

Chapter Adm 60

WISCONSIN ENVIRONMENTAL POLICY ACT, PROCEDURES FOR DEPARTMENT ACTIONS

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|-----------|-----------------------------------|
| Adm 60.01 | Purpose. |
| Adm 60.02 | Definitions. |
| Adm 60.03 | Department action type list. |
| Adm 60.04 | Determination of need for an EIS. |
| Adm 60.05 | Scoping. |

| | |
|-----------|---|
| Adm 60.06 | Contents of an EIS. |
| Adm 60.07 | Distribution and review of the DEIS and FEIS. |
| Adm 60.08 | Public hearings on the DEIS and FEIS. |
| Adm 60.09 | Record of decision. |

Adm 60.01 Purpose. The purpose of this chapter is to:

(1) Establish a policy to assure departmental consideration of the short and long term environmental and economic effects of department actions upon the human environment.

(2) Provide principles, objectives, definitions and criteria to be used by the department in the implementation of s. 1.11, Stats. Implementation includes the evaluation of proposed actions; the study, development and description of alternatives where proposed actions involve unresolved conflicts in the use of available resources; and the preparation and review of environmental impact statements.

(3) Establish the identification of major actions significantly affecting the quality of the human environment and the need for an environmental impact statement.

(4) Provide an opportunity for public input to the decision-making process.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.

Adm 60.02 Definitions. (1) “Action” means any activity, initiated by the department or initiated by someone outside state government, which could not have occurred but for the department and which may affect the human environment.

(2) “Alternatives” means other actions or activities which may be reasonably available to achieve the same or altered purpose of the proposed action, including the alternative of no action.

(3) “Department” means the department of administration.

(4) “EA” or “environmental assessment” means a documented brief but comprehensive analysis of a proposed Type II action to determine its environmental impact; to study, develop, and thoroughly describe alternatives; and to determine whether the proposed action constitutes a major state action significantly affecting the quality of the human environment or involving unresolved conflicts in the use of available resources.

(5) “EIS” or “environmental impact statement” means a written report prepared pursuant to s. 1.11, Stats., which contains an

analysis of anticipated impacts of a proposed action, and alternatives to the proposed action, upon the human environment. The draft environmental impact statement (DEIS) is a preliminary version of the final environmental impact statement (FEIS).

(6) “Finding of no significant impact” means a completed environmental assessment which indicates that the proposed action is not a major action which will significantly affect the quality of the human environment and that no EIS is required.

(7) “Human environment” means the totality of conditions and influences, both natural and artificial, which surround and affect all organisms, including people.

(8) “Major action” means an action which will significantly affect the quality of the human environment.

(9) “Resources” means financial, cultural and natural matter and forms as well as labor and materials used and affected by a proposed action if permitted.

(10) “Significant effects” means the considerable and important impacts, beneficial or adverse, of actions on the quality of the human environment.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.

Adm 60.03 Department action type list. The department has categorized its actions into the following type list which shall determine or aid in the determination of the need for an EIS. Type I actions shall always require an EIS. Type II actions may or may not require an EIS, depending on the significance of the action, or may or may not involve unresolved conflicts in the use of available resources. All Type II actions shall be evaluated by using an EA. Type III actions normally do not have the potential to cause significant environmental effects and normally do not involve unresolved conflicts in the use of available resources. Unless the department determines otherwise, these actions will not require an EA or EIS. If a particular Type III action or a particular uncategorized action is found by the department to involve unresolved conflicts in the use of available resources, the department shall comply with s. Adm 60.04 (3).

