



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2011 Wisconsin Act 118**  
[2011 Senate Bill 368]

**Regulation of Activities  
Affecting Wetlands**

2011 Wisconsin Act 118 (the Act) changes the way that activities that impact wetlands are permitted by the Department of Natural Resources (DNR) and makes other changes, including those described below. For a more complete analysis of the Act, please see Information Memorandum 2012-05, entitled *2011 Wisconsin Act 118, Relating to Regulation of Activities Related to Wetlands and Fees for Approvals Relating to Activities In or Near Navigable Waters*.

The Act eliminates water quality certification for wetlands and replaces this approval with wetland general permits and wetland individual permits. A general permit is a permit that does not apply to a specific project. Instead, it applies statewide to any person authorized to engage in the activity covered by the permit. An individual permit is issued for an individual activity at a specific place. Under the Act, a wetland individual permit, general permit, or exemption is required for a person to discharge dredged material or fill material into any wetland.

### **Wetland General Permits**

The Act specifies certain types of wetland general permits that the DNR must issue and authorizes the issuance of others, and also authorizes the DNR to prohibit discharges under general permits in specified types of wetlands. A general permit must impose requirements, conditions, and exceptions to ensure that the cumulative discharges conducted under the permit will cause only minimal adverse environmental effects. An authorization to proceed with an activity under a general permit may only apply to a single and complete project. The Act requires the DNR to follow specified procedures to issue, renew, modify, or revoke a general permit.

The Act includes timelines, fees, and information requirements that apply to a person seeking authorization to act under a general permit, and the DNR must act on a request for such authorization within specified timelines. The DNR may require a person seeking authorization for an activity under a general permit to apply for a wetland individual permit in certain circumstances.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

**Wetland Individual Permits**

The Act creates a process for a person to apply for an individual permit which includes consultation with the DNR, fees, analysis of practicable alternatives, timelines for review of an application, public participation, factors for the DNR to review in evaluating an application, and standards for approval. The Act provides the DNR with more flexibility to approve a proposed project impacting wetlands than the agency has under current law. The Act provides for administrative and judicial review of DNR decisions related to wetland individual permits and a procedure for temporarily prohibiting a discharge under a wetland individual permit while a review is pending.

The Act requires the DNR to establish a mitigation program for wetland individual permits that prioritizes certain types of mitigation and establishes required mitigation ratios. Mitigation is required under the Act for all individual permits.

**Other Provisions**

The Act also modifies penalties for violations related to activities affecting wetlands, provides the DNR broad authority to proceed against a possible violation of the statutes related to discharges into wetlands, removes the prohibition against the consideration of mitigation of impacts to wetlands in areas of special natural resource interest (ASNRI), removes other statutory references to ASNRI wetlands, eliminates wetland map review services conducted by the DNR, and modifies fees for activities related to navigable waters.

***Effective date:*** July 1, 2012.

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LAK:jb;ksm