

# **Solid Waste Management Program**

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Guidance for the Implementation  
of NR 103 - Water Quality Standards  
for Wetlands

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### Legal Note:

This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

## Introduction

Wetlands provide a variety of functions and values including, biological diversity and wildlife habitat, sediment and pollution attenuation, storm and floodwater retention, hydrologic cycle maintenance, shoreline protection and as well as recreation and education.

The wetland water quality standards of Chapter NR 103 set forth a decision making process to protect the functions and values of Wisconsin's wetlands. This guidance was written by the Waste Management Training Team to assist DNR Waste Management Program staff in the implementation of Chapter NR 103.

## What Waste Management Approvals Are Affected by NR 103?

Chapter NR 103 applies to all Department decisions that, by rule or statute, require a consideration of impacts to wetlands. For the Waste Management Program, this means any approval that must comply with ss. NR 502.04 (3)(a), NR 504.04(4)(a), or NR 518.05 (4)(a), Wis. Adm. Code, will have to meet the standards in NR 103. These are sections in the NR500 series of codes that set performance standards that state:

"no person may establish, construct, operate, maintain or permit the use of property for [solid waste management activities] ... within an area where there is a reasonable probability that the facility will cause ... a significant adverse impact on wetlands."

Waste Management Program activities which must comply with NR 103 include the following:

- All proposed solid waste facilities, except containerized storage and incinerators
- All landfill related activities including footprint, surface/subsurface drainage systems and sedimentation basins, sludge ponds, soil stockpiles, etc.
- Landfill Expansions
- Soil Borrow proposals and soil borrow plan modifications
- Corrective Actions
- Land spreading

# The NR 103 Decision Process

The NR 103 decision process is outlined below. Specific guidance on each step is provided in the sections which follow.

## STEP 1. WILL THE PROJECT AFFECT A WETLAND?

Will there be any direct or indirect effects?

<b>Yes:</b> Proceed to Step 2.	<b>No:</b> The applicant need not continue with the NR 103 process.
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## STEP 2. IS THE PROPOSED ACTIVITY WETLAND DEPENDENT?

Does it require a wetland location to fulfill its basic purpose?

<b>Yes:</b> Proceed to Step 4.	<b>No:</b> Proceed to Step 3.
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## STEP 3. DOES A PRACTICABLE ALTERNATIVE EXIST?

Is there an affordable, available option which will not affect wetlands or cause other significant impact to the environment?

<b>Yes:</b> NR 103 standards are not met. The project cannot be approved.	<b>No:</b> Proceed to Step 4.
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## STEP 4. WILL THE PROJECT HAVE SIGNIFICANT ADVERSE IMPACTS ON WETLAND FUNCTIONAL VALUES?

After considering alternatives to avoid and/or minimize impacts and other factors listed in NR 103.08 (3) (b) to (f), will there be a significant adverse impact upon wetlands, water quality, or other significant environmental consequences?

<b>Yes:</b> NR 103 standards are not met. The project cannot be approved.	<b>No:</b> NR 103 standards are met. The project is in compliance with wetland water quality standards.
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## STEP 1: Will the activity affect wetlands?

Wisconsin Statutes define wetland as: "...an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions." [s. 23.32(1), Wis. Stats.] This definition includes a variety of wetland types, for example: wooded swamps, floodplain forests, bogs, cedar swamps, fens, shrub carrs, alder thickets, deep and shallow marshes, sedge meadows, fresh wet meadows, low prairies, and seasonally flooded basins.

The applicant should employ a consultant to determine if there are wetlands on or near a proposed site. In some cases wetland determinations may be made by the US Army Corps of Engineers or the US Department of Agriculture Natural Resources Conservation Service (NRCS). Wetland delineations should be made using the state's *Basic Guide to Wisconsin's wetlands and Their Boundaries*, or the 1989 *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*.

NR 103 applies to all wetlands of the state, regardless of size and quality. This is important to note since the Wisconsin Wetland Inventory (WWI) maps and classifies wetlands down to only 5 or 2 acres, depending on the county. The inventory also utilizes point symbols to denote wetlands smaller than 2 acres, but not all small wetlands are included on the maps. NR 103 applies to all wetlands in the state, regardless of whether or not they are designated on WWI maps.

Certain landscape features may be determined to be "artificial wetlands" that are exempt from NR 103. The rule defines these as landscape features where hydrophytic vegetation is present as a result of human modifications to the landscape or hydrology and for which there is no prior wetland or stream history. The rule specifically lists as artificial wetlands: 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 and roadside drainage ditches; and artificial wetlands within active nonmetallic mining operations. The exemption may not apply, however, to cases where the department determines that an artificial wetland is providing significant habitat, recreation, cultural, or educational functional values.

