

# Practicable Alternatives Review

Critical Methods Training, March 2016  
Preferred Alternatives Analysis  
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# Topics to be Discussed

- The Permitting Structure
- PAA Overview & Definitions
- Factors to Consider when completing PAA
- Department Considerations

# Permit Structure

- Exemptions
- General Permits
- Individual Permits

# Exemptions

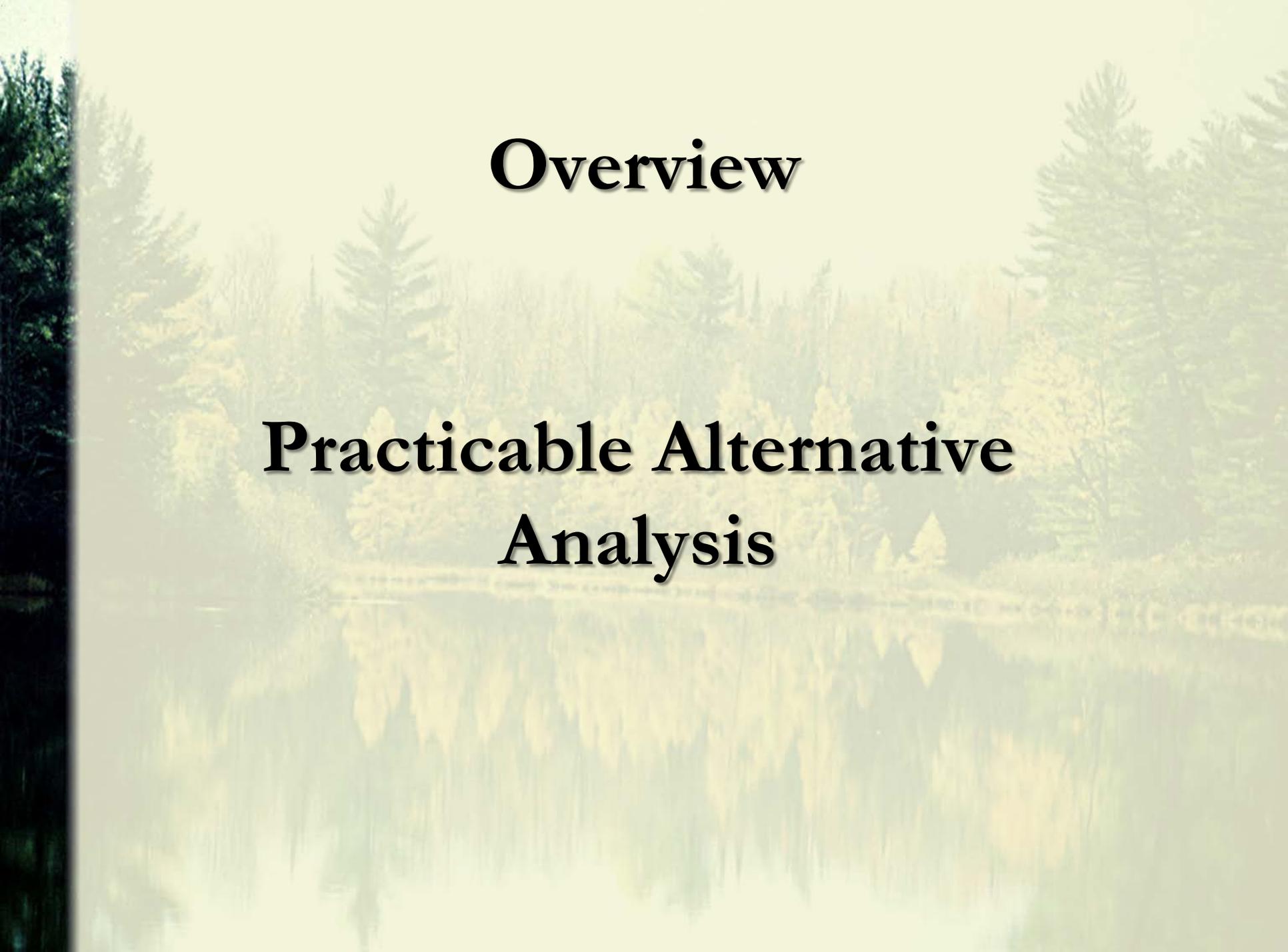
- EXEMPT activities do not require a permit  
They are NOT unregulated activities
- Must meet specific criteria