| Action Type | Action Identification | Description/Comments | EIS Category | | |
|-------------------------------------|--|---|--------------|----|-----|
| | | | I | II | III |
| Facilities Development | 1. Planning, designing, contracting for and constructing physical facilities when the department of administration is to be the managing authority as defined in ss. 16.84 and 16.845, Stats., i.e. the lead agency. | a. New facilities on parcels not previously developed by the state b. All others | X | X | |
| | 2. Technical assistance to other state agencies in preparation of requests to the state building commission. | | | | X |
| | 3. Ongoing development of facility construction for which a total project EIS has been filed. | a. Major change b. All others | | X | X |
| | 4. Advance land acquisition. | | | X | |
| | 5. Monitoring and review of private sector and other governmental projects for impact on department of administration state facilities. | | | | X |
| Financial Assistance | 1. Administration of federal funds to state agencies and local governments. | a. As administering agency b. In another capacity | | X | X |
| Standards | 1. Development of statewide construction standards for state building commission. | | | X | |
| | 2. Establishment of statewide standards and standard specifications for purchased materials, equipment or contractual services. | | | X | |
| | 3. Ongoing development of state building commission construction standards. | | | X | |
| | 4. Ongoing development of purchasing standards and standard specifications. | | | X | |
| | 5. Establishment of reasonable alternatives for construction or purchasing standards and standard specifications. | | | | X |
| Regulation | None | | | | |
| Policy Recommendations | 1. Proposals for legislation which significantly change the authority of the department of administration, including those which are recommended to be part of a budget bill. | | | X | |
| | 2. State comprehensive planning. | | | | X |
| Facility and Maintenance Operations | 1. Technical assistance to other state agencies in establishing procedures and priorities for maintenance projects of environmental impact. | | | | X |
| | 2. Major changes in operations and maintenance procedures of facilities under the managing authority of the department. | | | X | |
| | 3. Acting as the state leasing agent. | | | | X |

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.

Adm 60.04 Determination of need for an EIS.

(1) During the early planning stages, the department shall determine the need for preparing an EIS on its actions. The action type list shall be used to determine the category of the proposed action.

(2) In determining whether a Type II action is a major action that will significantly affect the quality of the human environment, or is a proposed course of action which involves unresolved conflicts concerning alternative uses of available resources, the department shall base its decision on an environmental assessment (EA) which shall contain the following information:

(a) A brief description of the proposed action including maps and graphs if applicable.

(b) A brief description of those factors in the human environment affected by the proposed action.

(c) A brief evaluation of significant primary and secondary environmental effects that would result if the proposal were implemented.

(d) A brief study, development and description of reasonable alternatives to the proposed action and a brief evaluation of the significant environmental or other effects of these alternatives.

(e) A listing of other agencies or groups contacted and the comments of and other pertinent information from these agencies and groups.

(f) An evaluation section which contains brief discussions of the following specific factors:

1. Stimulation of secondary (indirect) effects.
2. Creation of a new environmental effect.
3. Impacts on geographically scarce environmental features.
4. Precedent-setting nature of the action.

5. Significant controversy associated with the action.

6. Conflicts with official agency plans or local, state, or national policy.

7. Cumulative impacts of repeated actions of this type.

8. Foreclosure of future options.

(g) An identification and brief discussion of appropriate alternatives to proposed Type II actions that may involve unresolved conflicts concerning alternative uses of available resources, including the alternative of no action. A proposed action involves unresolved conflicts concerning alternative uses of available resources when

1. The proposed action may reasonably be expected to materially use or affect a resource, temporarily or permanently; and

2. The resource is reasonably suited to one or more other uses; and

3. There is a discernible conflict, competition, difference or incompatibility between the use to be made of the resource by the proposed action and another use, including the present use, to which the resource is reasonably suited; and

4. The conflict, competition, difference, or incompatibility between the proposed action's use and the other uses to which the resource is reasonably suited cannot be avoided or resolved if the proposed action is implemented.

(3) If it is determined that there are unresolved conflicts concerning alternative uses of available resources in a proposed Type II action, then the department shall study, develop and thoroughly describe the appropriate alternatives.

(4) The department shall issue a news release to news media in the vicinity of the proposed action for each EA, including the following information:

- (a) A brief description of the project, including location.
- (b) A contact person within the department who can provide copies of the EA and answer questions.
- (c) A date by which the department will receive and consider comments before making its final decision on the need for an EIS.

(5) Following the deadline for receipt of public comment on the EA, the department shall review the assessment, consider all public comments, make required comments, and approve the assessment. A public hearing may be held to receive public input and aid in the review of and decision on the need for an EIS.

