

404 Assumption Feasibility
Report Briefing

Wetland Study Council
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Feasibility Report Overview



Ch 1 – Summary

✓ Ch 2 - Feasibility Study Background

✓ Ch 3 - Summarized Regulatory Programs

✓ Ch 4 - Assumption Background

Ch 5 - Federal Program Uncertainties

✓ Ch 6 – Comparison of State and Federal Programs

✓ Ch 7 - Program Costs and Comparison of Staffing and Permitting

Ch 8 - Streamlining Alternatives

Ch 9 – Mitigation





Chapter 2 Background

- **404 Assumption Feasibility Report Drivers**
- **WSC Input**



Chapter 3 Federal and State Roles

- **Authorities**
- **Guiding Principals**
- **Permit Mechanisms**
- **Consultation**



Chapter 4 Assumption Background

Legal Requirements

- Jurisdiction over all WOTUS
- Authority to regulate all activities that are regulated under federal law
- Permitting standards and procedures that will be at least as stringent and consistent with federal law.
- Compliance and enforcement authority with penalty levels that are at least comparable to federal fines.
- The state may impose more stringent requirements



Chapter 4 Application Materials

- 1) A letter from the Governor of the state.
- 2) A complete program description.
- 3) An Attorney General's statement.
- 4) A Memorandum of Agreement with the USEPA Regional Administrator.
- 5) A Memorandum of Agreement with the Secretary of the Army.
- 6) Copies of applicable State statutes and regulations



Chapter 4 Status in US

- **404 Assumption States**
- **Recent Highlights from Other States**



Chapter 5 Federal Uncertainties

- EPA Assumption Regulation Modernization
- Definition of Waters of the US
- Assumable Water Rule
- Endangered Species Act Implementation
- Partial Assumption
- Federal Preemption and Regulatory Nexus



Chapter 6 Comparison of Federal and State Programs

State Less Stringent Standards

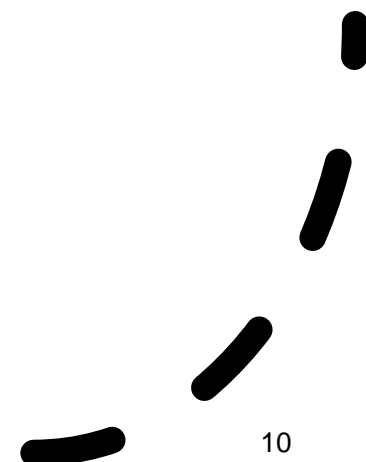
- Artificial Wetlands
- Wetlands Exemptions
- Narrowing of Practicable Alternatives Analysis
- Demonstrable Economic Public Benefit
- Cranberry Operations
- Mining Laws



Chapter 6 Comparison of Federal and State Programs

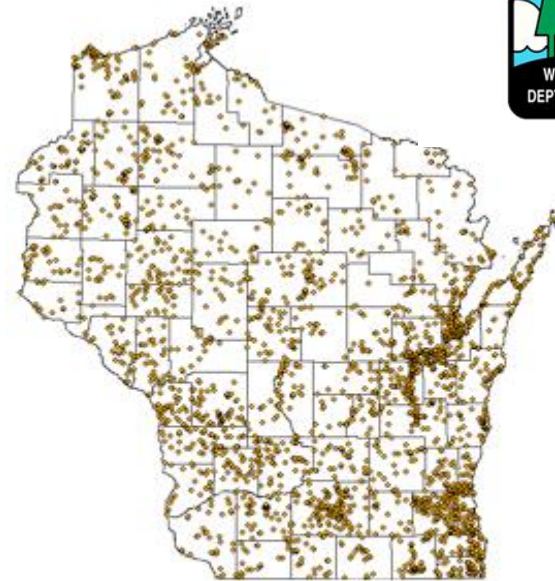
State More Stringent Standards

- Regulation of Non-federal Wetlands
- General Permit Eligibility Acreages





Chapter 7 Permitting Actions

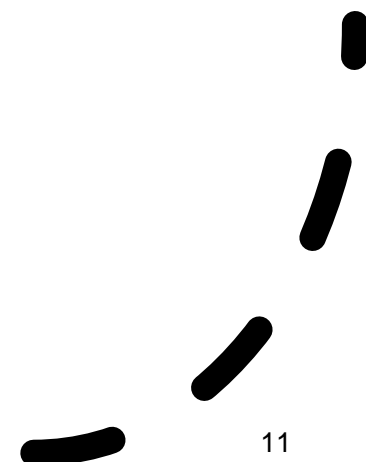


3310 WDNR
Permits*

*Not all permits had coordinates



1528 USACE
Permits





Chapter 7 Permit Duration

- On average, WDNR reviewed general permits approximately 54 days faster than USACE
- On average, WDNR reviewed individual permits approximately 75 days faster than USACE



Chapter 7 Additional State Work Tasks

- JD for assumed and retained waters
- Permits for activities currently state exemptions
- Permit coordination with EPA
- Solo enforcement responsibilities
- Annual reporting requirements
- Coordination on ESA and NHPA
- Solo mitigation responsibilities
- Staff Training & Updating Program Materials



Chapter 7 Additional Costs and Staffing

Long-term Program Implementation

- 11.9 Additional Staff
- \$1.0 Million Additional Funding

Short-term Application Process

- 4.5 Additional Staff
- \$0.4 Million Additional Funding



Chapter 8 Streamlining Alternatives

- Wetland Identification and Delineations
- Jurisdictional Determinations
- General Permit Stream-lining
- Regional General Permits
- State Programmatic General Permits
- Self-Certification General Permits



Chapter 9 Mitigation Framework

- Consistent Mitigation Hierarchy
- Equivalency between Mitigation Options
- Transition of Sites into State Assumption
- Streamlining and Coordination w/USACE



Discussion & Input

