

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

Wetland Study Council

Meeting Materials



11/10/2022

Today's Objectives

- Waterway Program 2022-24 General Permit Overview
- General Permit 1 – wetland res/com/ind development
- GP1 surcharge fee proposed changes
- General Permit 22 – wildlife, stormwater, landscape, NMM ponds



Three Regulatory Tiers for Wetlands

1. Exemption

- Prescriptive standards
- Notification 15 days prior to project implementation
- DNR review according to s. 281.36 (4n)
- Mitigation may be required
- **Determination of eligibility**

2. General Permit

- Eligibility criteria
- Prescriptive standards
- General conditions
- Application required
- 30-day review
- **Determination of eligibility**

3. Individual Permit

- Few or no technical standards for activity
- Application required
- 105-day review
- Must meet: Practicable Alternatives Analysis, Resource Manager review, public notice
- Ability to apply project specific conditions
- Mitigation required
- **May result in a denial**

2023-24 General Permit Overview

*Note - These are draft time targets and stakeholder engagement plans, subject to change	Number	Activities	Previous Issuance	Tentative Date for Issuance	Tentative Public Comment Period	Stakeholder Engagement
Wetland - s. 281.36	GP1	Wetland fill for Com/Res/Ind development	2012, 2017	2023 May	2023 March	Wetland Study Council
	GP24	Minor discharges into wetlands	NEW	2023	2023 June	Wetland Study Council
	GP4	Wetland fill for recreational development	2013, 2018	2023	2023 June	Wetland Study Council
Waterway - ch. 30	GP15	Stream habitat improvement projects designed by government agencies	2017	2023 March	2022 December	
	GP22	Hydrologic Restoration	NEW	2023 May	2023 March	rule advisory group, Wetland Study Council
	GP23	Ponds (stormwater, wildlife, landscape, non-metallic mining)	NEW	2023 May	2023 June	Wetland Study Council
	GP27 (from GP5, GP17, GP20)	Dredging - impoundment, small scale, nuisance deposit removal	2017-2018	2023	2023 June	
	GP25	Piers	NEW	2023	2023 September	NR 320 advisory group
	GP26 (from rule GPs)	Riprap up to 500 ft.	NEW	2023	2023 September	NR 320 advisory group
	GP14	USFS Cheq. Nicolet NF fish and wildlife habitat projects in streams	2016	2024	2023 September	
	GP18	Water quality improvement projects related to agricultural BMPs	2018	2024	2023 September	

GP-1 Residential/Industrial/Commercial Wetland Discharge

- WDNR-GP-1-2017 expires October 31st, 2022 – requires a reissuance this year (every 5 years)
- Most used general permit for wetland fill/discharge - must be associated with residential, industrial, and commercial development projects, required pursuant to s. 281.36 (3g) Wis. Stats.
- Up to 10,000 square feet of wetland impact for a single and complete project
- Can't occur in specific rare/high quality wetland types (Ridge and Swale, Interdunal, Fens, Wild Rice Marshes, Coastal Plain Marsh, Southern WI Sphagnum Bogs)
- Applicant must demonstrate they can't avoid wetland impacts, and have minimized wetland impact to the greatest practicable extent
- Will be largely the same as the 2017 permit, but a few changes are proposed

GP-1 Residential/Industrial/Commercial Wetland Discharge

- WDNR-GP-1-2017 Language:

The purpose of the project is not to fill wetlands to create a buildable lot to be sold and/or developed at a later date for commercial, residential or industrial development.

- Proposed WDNR-GP-1-2022 Language:

The purpose of the project is not to fill wetlands to create a buildable lot to be sold and/or developed at a later date for commercial, residential or industrial development.

Note for Subdivision projects: For residential subdivisions, the discharge cannot affect more than 10,000 square feet (0.23 acre) of wetlands. This includes any aggregate affects to wetlands associated with the development of individual subdivision lots.