(6) If a finding is made in the EA that no EIS is required for a proposed Type II action, the original EA shall then be filed by the department in its Madison, Wisconsin office as a finding of no significant impact. The assessment is a public record which is available for review upon request.

(7) If a finding is made in the EA that an EIS is required for a proposed Type II action, the department shall prepare a DEIS and an FEIS.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.

Adm 60.05 Scoping. (1) As soon as possible after the decision to prepare an EIS, the department shall inform the public and affected agencies that an EIS will be prepared and that the process of identifying potential major issues, called scoping, is beginning.

(2) The scoping process shall include, to the extent possible, affected and other interested persons. The process may consist of meetings, hearings, workshops, surveys, questionnaires, inter-agency committees, or other appropriate methods or activities, and may be integrated with other public participation requirements.

(3) The department shall use the scoping process to accomplish any of the following:

- (a) Determine the scope and the significant issues to be analyzed in depth in the EIS.
- (b) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review. This will narrow the discussion of these issues in the EIS to a brief presentation of why they will not have a significant effect on the human environment or a reference to their coverage elsewhere.
- (c) Set a time schedule for document preparation and opportunities for public involvement.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.

Adm 60.06 Contents of an EIS. (1) When an EIS is required, a DEIS and an FEIS shall be prepared by the department or prepared for the department under contract by a consultant with supervision and final editorial review by the department. The DEIS shall emphasize significant environmental issues identified during the scoping process. The FEIS shall be based in part upon comments received on the DEIS and on information received from other sources. An EIS shall provide analysis of the environmental and economic implications of a proposed action contemplated by the department. An EIS shall include the following:

(a) A description of the proposed action and of the affected environment including the project location, type of facility, time schedules, maps and diagrams deemed relevant, and other pertinent information which will adequately allow an assessment of the potential environmental impact by persons who want to make comments.

(b) The probable impact of the proposed action on the human environment. An evaluation will be made of the positive and negative effects of the proposed action as it relates to the environment.

Secondary as well as primary consequences to the environment will be included wherever possible.

(c) Alternatives to the proposed action, including a rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternatives, particularly those that might avoid all or some of the adverse environmental effects of the proposed action. Consideration will be given to the economic advantages and disadvantages and energy impacts of each alternative wherever possible.

(d) Probable adverse environmental effects which cannot be avoided should the proposal be implemented. Protective and mitigative measures to be taken as part of the proposed action shall be identified.

(e) The relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity. The EIS shall describe the extent to which the proposed action involves tradeoffs between short-term economic gains at the expense of long-term environmental productivity or vice versa, and the extent to which the proposed action forecloses future options.

(f) Significant irreversible and irretrievable commitments of resources that would be involved in the proposed action if implemented, including a statement identifying the extent to which the proposed action irreversibly curtails the range of potential uses of the environment.

(g) A summary of the scoping process used and the major issues identified for detailed analysis in the EIS.

(h) The FEIS shall discuss at appropriate points any responsible opposing view not adequately discussed in the DEIS.

(i) If the department makes substantial changes in the proposed action that are relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns that have bearing on the proposed action or its impacts, that arise after preparation of the FEIS, but before substantial implementation of the action, the department shall prepare supplements to the FEIS. If a supplement is prepared it shall be distributed and reviewed in the same manner as a DEIS or a FEIS as provided in s. Adm 60.07.

(2) The EIS shall be an analysis document that enables environmental factors to be considered in the development of a proposed action. It shall be considered by the department in the decision-making process.

(3) The EIS is not a document of justification. Furthermore, disclosure of adverse environmental effects shall not necessarily require that a proposed action be denied or terminated.

(4) Environmental impact statements shall be written in plain language and should use appropriate graphics to aid decision-makers and the public. Where appropriate, an EIS may be combined with other required environmental or planning documents.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.