Wetlands can be affected directly by filling, draining, dredging, mowing, and plowing, or indirectly by altering the watershed or changing the wetland's hydrology. The focus of NR 103 is not just on the prevention of wetland filling. NR 103 requires that an activity avoid direct or indirect wetland impacts if practicable.

Many project proposals will avoid direct wetland filling, but may be located near a wetland. Due to the size and operations of most solid waste facilities, proximity to wetlands can have adverse impacts to these ecosystems, especially through runoff from construction or long term changes in hydrology.

A simple method for determining if a project does not need to be evaluated under NR 103 (i.e. a showing that there will be no affect on wetlands) involves the delineation of the subject wetland's primary drainage basin (i.e. that area that provides surface run-off to the wetland).

For most activities, if the proposal will avoid any work within the topographic drainage basin, it can be concluded that no effect to wetlands will occur. This does not mean that any project located in the drainage basin of a wetland will definitely affect a wetland. A project proponent may show that the activity will not have a measurable affect on the hydrology of a wetland through hydrologic budget, run-off and groundwater calculations.

The Department may determine that there is no potential for effects to wetlands due to the type of project, size of project activity (e.g. clay borrow vs. landfill), distance to wetlands or other conditions. As with other aspects of the NR 103 process, decisions on what constitutes an effect on the wetland will need to be determined by the Department on a case-by-case basis.

STEP 1 CONCLUSION:

IF THE ACTIVITY WILL AFFECT WETLANDS, PROCEED TO STEP 2.

IF THE ACTIVITY WILL NOT AFFECT WETLANDS, NR 103 DOES NOT APPLY.

## **STEP 2: Is the activity wetland dependent?**

"Wetland dependency" is defined in s. NR 103.07(2) and means "the activity is of a nature that requires location in or adjacent to ... wetlands to fulfill its basic purpose."

A determination that an activity is wetland dependent means that alternatives are considered as part of several other factors in determining the significance of the project impacts (See STEP 4). If the activity can be located or configured to avoid wetland impacts, the project should be changed to do so.

Most activities regulated by the Waste Management Program are not wetland dependent.

Activities that are not wetland dependent need not be located in or near wetlands, and thus the pursuit of alternatives that avoid adverse wetland impacts must be more substantial (See STEP 3). For these projects, the evaluation of alternatives must occur prior to and independent of the other factors listed in STEP 4 below, including the significance of the wetland and the severity of the expected impacts.

STEP 2 CONCLUSION:

IF THE ACTIVITY IS WETLAND DEPENDENT, PROCEED TO STEP 4.

IF THE ACTIVITY IS NOT WETLAND DEPENDENT THEN PROCEED TO STEP 3.

### **STEP 3: Are there practicable alternatives that avoid wetland impacts?**

The term "practicable alternative" is defined in s. NR 103.07(1) and means an alternative that is "available and capable of being implemented after taking into consideration cost, available technology and logistics in light of overall project purpose."

The practicable alternatives test is a key element of the NR 103 process. Under NR 103.08 (4) (a), Wis. Adm. Code, the Department must make a determination that the requirements of ch. NR 103 are not satisfied when it determines that:

an activity is not wetland dependent: and

a practicable alternative exists which will not adversely impact wetlands and will not result in other significant adverse environmental consequences.

The burden of proof is on the applicant to show that no practicable alternative exists. The applicant's Practicable Alternatives Analysis (PAA) should state the project purpose, list alternatives considered, evaluate the alternatives based on costs, logistics and technology, and justify the selected option. The PAA needs to be substantial enough to show that if the selected alternative will impact a wetland, no practicable alternative exists that would avoid wetlands or cause other environmental harm.

Early consultation with Department staff should be encouraged to discuss potential for compliance with NR 103 requirements [NR 103.08 (1)]. The need for sound planning up front should be strongly emphasized in the project development process. Alternatives that avoid wetland impacts should be considered early in the project planning.

For landfill expansions only, a recent change to ch. NR 504, Wis. Adm. Code, enables the Department to limit the practicable alternatives analysis to a search for alternatives within the boundary of the property where the existing landfill is located or on property immediately adjacent to the existing landfill. Thus, the Department would be able to exempt an applicant for a landfill expansion from having to do a search for a new site as part of the PAA.