- Will more effectively consider cumulative impacts associated with subdivision projects
- Will need to further explore logistical processing of applicable applications
- Comparable to the U.S. Army Corps Nationwide Permit NWP-29 with similar language

Subdivisions: For residential subdivisions, the aggregate total loss of waters of United States authorized by this NWP cannot exceed 1/2-acre. This includes any loss of waters of the United States associated with development of individual subdivision lots.

GP-1 Residential/Industrial/Commercial Wetland Discharge

- WDNR-GP-1-2017 Language:

Wetland impact is not for any type of constructed storm water treatment facility. A constructed storm water treatment facility includes but is not limited to a pond, infiltration basin, swale, or other stormwater conveyance features.

- Proposed WDNR-GP-1-2022 Language:

The project will not result in the conversion of a wetland to a storm water treatment facility such as a pond or infiltration basin.

- Slight wording change to simplify the criteria, remove the reference to ‘swale and other stormwater conveyance feature’, but the general review concept will remain the same.

GP-1 Residential/Industrial/Commercial Wetland Discharge

- New Proposed WDNR-GP-1-2022 Language:

This permit does not authorize impacts to navigable waterways below the ordinary high mark. Note: This does not preclude eligibility of waterway exemptions or eligibility of other general or individual permits. Waterway permitting information is available online at <https://dnr.wisconsin.gov/> keyword "waterway permit".

- Clarifies that wetland authority is separate from waterway authority in Ch. 30.

Questions?

GP-1 Surcharge Fees - Statute

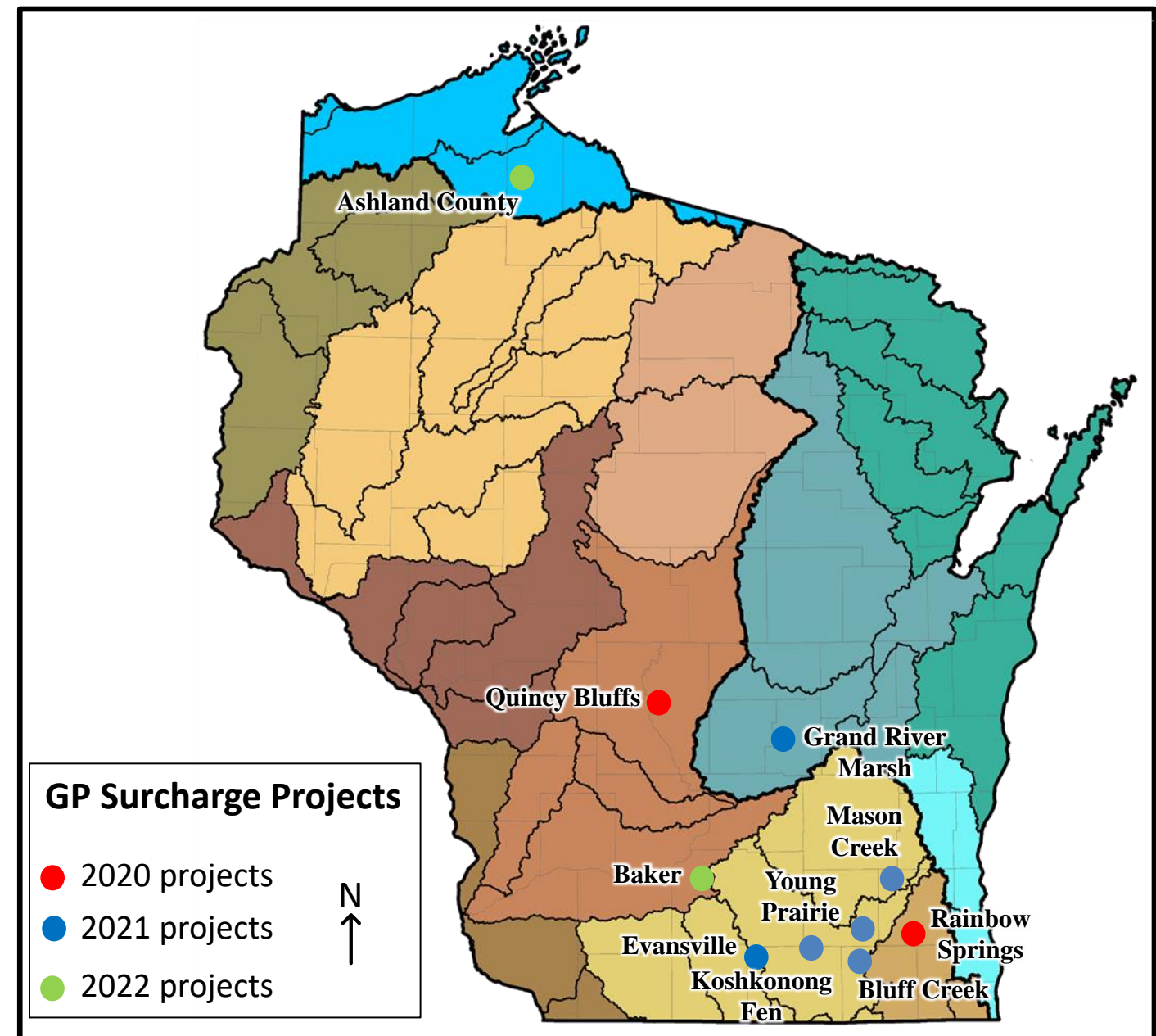
- 2011 Act 118 created s. 281.36 (11)(a), requiring a surcharge fee be added to all GP-1 permits
 - “fee shall be set on an annual basis”
 - “fee...may not exceed 50% of market price”
 - “...for the restoration & creation of wetlands”
- 2022 lowest ILF market price is \$68,000/credit or \$98,600/acre
 - 50% = \$49,300/acre, \$4,900 for 0.10 acres

