IV – Enforcement and Permit Proceedings**
- NR 300.20 After the fact permits
- NR 300.21 Relationship of enforcement and permit proceedings
- NR 300.22 Exceptions to time limits
- NR 300.23 Inspection authority

Wetland Exemptions (300.05)

- Creates general sideboards for exemption decisions
- Incorporates Act 183 components
 - Specifies process for voluntary exemption reviews vs. mandatory exemption reviews
- Affirms DNR's intention to be consistent with federal exemption policies to the greatest extent possible

Wetland Identification Requests

General Information

Complete all sections, Save your work, Move between tabs, Pay online by credit card, debit card or e-check. (You must use this system to pay all application fees), Include your digital signature, Submit the Application to the DNR.

NOTE: Missing or incomplete fields are highlighted at the bottom of each page. You may save, close and return to your draft permit as often as necessary to complete your application. If there are no updates in 90 days, your draft is deleted.

Project Information

Wetland ID Activity:	Select...
Project Name:	Wetland Exemption Request Assured Delineator Report Submittal Wetland Identification Request Wetland Delineation Confirmation Requests Wetland Delineation Non Federal Confirmation Requests

Waterway and Wetland GPs (300.06)

- Specifies application submittal requirements
- General eligibility determination sideboards
- Wetland self-reporting permits
 - Clarifies statutory authority in s. 281.36(3g)(h)4, ability for DNR to waive permit application process
 - Creates standards for DNR to use wetland self-reporting GPs authorization

Example

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES
WETLAND GENERAL PERMIT FOR CITY OF SUPERIOR SPECIAL AREA MANAGEMENT
PLAN**

<u>Permittee:</u>	The General Public in Wisconsin
<u>Permit No.</u>	WDNR-GP8-2019
<u>Issuing Office:</u>	Waterways and Wetlands Section, Bureau of Watershed Management, Wisconsin Department of Natural Resources (Department)
<u>Issuance Date:</u>	July 22, 2019
<u>Expiration Date:</u>	July 21, 2024

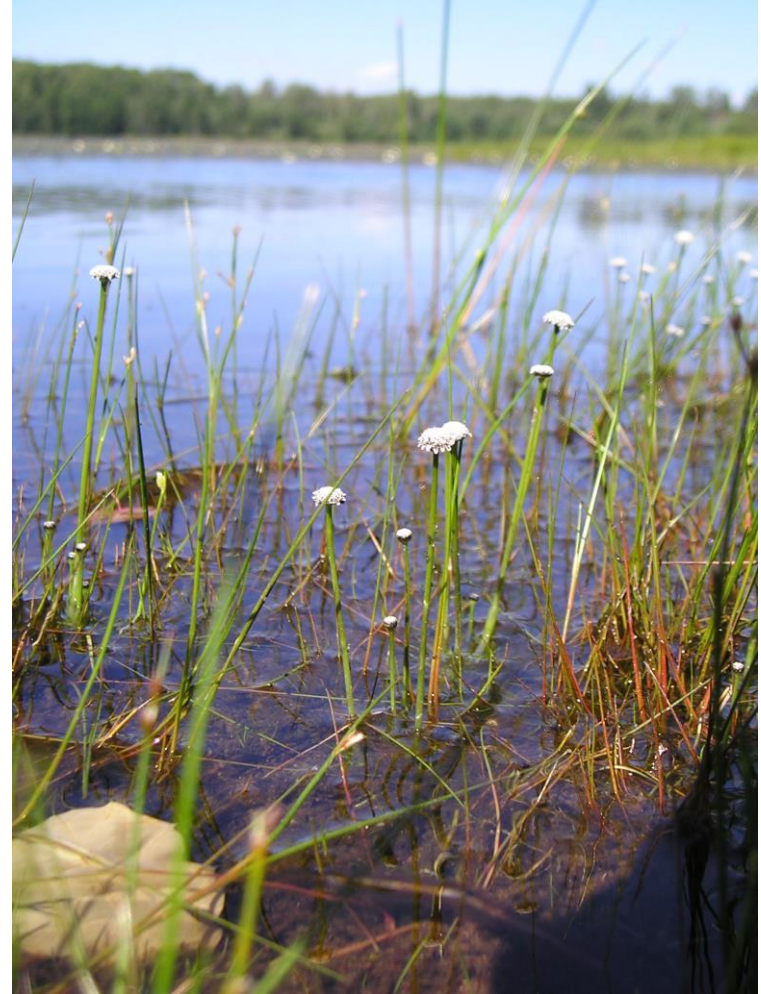
GENERAL PERMIT AUTHORIZATIONS: In compliance with the provision(s) of section 281.36 (3b)(b), Wis. Stats., no person may discharge/place dredged or fill material into a wetland unless the discharge is authorized by a wetland general permit or individual permit issued by the Department of Natural Resources (Department) or the discharge is exempt under s. 281.36(4). The Department has authority to issue general permits under s. 281.36(3g), Wis. Stats.