It is important to remember that the practicable alternative test includes the evaluation of costs, logistics and technology as well as other significant adverse environmental consequences. Therefore, even if an upland site is available, other factors may make the alternative not practicable. A wide array of arguments can be expected and applicants should be encouraged to put forth all information surrounding the practicability of various alternatives. These factors are further discussed in the suggested PAA outline which is provided in Attachment 1.

#### **STEP 3 CONCLUSION:**

**IF NO PRACTICABLE ALTERNATIVE EXISTS, PROCEED TO STEP 4.**

**IF THERE IS A PRACTICABLE ALTERNATIVE, THEN THE REQUIREMENTS OF NR 103 ARE NOT ACHIEVED.**

**STEP 4: Will the activity have significant adverse impacts on wetland functional values or other significant adverse environmental consequences?**

Section NR 103.08 (4)(b) requires that several factors be considered in making the determination concerning significance of impacts. These factors include: modifications to the proposal that will avoid and/or minimize impacts to the wetland; impacts to wetland functional values; cumulative and secondary impacts; and any adverse impacts to areas of special natural resource interest.

Modifications to avoid or minimize impacts should be considered for all projects at this stage. Reconfiguration of the project, erosion control measures, slope restrictions, etc. may be required in order for the Department to conclude that no significant adverse impacts to wetland functional values will occur.

The Department does not have any set standards for setback distances or buffer areas to protect wetland resources. The variability of wetland types, wetland quality, site topography, and other project specifics makes the setting of standard setback distances impossible. Applicants should propose protective setbacks in project plans. The Department must review each project on a case-by-case basis.

Wetland Functional Values

Wetland functional values are the physical, chemical and biological attributes of a wetland and the associated benefits which wetlands provide to humans and the natural environment. As presented in section NR 103.03 (1), Wis. Adm. Code, wetland functional values are listed below:

1. Storm/flood water storage and retention and moderation of water level fluctuation extremes;
2. Hydrologic functions including maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, and the flow of groundwater through a wetland;
3. Filtration or storage of sediments, nutrients or toxic substances that would otherwise adversely impact the quality of other waters of the state;
4. Shoreline protection against erosion through the dissipation of wave energy and water velocity and anchoring of sediments;
5. Habitat for aquatic organisms in the food web including, but not limited to, fish, amphibians, crustaceans, mollusks, insects, annelids, planktonic organisms, and the plants and animals upon which they feed and depend for their needs in all life stages;
6. Habitat for resident and transient wildlife species, including mammals, birds, reptiles and amphibians for breeding, resting, nesting, escape cover, travel corridors and food; and
7. Recreational, cultural, educational, scientific, and natural aesthetic values and uses.

### Assessment Methodologies

Step 4 requires a consideration of the functional values of the affected wetland(s) and how the project would impact them. The rule lists examples of several wetland evaluation methodologies that have widespread acceptance including: Wetland Evaluation Technique (WET); Minnesota Wetland Evaluation Methodology for the North Central United States; Hollands/Magee; and the DNR Rapid Assessment Methodology. These methodologies range from simple rapid assessments to more sophisticated computer driven models. While the level of work required will likely be dictated by the scope of the project, it is best to use the DNR Rapid Assessment Methodology in most cases due to the complexities and time involved with using other techniques. Consultants may propose to use other methodologies for assessing wetland functional values. NR 103 requires that whatever method is used be "acceptable" to the Department.

### Significant Impact Determinations

The Department must determine if there will be significant adverse impacts to wetland functional values. Due to the complex nature of wetland ecosystems, the great variety of types and quality of wetlands, and the variable abundance of wetland resources in different regions of the state. The significance of wetland impacts will necessarily be determined on a case-by-case basis.

### Impacts to Wetlands Associated With Areas of Special Natural Resource Interest

Section NR 103.08 lists several areas for which any adverse impacts to wetlands should be especially avoided. If the proposed project will have an adverse effect (not necessarily a significant adverse effect) on a wetland associated with an area of special natural resource value, this should be a red flag indicating the need for very careful Department scrutiny of the project. The reviewer should strongly pursue the reason that the project must be located as proposed.