GP-1 Surcharge Fees - Background

- In ~2012 fees were set at:
 - \$200 for permits less than 0.10 ac
 - \$300 for permits between 0.10 ac and 0.23 ac
- As of July 2022, \$383,550 collected, currently \$224,090 funding 11 projects
- GP-1 surcharge fees have never been raised
- DNR has prioritized projects with hydro restoration, matching funds, and public access

GP-1 Surcharge Fees - Impacts & Projects

- Since 2012, 2,085 GP-1 permits issued for 139 acres of wetland fill
- Since 2019, GP Surcharge funding 11 restoration projects in 5 watersheds
- 165 wetland acres/0.23 stream miles restored
- \$224,090 allocated for projects
- ~\$1,612 per restored acre
- \$388,500 in match funds
- Project proponents: nonprofits, municipalities, DNR Wildlife Program



GP-1 Surcharge Fees - Projects



Tile breaks and ditch fill at Evansville SWA, Rock Co.



TPC Mason Creek stream and wetland restoration, Waukesha Co.

GP-1 Surcharge Fees - Projects



Marengo River flood mgmt. demonstration site, Ashland Co.



Ditch fills and scrapes at Grand River Marsh SWA, Green Lake Co.

GP-1 Surcharge Fees - Fee Proposal

- Raise GP-1 surcharge fees every five years (same schedule as GP-1 reissuance)
- Use CPI inflation rates to determine increases
- From 2012-2022, prof. services and construction rates increased avg. 42%
- Increasing 2012 surcharge fees by 42%:
 - 2012 \$200 fee → 2022 \$285 fee
 - 2012 \$300 fee → 2022 \$425 fee

GP-1 Surcharge Fees - Fee Proposal

- Accounting for inflation will maintain program over time
- Increased fees would help fund staff time to administer program
- GP Surcharge funding is flexible and leverages match funds
- Interest in GP Surcharge increases every year → 2022 will be first year we can't fund all quality projects



Thank You

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- [Tom Pearce](#), ILF Project Manager
- [Dan Helsel](#), Waterways Program Director

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