# General Permits

- Initial 30-day review time period for completeness
- **Detailed PAA required** *(s. 281.36(3g)(h), Stats.)*
- For activities that meet specific standards
- Discharge will cause only minimal adverse environmental impacts
- Single and complete project

# Individual Permits

- Pre-application meeting required before permit submittal
- 60-90 day minimum review time period
- **Detailed PAA required** *(s. 281.36(3m)(b), Stats.)*
- 30-day public notice requirement



# **Overview**

## **Practicable Alternative Analysis**

# THE KEY: EARLY Planning and Communication



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# ■ Avoid

# ■ Minimize

# ■ Compensate

## INFORMATIONAL REQUIREMENTS FOR PRACTICABLE ALTERNATIVES ANALYSIS FOR PROJECTS IMPACTING WETLANDS (Revised June 7, 2012)

The Practicable Alternatives Analysis is an important process the applicant is responsible for conducting to thoroughly evaluate and verify the proposed project can not avoid wetland impacts and that the project alternative selected minimizes wetland impacts to the maximum extent practicable while meeting the basic project purpose. It is very important to provide as much information and detail as possible on the range of alternatives considered along with supporting documentation as your information is used by Department Permit Review Staff to verify project meets the requirements established in law, Section 281.36, Wis. Statutes, and applicable General Permits eligibility standards.

WI Department of Natural Resources (DNR) and U.S. Army Corps of Engineers (ACOE) permit review staff will conduct an evaluation to determine the environmental impacts of the project, including impacts to wetland water quality standards outlined in NR 103, Wis. Administrative Code. If the project results in significant adverse impacts to wetlands or natural resources, the project does not meet the requirements established in law and a permit can not be granted.

Note: The ACOE requires applicants to complete PAA for those projects that impact not only wetlands, but also other waters, such as lakes, rivers and streams and may utilize this outline for those projects as well.

**DIRECTIONS:** All questions below must be answered in detail and supported with documentation. This includes information required in a Practicable Alternatives Analysis Supplement. If one is available for the proposed project activity as noted in Section 2 and Section 3 below. Attach your Practicable Alternatives Analysis to your wetland permit application along with the other informational items required for a complete application package.

**ASSISTANCE:** If you have questions about this PAA outline please contact the [DNR Water Management Specialists](#) or the [U.S. Army Corps of Engineers Project Managers](#) for the county where your project is located for assistance. You may also request a pre-application meeting with DNR and ACOE permit reviewers to help you further understand the PAA process, the minimum project alternatives required and any project specific alternatives that should be considered for your project. Note, agency staff can help provide you with guidance, but the applicant is responsible for preparing and submitting a complete PAA and other application materials.

### SECTION 1 – PROJECT BACKGROUND

1. Describe the basic purpose and need for the project.
2. Is your project an expansion of existing work or is it new construction?
3. When did you start to develop a plan for this project (month/year)?
4. Are you the current owner or easement holder of the property? If so, how long have you owned the property? If you are not the property owner, please provide the current owner's name and contact information.
5. Explain what the consequences are of not building the project. Include social and economic consequences, as well as other pertinent information.
6. Explain why the project must be located in or across wetlands.

### SECTION 2 – DEVELOPING PROJECT ALTERNATIVES

Your analysis must address the following questions. Certain project types have specific standard "avoid and minimize" alternatives that you are required to consider. The activity-based Practicable Alternatives Analysis (PAA) Supplements are available at <http://dnr.wi.gov/topic/Waterways/construction/wetlands.html>, for (1) Private Roads/Driveways; (2) Commercial/Residential/Industrial Structures; (3) Utilities; (4) Recreational Trails; and (5) Solid Waste Disposal Facilities. You are also required to consider avoid and minimize project alternatives that may be unique to your project and/or site. For each alternative analyzed, please show the location of the alternatives on an aerial photograph and clearly label each alternative.