This list of "areas of special natural resource interest" includes wetlands directly associated with:

1. Cold water communities as defined in s. NR 102.04(3)(b), including all trout streams and their tributaries and trout lakes;
2. Lake Michigan, Lake Superior, and the Mississippi River;
3. State and federal designated wild and scenic rivers, designated state riverways, and the state designated scenic urban waterways;
4. Environmentally sensitive areas and environmental corridors identified in area-wide water quality management plans, special area management plans (SAMP), special wetland inventory studies (SWIS), advanced delineation and identification studies (ADID) and areas designated by the United States Environmental Protection Agency under s. 404(c), 33 USC 1344(c);
5. Calcareous fens;

6. Habitat used by state or federally designated threatened or endangered species;
7. State parks, forests, trails, and recreation areas;
8. State and federal fish and wildlife refuges and fish and wildlife management areas;
9. State and federal designated wilderness areas;
10. Designated or dedicated state natural areas;
11. Wild rice waters as listed in s. NR 19.09; and
12. Any other surface waters identified as outstanding or exceptional resource waters in ch. NR 102.

#### Other Environmental Consequences of a Project

For some projects, the overall environmental good of the project or the potential for adverse impacts to other important natural resources may outweigh any adverse impacts to a wetland. An example would be a remedial action where the only alternative for preventing human health impacts and/or further damage to the ecosystem may require significant adverse impacts to a wetland. Such a determination will only be made in very special cases however.

STEP 4 CONCLUSION: IF IT IS DETERMINED THAT THE PROJECT WILL NOT HAVE SIGNIFICANT ADVERSE IMPACTS TO WETLAND FUNCTIONAL VALUES OR OTHER SIGNIFICANT ADVERSE ENVIRONMENTAL CONSEQUENCES, COMPLIANCE WITH NR 103 IS ACHIEVED. IF THERE WILL BE SIGNIFICANT ADVERSE IMPACTS TO WETLAND FUNCTIONAL VALUES OR OTHER SIGNIFICANT ENVIRONMENTAL CONSEQUENCES, THE PROPOSAL DOES NOT MEET NR 103 STANDARDS AND CANNOT BE COMPLETED AS PROPOSED.

## Timeline for NR 103 Submittals and Reviews for the Landfill Siting Process

1. Applicant considers NR 103 requirements to avoid and minimize wetland impacts during the project development stage.
2. Initial Site Inspection Request

The applicant sends a written request for an Initial Site Inspection (ISI) to the appropriate DNR Regional Office or Service Center. The contents of an ISI request are specified in the applicable administrative code for the type of proposed facility [e: ss. NR 502.04 (2), 503.07 (4), or 509.04 (4), Wis. Adm. Code]. Among other things, the applicant must provide a preliminary identification of any known conflicts with locational criteria and performance standards. This would include identifying any potential affects the project might have on wetlands.

3. Initial Site Inspection

The DNR Regional Solid Waste Specialist and Hydrogeologist should attend the ISI. If there are concerns with potential impacts to wetlands, navigable waters, or if a navigability determination is required, the District Water Management Specialist should also be invited on the ISI. The purpose of the site inspection is to make a preliminary determination regarding compliance with locational criteria and performance standards including the NR 103 concerns.

4. Initial Site Inspection Follow-up Letter

The DNR Regional Solid Waste Specialist writes a response letter to the applicant documenting the findings of the ISI. This letter identifies any locational criteria and performance standards concerns and will offer suggested courses of action. If wetland impacts are a concern, a meeting between the applicant and the Department to discuss NR 103 compliance may be suggested.

5. Initial Site Report (ISR) Submittal and Completeness Determination

If wetlands are identified as a concern at the ISI, the applicant may want to address NR 103 during preparation of the Initial Site Report (ISR). Specific requirements for NR 103 compliance should be discussed at a meeting with the applicant as early as possible. The information requirements for NR 103 compliance are not required for an ISR completeness determination. However, it may be in the best interest of the applicant to submit NR 103 information prior to or concurrently with the ISR.

6. Initial Site Report Opinion

Based on review of the complete ISR, the Department will issue an opinion letter as to the constraints to development. The Department cannot give a formal decision regarding elements of the 103 decision process at this stage in the siting process, but can provide opinions that will aid in the preparation of the feasibility report. If the Department issues an unfavorable ISR opinion for a proposed landfill, the applicant may submit an optional pre-feasibility report under ch. NR 510, Wis. Adm. Code, in order to obtain a revised opinion from the Department.

7. Feasibility Report and Completeness Determination

The applicant submits the feasibility report. Waste Management plan review staff review the report and, if the report is complete, write the completeness determination and an environmental assessment (EA) under ch. NR 150, Wis. Adm. Code. All information needed for the NR 103 review must be submitted and complete before the EA can be issued. Plan review staff should solicit comments on the draft EA from Regional wetland experts.