Notices and Public Comment (300.08)

- Significant reduction in duplicative content
- Creates opportunity for virtual hearings, must meet the following conditions:
 1. The applicant and any interested member of the public that requested the public informational hearing agree to this hearing format.
 2. A telepresence hearing will provide for efficient and effective means to gather public comment and information.
 3. All hearing materials are readily available electronically.

Fees

- Current fees were enacted in 2011 Act 118
- Fee increases are necessary to account for inflation, travel costs, and application mitigation review and approval decisions in order to provide program funding for staffing



Fees

Inflation since 2011

Proposed

Stats	Fee Type	Current Fee	Current Fee, Adjusted for Inflation	Proposed
281.36	Wetland GP	500	619.83	600
281.36	Wetland IP	800	991.73	1700
30.11	Bulkhead line/lakebed lease	600	743.8	900
30.12	Structures GP	300	371.9	350
30.12	Structures IP	600	743.8	750
30.1335	Marina IP	600	743.8	900
30.18	Withdrawal IP	600	743.8	900
30.19	Enlargement GP	300	371.9	350
30.19	Enlargement IP	600	743.8	750
30.195	Realignment IP	600	743.8	900
30.2	Dredging GP excluding GP20	300	371.9	350
30.2	Dredging IP	600	743.8	900
30.206	Other Waterway GPs	300	371.9	350
30.208	Other Waterway IPs	600	743.8	750
	WQC	600	743.8	750
	Declaratory ruling	800	991.73	800

Outcomes

Current Fee	Proposed	Fee Type	Average Number of Applications per Year	Change In Annual Compliance Cost
500	600	Wetland GP	274	\$ 27,400.00
800	1700	Wetland IP	107	\$ 96,300.00
600	900	Bulkhead line/lakebed lease	1	\$ 300.00
300	350	Structures GP	200	\$ 10,000.00
600	750	Structures IP	255	\$ 38,250.00
600	900	Marina IP	1	\$ 300.00
600	900	Withdrawal IP	1	\$ 300.00
300	350	Enlargement GP	103	\$ 5,150.00
600	750	Enlargement IP	37	\$ 5,550.00
600	900	Realignment IP	11	\$ 3,300.00
300	350	Dredging GP excluding GP20	101	\$ 5,050.00
600	900	Dredging IP	61	\$ 18,300.00
300	350	Other Waterway GPs	221	\$ 11,050.00
600	750	Other Waterway IPs	45	\$ 6,750.00
600	750	WQC	7	\$ 1,050.00
800	800	Declaratory ruling	0	\$ -

Total predicted costs:

\$ 229,050

Water Quality Certification

- In September 2020, EPA and USACE updated 401 WQC regulations
- Elements that have changed as a result of federal rule changes:
 - Pre-application requirements
 - Application requirements
 - Increased coordination between USACE and WDNR
 - Downstream consultation requirements
- This rule is NOT intending to replicate federal rule changes or update NR 299
- This rule seeks to clarify and standardize the waiver process for exempt activities

