

# Summary of Wisconsin's Wetland Exemptions

Wetland Study Council- June 27, 2019  
Presented by Amanda Minks



# Overview of Wetland Regulations

- Placing material in or dredge in wetlands regulated by
  - U.S. Army Corps of Engineers
  - DNR
  - Local municipalities
- Regulatory options:
  - Permit exemption
  - General permit
  - Individual permit



# Historic Exemptions

- NR 103 artificial wetland exemptions
  - Sedimentation and stormwater detention basins and associated conveyance features;
  - Active sewage lagoons, cooling ponds, waste disposal pits, fish rearing ponds and landscape ponds;
  - Actively maintained farm drainage and roadside ditches; and
  - Artificial wetlands within active nonmetallic mining operations



# Wetland Permitting Exemptions

- Two types of permitting exemptions created:
  - Artificial wetlands
  - Nonfederal wetlands
- Both exemptions require advanced notification to confirm eligibility
- Eligibility requirements specified in s. 281.36(4n), Wis. Stat.





# Artificial Wetlands

- Broad exemption based on wetland type
- If eligibility standards met:
  - Wetland mitigation not required
  - No maximum impact threshold
- No equivalent exemption for federal programs
  - U.S. Army Corp of Engineers permitting may be required
  - NRCS Food Security Act jurisdiction (aka “swampbusting” regulations) may be applicable

## Artificial Wetland

No stream or wetland history prior to August 1, 1991

Resulted from human disturbance to landscape or hydrology

Will not adversely impact fish spawning, water quality or infrastructure

Not a wetland mitigation site

# Typical Artificial Wetland Exempted Under Act 183

Wetlands formed incidental to construction activities

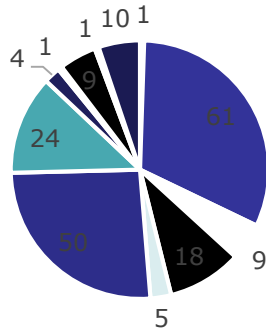
- Water impounded by spoil deposits
- Improper grading resulting in manmade depressions
- Limited functional value in terms of flood storage volume and vegetative quality



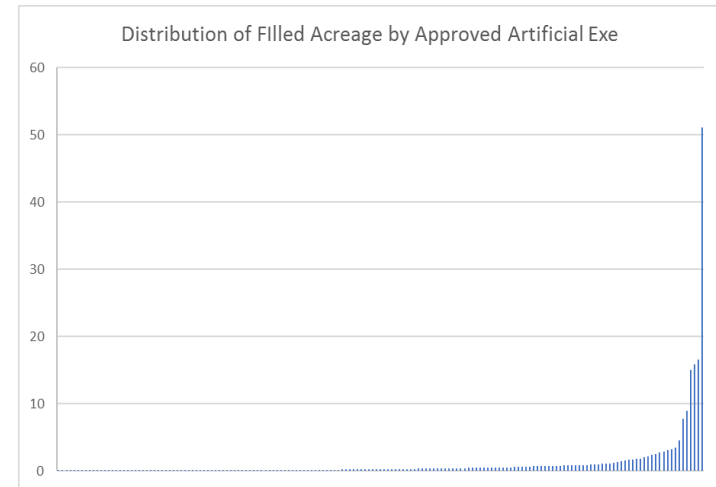
# Annual Summary

## *Artificial Wetlands*

### Project Types Utilizing Artificial Wetland Exe



- Airport (expansion, new)
- Development-commercial
- Development-industrial
- Development-municipal
- Development-recreation (park, boat landing)
- Development-residential
- Other Project Type Not Listed
- Pond-stormwater
- Recreational Trails
- Road-Local
- Road-Subdivision/Business
- Utility (pipeline, transmission line, cable, etc.)



<b>Total artificial exes submitted:</b>	<b>305</b>
<b>Number of approved exemptions</b>	224
<b>Number of denied exemptions</b>	15
<b>Number of withdrawn exemptions</b>	28
<b>Total wetlands filled thru artificial wetland exe:</b>	198.81 ac
<b>Average wetland fill per project:</b>	1.05 ac
<b>Mean wetland fill per project:</b>	0.76 ac



# Nonfederal Wetlands

- Any wetland not subject to federal jurisdiction
- Army Corp jurisdictional determination required
  - Processing timing can be substantial
- Can continue with submittal process to confirm other eligibility requirements met

## Nonfederal Wetland

Not a rare and high quality wetland

Specific urban vs. rural eligibility criteria

Compliant with Stormwater ordinances

Mitigation requirements

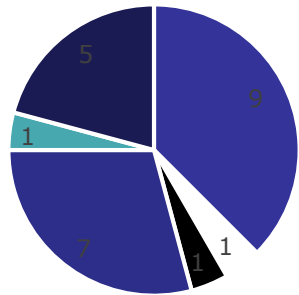
To begin the jurisdictional determination request process visit:  
<http://www.mvp.usace.army.mil/Missions/Regulatory/Delineation/>.