8. Feasibility Determination

The feasibility determination includes the final decision concerning compliance with NR 103. Based on the feasibility report and the results of the hearings (if requested), the Department issues a determination regarding the feasibility of a project. This determination includes full documentation of findings of fact and conclusions of law. See Attachment 2 for NR103 decision language. Plan review staff should work with Regional wetland experts to draft any feasibility language or special conditions relating to NR 103.

9. Decision Tracking

Send a copy of all final determinations involving NR 103 to Dale Simon, DNR Central Office, Bureau of Fisheries and Habitat Protection.

## NR 103 and Section 404 of the Clean Water Act

Section 404 of the federal Clean Water Act (CWA) establishes a permit program administered by the US Army Corps of Engineers (COE) that regulates the discharge of materials into all waters of the United States, including wetlands. Any person proposing to fill or drain wetlands must get a permit from the COE. The permitting process involves a public notice, and also provides veto authority to the US Environmental Protection Agency. The process further requires that the State provide Water Quality Certification (under Section 401 of the CWA), before a permit can be granted. The state uses the NR 103 water quality standards for wetlands as the basis for making the certification decision. NR 299 establishes the requirements for the issuance of a water quality certification, complete with public notice requirements.

ATTACHMENT 1

**SUGGESTED NR 103 PRACTICABLE ALTERNATIVES  
ANALYSIS OUTLINE FOR SOLID WASTE PROJECT  
PROPOSALS**

- I. **Background of Project:** Describe the basic purpose and need for the project. For landfill proposals, the actual needs analysis or a summary of that section of the feasibility report should be provided. The need for the project will also affect the sizing of a proposed facility. This section should also explain the planning activities that have occurred to date for the project.
  
- II. **Alternatives Considered:** The range of alternatives to be considered will vary with project type. For most proposals, the PAA should evaluate the following alternatives:
  - A. No action (use of existing facilities in the service area). The purpose and need for the project should be detailed in this section. Would the loss of waste disposal capacity from the project adversely affect available waste disposal capacity in the proposed service area? Refer to the needs analysis.
  
  - B. Alternative Sites
    1. What geographical area was searched for alternative sites?

Solid Waste Technical Guidance Vol. No. 91-3 established a suggested search area of 40 miles radius from the centroid of waste generation for landfill proposals. The guidance also suggested that 50 miles was considered an economical haul distance for clay, and thus this should be considered for clay borrow proposals. If an area smaller than these suggested distances was searched, the PAA should provide the rationale. Economics and logistics are factors that could support a smaller search area.

For landfill expansions only, recent revisions to s. NR 504, Wis. Adm. Code, enable the Department to limit the search to alternatives within the boundary of the property where the existing landfill is located or on property immediately adjacent to the existing landfill.
  
    2. How was the availability of sites in the area determined?

Newspaper advertisements and the advice of real estate agents may be employed. For private sector applicants (who lack condemnation rights), the lack of a willing seller can make an alternative not practicable.
  
    3. Describe the preliminary screening process that was used.

C. Altering proposal to avoid wetland impacts

1. Downsizing
2. Re-Configuring

**III. Evaluation of Alternatives:** For each alternative considered, the following screening information should be addressed. Summary tables may provide a useful comparison of the alternatives.

- A. Will the alternative affect wetlands and if so, what is the nature of the impacts?
- B. What are the primary costs for developing the alternative? The primary costs may be converted to a cost/ton figure for comparison purposes. Substantial differences in costs between two or more alternatives may make a given alternative not practicable. Sunk costs are generally not considered appropriate in this analysis, unless some reasonable justification is provided.
- C. Are there logistical reasons that make the alternative not practicable? Logistical constraints may include: problems meeting locational criteria (proximity to navigable waters, private wells, airport, highway or park, or in a floodplain), access concerns, transportation route problems, or site availability.
- D. Are there technological constraints to the alternative such as inadequate depth to bedrock, inappropriate site geology, inadequate separation distance to groundwater, proximity to contaminated area, or poor clay quality?
- E. Are there impacts to other important natural resources associated with the alternative?
- F. Are there other reasons the alternative is not feasible?

**IV. Selected Alternative**

- A. Describe the selected alternative.
  - B. Summarize why the other alternatives are not practicable.