Navigability and OHWM Determinations

- Optional service
- Creates standard process, timelines and expectations for DNR to complete a navigability or OHWM determination for a stakeholder
- For planning purposes outside permit and enforcement processes
- Does not impact surveyors or counties from also completing OHWM and navigability determinations



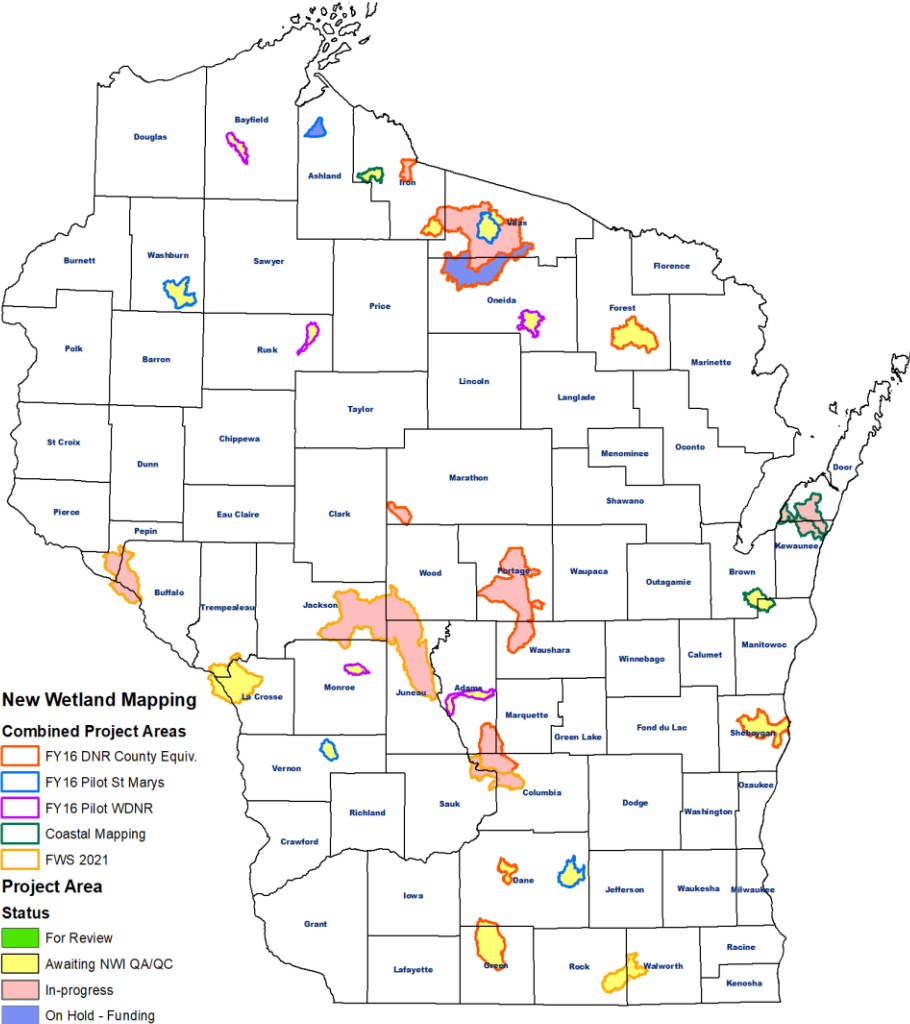
Service Options

- DNR completes
- DNR confirms
- MOAs may be negotiated with municipalities, the U.S. army corps of engineers, and other governmental entities

	DNR completes	DNR confirms
OHWL or Nav. determination	\$200	\$100
Both	\$300	\$100

Wetland mapping

- Current fee structure in 23.32 is based on printed maps
- A person may request that a watershed be mapped
 - No smaller than a HUC-12 watershed size
 - Fee is \$0.10 per acre for the request
- DNR may enter into a MOA with another organization or entity to incorporate wetland mapping conducted by an independent third party



CONNECT WITH US

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"WILD WISCONSIN:
OFF THE RECORD"