# Annual Summary

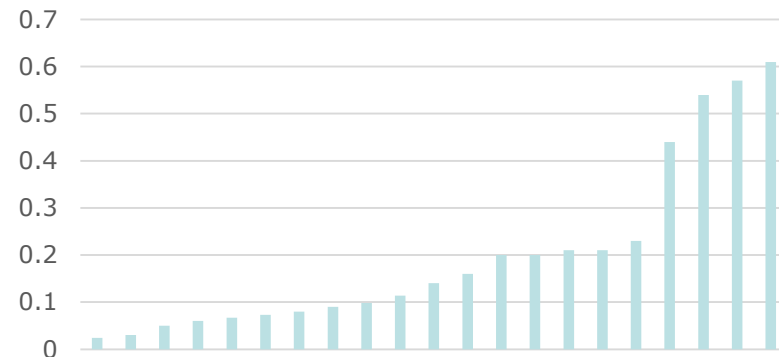
## *Nonfederal Wetlands*

### Project Types Utilizing Nonferderal Wetland Exe



- Airport (expansion, new)
- Development-commercial
- Development-industrial
- Development-municipal
- Development-recreation (park, boat landing)
- Development-residential
- Other Project Type Not Listed
- Pond-stormwater
- Recreational Trails
- Road-Local
- Road-Subdivision/Business
- Utility (pipeline, transmission line, cable, etc.)

### Distribution of Filled Acreage by Approved Nonfederal Exe



<b>Total nonfederal exes submitted:</b>	<b>27</b>
<b>Number of approved exemptions</b>	21
<b>Number of denied exemptions</b>	1
<b>Number of withdrawn exemptions</b>	3
<b>Total wetlands mitigated thru nonfederal wetland exe:</b>	1.04 ac
<b>Total wetlands filled thru nonfederal wetland exe:</b>	4.20 ac



# Process

- At least 15 day notification required
- Checklist available to describe submittal requirements
  - DNR may request more information for incomplete or complex requests
- E-permitting system used for submittal process

<http://dnr.state.wi.us/topic/wetlands/exemptions.html>



## Wetland permit exemptions

[Wisconsin Act 183 \(2017\)](#) ([exit DNR](#)) establishes two classes of exemption for projects that will wetlands. One is exemption is for "nonfederal wetlands," which are those that are not subject federal oversight. The other exemption is for "artificial wetlands," which are those that have wetland or stream history prior to August 1, 1991 and have been modified by human activity changed the landscape.

Under the new law, stakeholders are required to submit exemption notifications to DNR at least 15 days before completing a project under this exemption to confirm eligibility.

- [Begin a wetland exemption request](#)



## 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.

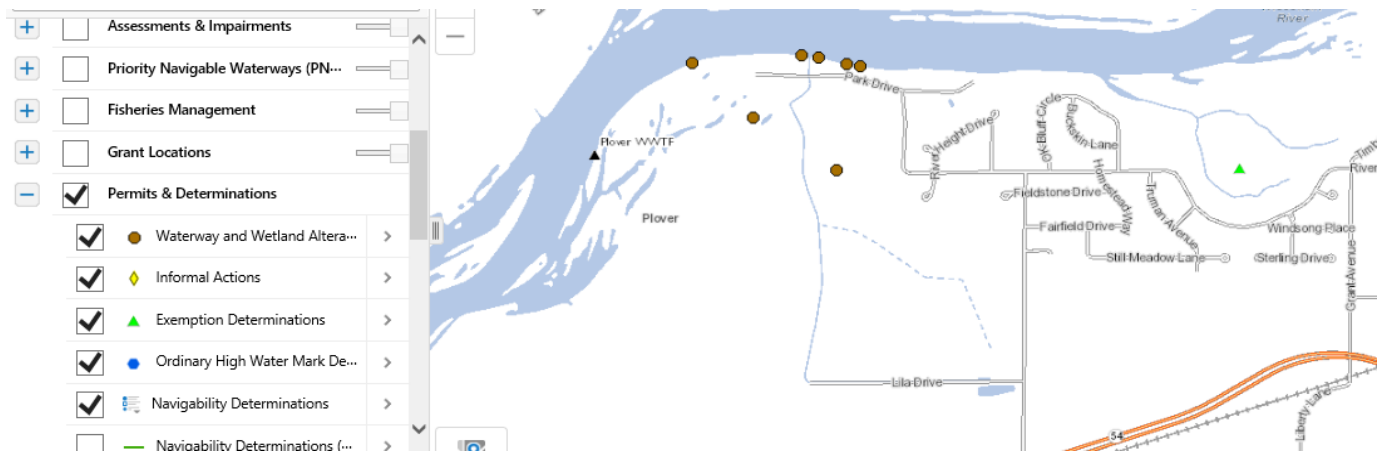
Project Information	
Wetland ID Activity:	Wetland Exemption Request <input type="button" value="v"/>
Project Name:	Example <input type="button" value="x"/>

Wetland Exemption Request (Select all that apply)	
<input type="checkbox"/>	Artificial Wetland Exemption
<input type="checkbox"/>	Nonfederal Wetland Exemption

**Required Attachments and Supplemental Information - Not Started - Required**

# Additional Resources

- Waterway and wetland exemptions available via e-permitting and surface water data viewer
- Exemption checklists and guidance documents are available
- YouTube video to describe artificial wetlands



*Questions?*



NSIN

NATURAL RESOURCES