1. How could you redesign or reduce your project to avoid wetlands and still meet your basic project purpose?
2. How could you redesign or reduce your project to minimize wetland impacts and still meet your basic project purpose?
3. What other sites were considered for this project? Please include properties you currently own, have recently owned, adjacent parcels and properties available for sale in the area. Provide the geographic area(s) you searched for an alternative site and the specific location of other properties considered. For each of these properties considered, indicate why they were not selected whether or not they meet the basic purpose and need identified in Section 1. Available properties that meet the purpose and need should be considered further, particularly if they result in lower wetland impact compared to the selected alternative. If no other sites were considered, please explain why.

### SECTION 3 – EVALUATING PROJECT ALTERNATIVES

For each alternative considered, the following information should be used to evaluate whether the alternative meets or does not meet the basic project purpose. In addition, quantitative and reliable supporting information should also be provided and includes information such as data, reports, studies, economic or cost comparison analysis and other pertinent information. If there is PAA Supplement available for your project type as noted in Section 2, Step 3 of the PAA Supplement outlines common supporting documentation applicants use to evaluate feasibility of an alternative and supply with their PAA submittal. Providing summary tables of the alternatives considered can provide a useful comparison of the alternatives and ease the review process. Each project alternative should be clearly labeled on an aerial photograph showing proposed location.

1. Will the alternative affect wetlands? If so please provide the acreage and type of wetland impacted.
2. Provide resizing or reconfiguration options for each alternative to reduce or eliminate wetland impacts.
3. What are the primary costs for developing the alternative?
  - Primary costs may be converted to a cost/acre, cost/ton, cost/linear-foot or other appropriate figure for comparison purposes. However, please describe whether there is any aspect of an alternative that greatly inflates or reduces the primary costs for that alternative. Sunk costs should not be included in the analysis and include costs associated with the purchase of the property, consultant fees and other pre-existing outlays not directly related to the selection of alternatives.
4. What are the logistical reasons that make an alternative not practicable?

Logistical constraints include, but are not limited to:

  - Inability to meet other regulatory standards
  - Construction Limitations
  - Access or transportation concerns
  - Site availability
  - Existing infrastructure

5. What are the technical constraints to an alternative?
  - Technical constraints include inadequate depth to bedrock, inappropriate site geology, inadequate distance to groundwater, proximity to a contaminated area, unfavorable soils, or engineering concerns.
6. Are there impacts to other important natural resources?
  - Archeological or historical sites
  - Habitat for endangered or threatened species
  - Environmental Corridors or Natural Areas
  - Waterways
7. Are there other factors you would like us to consider during our alternative analysis evaluation?

### SECTION 4 – PREFERRED PROJECT ALTERNATIVE

1. Indicate how your preferred project alternative meets your project purpose and how it avoids and/or minimizes wetland impacts to the maximum extent practicable.
2. Indicate how you plan to minimize harm to the impacted wetlands and adjacent wetlands that will not be directly impacted by the project. Examples include, but are not limited to erosion control, proper marking of the limits of proposed wetland impact, visible flagging for protection of wetlands that will not be impacted by project, adequate stormwater management, best management practices, etc.

# Overview

- Originally modeled after US EPA 404 guidelines - Avoid, Minimize, Compensate
- Uses narrative standards rather than numerical standards
- What is “practicable” is determined by the definition, case law and administrative practice

# Overview

Is it required for both GP and IP? YES

s. 281.36(3g)(h) and (3m)(b)

*“Analysis of practicable alternatives. An applicant shall include in an application an analysis of the practicable alternatives that will avoid and minimize the adverse impacts....”*



# Wetlands – why does it matter

## Wetland functions

- floral diversity
- Fish/wildlife habitat
- flood storage
- stormwater storage and filtration
- shoreline protection
- groundwater recharge and discharge
- aesthetics, recreation and education



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# Wetland Regulations

## Department of Natural Resources

- direct regulatory authority when there is a permit requirement under Ch. 30, 31 and 281.36, Stats.
- DNR reviews and issues permit under NR 103 and NR 299
- Applicant must demonstrate that there are no practicable alternatives that avoid or minimize wetland impacts, and that wetland functions will not be significantly harmed

# Definition

281.36(1)(cp) "Practicable" means reasonably available and capable of being implemented after taking into consideration cost, site availability, available technology, logistics, and proximity to the proposed project site, in light of the overall purpose and scope of the project.