Adm 60.07 Distribution and review of the DEIS and FEIS. (1) DISTRIBUTION AND REVIEW OF THE DEIS. (a) Copies of the DEIS shall be distributed as follows:

1. The governor's office.
2. State, federal and local government agencies having special expertise, interest or jurisdiction.
3. Regional and county planning agencies located within the proposed project or action area.
4. The department of natural resources.
5. Libraries:
 - a. For proposed actions affecting a local area, the nearest library. In addition, the county clerk or town clerk will be requested to make the document available in the county courthouse, city hall or town hall.

b. For projects of regional importance, public libraries with geographic distribution which provides public access without undue travel.

c. Projects having statewide significance, public libraries providing reasonable access by the individuals who would be potentially affected by the proposed action.

(b) An announcement sheet giving a brief description of the proposed action, a description of the administrative procedures to be followed, the date by which comments on the DEIS are to be submitted to the department, and the location where copies of the DEIS are available for review, shall be circulated as follows:

1. All local and regional units of government which have jurisdiction over the area that may be affected by the proposed action. A request will be made for posting the announcement sheet at the place normally used for public notices.

2. Local and regional news media in the vicinity of the proposed action.

3. Groups or individuals which have demonstrated an interest and have requested receipt of this type of information.

4. All participants in the scoping process not covered in subd. a. through c.

(c) Period of time for comment on the DEIS.

1. A minimum of 45 days from the date the DEIS is mailed shall be allowed for the receipt of comments. Depending upon the length and complexity of the DEIS, the department may establish an initial review period up to a total of 90 days. A reasonable request for extension, up to 15 days beyond the initial review period, may be granted by the department for the review of the DEIS.

2. If the department determines that a review period of less than 45 days will suffice for the DEIS, the department may limit the review period to no less than 20 days. The DEIS, announcement sheet and public notices shall call attention to the reduced review period and shall specify the date by which comments on the DEIS must be submitted to the department if they are to be considered in developing the FEIS.

(2) DISTRIBUTION AND REVIEW OF THE FEIS. (a) The FEIS shall be distributed in the same manner as the DEIS, and shall also be distributed to any person, organization or agency that submitted comments on the DEIS.

(b) The availability of the FEIS shall be announced through a notice of public hearing or through an announcement sheet similar to the announcement of the availability of the DEIS.

(c) A period of not less than 30 days and not more than 90 days from the date the FEIS is mailed, depending on the length and

complexity of the FEIS, shall be allowed for receipt of comments from state and federal agencies and the public. A reasonable request for an extension, up to 15 days beyond the initial review period, may be granted by the department for the review of the FEIS.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; correction in (1) (b) made under s. 13.93 (2m) (b) 1., Stats., Register, March, 1993, No. 447.

Adm 60.08 Public hearings on the DEIS and FEIS.

(1) Whenever a proposed action requires a DEIS and an FEIS, the department shall hold a public hearing on the DEIS, no sooner than 30 days after its issuance, and shall also hold a public hearing on the FEIS, no sooner than 30 days after its issuance and prior to making a final decision. These hearings shall be noticed and conducted in the same manner as a contested case proceeding under ch. 227, Stats. The final draft of the EIS issued by the department, and the record of decision provided in s. Adm 60.09, are intended to satisfy the decision requirement of s. 227.47, Stats.

(2) The hearings shall be held in the locality affected; on actions of statewide significance, the hearing may be held in Madison.

(3) The department shall issue a news release to news media in the vicinity of the proposed action for each public hearing on a DEIS or FEIS. Notice shall also be mailed to all known departments and agencies required to grant any approval necessary for the proposal; to any regional planning commission within which the affected area lies; to the governing bodies of all towns, villages, cities and counties within which any part of the proposal lies; to the governing bodies of any towns, villages or cities contiguous to any town, village or city within which any part of the proposal lies; and to interested persons who have requested such notification. Persons, organizations or agencies that attended the DEIS public hearing shall also receive notice of the FEIS public hearing.

(4) After the FEIS public hearing provided in sub. (1), the department shall carefully review the hearing record and summarize the comments received on the DEIS and the FEIS.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.

Adm 60.09 Record of decision. Where an EIS is prepared, the department shall also, at the time of its final decision, prepare a record of decision. The record of decision shall identify all alternatives considered in the order of their environmental preference. The record of decision shall state whether for the alternative selected, all practicable means to avoid or minimize environmental harm have been adopted, and if not, why they were not.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82.