



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 373
[2009 Senate Bill 557]

**Wetlands Identification Services
and Construction Notices**

2009 Wisconsin Act 373 requires the Department of Natural Resources (DNR) to provide three types of services relating to identifying wetlands to persons who own or lease land. The Act also directs local units of government that issue building permits or other construction approvals to notify applicants for these permits and approvals of their responsibilities to comply with laws concerning construction near or on wetlands, lakes, and streams.

Wetlands Identification Services

Under the Act, any person who owns or leases land may request the DNR to provide any of the following wetlands identification services:

- **Wetland map review.** A written evaluation, based upon a review of wetland maps prepared by the DNR and other information, of whether a parcel of land is likely to contain a wetland.
- **Wetland identification.** A written evaluation, based upon an on-site inspection of the land by the DNR, of whether a parcel of land contains a wetland. This service is limited to parcels or portions of land not exceeding five acres in size.
- **Wetland confirmation.** A written statement, based upon an on-site inspection of land by the DNR, of whether the DNR concurs with the boundaries of a wetland as delineated by a third person. Both the delineation and the department's confirmation must include the exact location and boundaries of the wetland.

The Act directs the DNR to negotiate and enter into a memorandum of agreement with the U.S. Army Corps of Engineers (ACE) that provides that ACE will concur with any wetland confirmation provided by DNR under the Act. The DNR may not provide a wetland confirmation before the earlier of the date on which the DNR enters into this memorandum of agreement or March 1, 2012.

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/>.

The Act specifies the following fees and deadlines for the DNR to provide these wetland identification services:

DNR Fees and Deadlines for Wetlands Identification Services

Type of Service	Fee	Deadline for DNR Providing the Service After the Request is Filed in Required Manner and Form*
Wetland map review	\$50	15 days
Wetland identification	\$300 for each acre inspected	30 days
Wetland confirmation	\$300 for each 20 acres inspected	30 days

* If the DNR determines that adverse weather or other on-site conditions prevent the DNR from conducting an accurate on-site inspection for a wetland identification or confirmation in sufficient time to comply with the 30-day deadline, the DNR must notify the requester within 30 days after making this determination and provide the wetland identification or confirmation as soon as possible after weather or other on-site conditions allow the DNR to conduct this inspection.

The Act establishes that a wetland identification or a wetland confirmation provided by the DNR remains effective for five years from the date provided by the DNR. In addition, if the DNR determines in providing these services that a parcel of land is likely to or does contain a wetland, or that it concurs with the boundaries of a wetland as delineated by a third person, the department must include this information on its wetland maps prepared under s. 23.32, Stats.

The Act increases the authorized full-time equivalent (FTE) positions for the DNR by 3.0 program revenue (PR) project positions for the period ending on June 30, 2014, and 1.0 PR position for the purpose of providing wetland map review, justification, and confirmation services under the Act. These positions are funded from the appropriation from the general fund to the department for water regulation and zoning.

Construction Notices

The Act also requires each county, city, village, and town, that issues a building permit or other approval for construction activity, to give the applicant a written notice at the time the permit or approval is issued that contains information about construction near or on wetlands. This notice must include a specified statement that advises the applicant of the applicant's responsibility for complying with state and federal laws concerning construction near or on wetlands, lakes, and streams. The local unit of government is not required to give this notice if: (a) it issues the permit or approval on a standard form prescribed by the Department of Commerce (Commerce); or (b) the permit or approval is for construction activity that does not involve any land disturbing activity, including removing protective ground cover or vegetation, or excavating, filling, covering, or grading land. In issuing a notice under these requirements, the local unit of government must require that the applicant for the building permit sign a statement acknowledging that the person has received the notice.

These notification requirements apply to applications for building permits that are submitted to a local unit of government on or after February 1, 2011.

In addition, the Act requires Commerce to include specified language on every standard building permit form prescribed by Commerce under ch. 101, Stats., regarding the applicant's responsibility for complying with state and federal laws concerning construction near or on wetlands, lakes, and streams.

The Act also directs the DNR to furnish an informational brochure to cities, villages, towns, and counties for distribution to the public that describes the laws that apply to wetlands.

Effective date: 2009 Wisconsin Act 373 takes effect on February 1, 2011.

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