# Limited Scope of Alternatives for Individual permits

- Applicant has demonstrated the project will result in economic public benefit
- Project is necessary for expansion of existing industrial, commercial or agricultural facility that is in existence at time of application
- Project will occur in an industrial park that is in existence at time of application

# Factors to consider in a Complete PAA

- Describe need and purpose of the project
- Identify all options that avoid wetland impacts
- Identify all options that minimize wetland impacts
- Detail why options are eliminated



# Need and Purpose

- This drives the PAA process
  - Size and scope matters
  - Functional values of wetland matter
  - Wetland type matters
- Must allow for reasonable alternatives
- Department makes determination
- Avoid cut and paste submittals

# Avoid Alternatives

- Strongly consider all “no build” options
- Consider all available alternatives
  - Going over instead of through
  - Going under instead of through
  - Access from off-site
  - Purchase another similar site without wetlands
- Include quantifiable data

# Minimization Alternatives

- Make reasonable suggestions
  - Reconfigure site layout
  - Reduce road/trail/driveway width, parking stalls, etc.
- Common sense, methodical approach
- Provide quantifiable data
- Don't focus on preferred alternative and proving that is only option

# Eliminated Alternatives (Justification)

- TELL YOUR STORY (in great detail at initial application stage)
- Provide QUANTIFIABLE INFORMATION
  - Use actual costs based on scope of entire project
  - Provide letters of support or opposition
  - Real estate searches that have been completed
  - Document, document, document
- Educate the reviewer in laymen's terms

# Department Considerations

- Step 1 = fact finding
  - Tough questions don't equate to approvability of project
- Step 2 = review of relevant facts
  - Additional info request??
  - Direct impacts, secondary impacts, cumulative impacts,
- Step 3 = decision making
  - Department must make FOF related to wetland impacts and functional values

# Common things missing from PAA submittals

- Detailed, accurate need/purpose including the “backstory” upfront
- Objective review of “no build” alternative
- Thorough explanation of all alternatives
- Accurate cost estimates based on scope of entire project
- Supporting documentation for chosen alternative
- Too much emphasis placed on preferred alternative

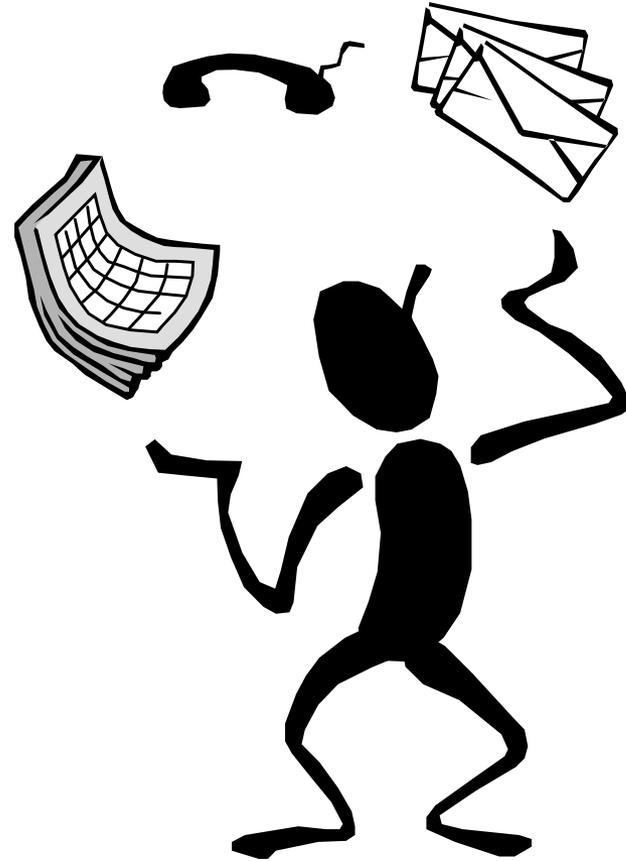
# What is considered a Complete Application



- Photographs of the site without snow cover
- Completed Application
- Wetland delineation
- Detailed Narrative & PAA
- Plans & specs
- All fees



# THE KEY: Planning and Communication



QUESTIONS??