## NR 103 Decision Language

The NR 103 decision will come at the time of a feasibility determination or at the time of the approval for an activity. The decision must be included in the findings of fact and conclusions of law. The following are possible NR 103 decisions:

### COMPLIANCE WITH NR 103--

- Case 1: The proposed activity will not affect wetlands.
- Case 2: The proposed activity will affect wetlands, the project is not wetland dependent, no practicable alternative exists, and the activity will not result in significant adverse impacts to wetland functional values, water quality, or other significant environmental consequences.
- Case 3: The proposed activity will affect wetlands, the project is wetland dependent, and the activity will not result in significant adverse impacts to wetland functional values, water quality, or other significant environmental consequences.

### NON-COMPLIANCE WITH NR 103--

- Case 4: The proposed activity will affect wetlands, the project is not wetland dependent, no practicable alternative exists, and the activity will result in significant adverse impacts to wetland functional values, water quality, or other significant environmental consequences.
- Case 5: The proposed activity will affect wetlands, the project is not wetland dependent, but a practicable alternative exists that would avoid wetland impacts.
- Case 6: The proposed activity will affect wetlands, the project is wetland dependent, and the activity will result in significant adverse impacts to wetland functional values, water quality, or other significant environmental consequences.

## 404 Permit Process

1. A condition must be put in the Department's approval (i.e. Feasibility Determination for a landfill) for the facility requiring the applicant to provide documentation to the Department that he or she has received approval from the Corps of Engineers, pursuant to Section 404 of the Clean Water Act, prior to disturbing the wetlands.
2. A Section 401 Water Quality Certification letter and a Notice of Water Quality Certification must be sent to the applicant.
3. The Water Quality Certification letter must include the following:
  - a. that the Department has reviewed the proposal to fill or excavate( ) acres of wetland for which the Corps of Engineers has asserted jurisdiction for development of the (proposed project) pursuant to Section 401, Clean Water Act, and Chapter 299, Wis. Adm. Code.
  - b. that a Notice of Water Quality Certification is enclosed and that State law requires publication of the notice.
  - c. that the notice must be turned over to the(newspaper the notice must be published in) for publication as a Class 1 Notice, the cost of publication is borne by the applicant, proof of publication must be mailed or delivered to the Department, and indicate who should receive the documentation (name of DNR project reviewer and his or her address).
  - d. that the water quality certification becomes final in accordance with ch. NR 299, Wis. Adm. Code, 30 days after publication unless a hearing is requested and granted. (A hearing conducted under ch. 289, Stats., also fulfills the requirement for a hearing under ch. 299, Stats.)
  - e. and finally, a copy of the Water Quality Certification letter, notice, and a copy of the Department's approval (i.e. Feasibility Determination for a landfill) must also be sent to each of the following:

U.S. Army Corps of Engineers  
Regulatory Branch  
190 5<sup>th</sup> Street East  
St. Paul, MN 55101-1638

U.S. EPA Regional Administrator  
77 West Jackson Blvd.  
Chicago, IL 60604.

(Example)

Notice of Water Quality Certification

(Name of Applicant), filed an application with the Department of Natural Resources for water quality certification pursuant to Section 401, Clean Water Act, and Chapter NR 299, Wisconsin Administrative Code. (Name of Applicant) proposes to excavate or fill approximately ( ) acres of wetland, for which the Corps of Engineers asserted jurisdiction, during the development of a (project type) in the (location).

The Department has evaluated this activity and determined that this activity will not violate standards enumerated in s. NR 299.04, Wis. Adm. Code, and certification is granted. Wetland water quality standards were addressed in the Department's (date and type of approval).

The following conditions are necessary with respect to the proposal to excavate or fill the wetland.

Note any applicable conditions!

NOTICE OF APPEAL RIGHTS [pursuant to s. 227.48(2), Wis. stats.]. Any person whose substantial interest may be affected by the Department's determination may challenge this decision within 30 days after publication pursuant to s. NR 299.05, Wis. Adm. Code.

This determination shall become final in accordance with the provisions of s. NR 299.05(7), Wis. Adm. Code. The final decision of the Department shall be judicially reviewable as provided under ch. 227, Wis. Stats.

or judicial review of a decision pursuant to ss. 227.52 and 227.53, Wis. Stats., you have 30 days after the decision becomes final to file your petition with the appropriate circuit court and serve the petition on the Department. The petition shall name the Department of Natural Resources as the respondent.

Dated at ( \_\_\_\_\_ )

DEPARTMENT OF NATURAL RESOURCES

By (Regional Director or Designee) \_\_\_\_\_

cc: U.S. Army Corps of Engineers - St. Paul District  
U.S. EPA Region 5 Administrator