

Chapter NR 150

ENVIRONMENTAL IMPACT STATEMENT
PROCEDURES AND PREPARATION FEES

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Note: Chapter NR 150 as it existed on January 31, 1979 was repealed and a new chapter NR 150 was created effective February 1, 1979.

NR 150.01 Purpose and authority. The purpose of this chapter is:

(1) To provide principles, objectives, definitions and criteria to be used by the department in the implementation of ss. 1.11, 23.11 (5), and 23.40, Stats. Implementation includes the evaluation of proposed actions and the preparation and review of environmental impact statements (EIS's).

(2) To establish the identification of major actions significantly affecting the quality of the human environment and the need for an EIS.

(3) To provide guidance to applicants seeking permission to proceed with a proposed action, which the department may grant, in determining the applicable procedure affecting the department's review of their proposals, and to establish a mechanism for an early review of an applicant's proposal to determine the need for an environmental impact report (EIR) and EIS.

(4) To require governmental consideration of the short- and long-term environmental and economic effects of policies, plans and programs upon the human environment.

(5) To provide an opportunity for public input to the decision-making process.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.02 Definitions. (1) "WEPA" means the Wisconsin Environmental Policy Act (s. 1.11, Stats.).

(2) "NEPA" means the National Environmental Policy Act (P.L. 91-190).

(3) "Department" means the department of natural resources.

(4) "EIS" means environmental impact statement. It is a written report prepared pursuant to s. 1.11, Stats., which contains an analysis of the possible impacts of a proposed action upon the human environment.

(5) "PER" means preliminary environmental report. It is a draft of the environmental impact statement.

(6) "EIR" means environmental impact report. It is a disclosure document, submitted pursuant to s. 23.11 (5), Stats., by a person seeking a permit or statutory approval.

(7) "Environmental assessment screening worksheet" (EASW) means a documented brief but comprehensive analysis of a proposed Type II action to determine its environmental impact, study alternatives and determine whether the proposed action constitutes a major state action significantly affecting the quality of the human environment.

(8) "Statement of nonsignificant impact" means a completed environmental assessment screening worksheet 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.

(9) "Action" means any activity, pursuit or procedure requiring permission from the department, or any department activity, pursuit or procedure which may affect the human environment.

(10) "Major action" means an action of magnitude and complexity which will notably or seriously affect the quality of the human environment.

(11) "Significant effect" means considerable and important impacts of major state actions which have long-term effects on the maintenance of the human environment.

(12) "Human environment" means the totality of conditions and influences, both natural and man-made, which surround and affect all organisms, including man.

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

(14) "Lead agency" means the agency with primary concern or responsibility for a given action as determined through interagency consultation or memorandum of understanding.

(15) "Inadequate EIS" means an EIS that fails to reasonably examine possible and real environmental effects, alternatives, modifications, procedural requirements, and other factors required and further described in WEPA and this chapter.

(16) "Alternatives" means other actions or activities which may be reasonably available to achieve the same or altered purpose(s) of the proposed action.

(17) "Person" means any person, firm, partnership, joint venture, joint stock company, association, public or private corporation, the state of Wisconsin and all political subdivisions, cooperative, estate, trust, receiver, executor, administrator, fiduciary, and any representative appointed by order of any court or otherwise acting on behalf of others.

(18) "Review" means the study of and comment upon the EIR, PER, or EIS by agencies which have jurisdiction by law or special expertise with regard to environmental effects.

(19) "Permission" means any approval or permit issued by the department as required by statute or rule; or any lease, license, variance or other entitlement of use; or the commitment to issue or the issuance of a contract, grant, subsidy, loan or other form of financial assistance by the department to any person.

(20) "Hearing" means a proceeding conducted by the department in accordance with ss. 1.11 and 227.022, Stats.

(21) "Fee" means a charge for the preparation of an environmental impact statement pursuant to s. 23.40, Stats., and in accordance with this chapter.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.03 Departmental action type list. In conformance with executive order number 26 issued on February 12, 1976, and the guidelines made a part of that order, 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:

(1) TYPE I ACTIONS. - These actions will always require an EIS.

(a) *Facilities Development*

1. New Properties Acquisition by fee title of new fish and wildlife properties, parks, recreation areas and state forests.

(b) *Regulation*

1. Power Plant Review Department regulatory actions involving new electric generating facilities with a capacity of 20 MW or more.

(2) TYPE II ACTIONS. - These actions may or may not require an EIS, depending on the individual significance of the action. All Type II actions will be evaluated by using an EASW.

(a) *Facilities Development*

1. New Properties Acquisition by fee title of new state park trails, wilderness, wild, scenic and scientific areas.

2. Wild Resource Areas Establishment of new areas such as wilderness, wild, natural, scenic and scientific areas, within existing property boundaries.

3. Building Projects Construction of new buildings, such as offices, hatcheries, garages, bathhouses or storage buildings, on department properties costing \$15,000 or more.

4. Public Access Acquisition and development of sites for public access to lakes, rivers and streams.
5. Facilities Development Construction of campgrounds, roads, scenic overlooks, parking lots, dams, dikes, flowages, beaches, trails and other facilities costing \$15,000 or more on department lands. Picnic tables, grills, project signs, pit toilets, fences and other minor construction activities are excluded.
6. Property Boundary Adjustments Boundary adjustments on previously approved department properties.

(b) *Financial Assistance*

1. LAWCON Grants-in-Aid New individual land and water conservation fund (LAWCON) grants to local units of government for acquisition and development of outdoor recreation facilities if the grant would result in activities listed as Type II for similar department actions or if required under federal guidelines.
2. State Grants-in-Aid for Local Parks, Fish and Game Areas New individual grants-in-aid to local units of government pursuant to s. 23.09 (12), Stats., for enhancing fish and game habitat and ss. 23.09 (20) and 66.36 (1), Stats., for the acquisition and development of public outdoor recreation facilities if the grant would result in activities listed as Type II for similar department actions.
3. Snowmobile and Motorcycle Grants-in-Aid New individual grants-in-aid to local units of government pursuant to ss. 23.09 (26), 350.12 (4) and 23.09 (25) (a), Stats., for acquisition, development and maintenance of snowmobile and off-road-vehicle trails and facilities which affect critical resource areas (deer yards, eagle or osprey nests, etc.).
4. Wildlife Habitat Grants-in-Aid New individual grants-in-aid to counties pursuant to s. 23.09, Stats., for land management practices benefiting wildlife which affect critical resource areas (deer yards, eagle or osprey nests, etc.).
5. Inland Lake New individual grants-in-aid of \$25,000 or more to inland lake rehabilitation districts. Grants for feasibility studies are exempt.

(c) *Standards*

1. Administrative Code Development of new codes or significant changes in existing codes developed for department management and regulatory functions when the department has substantial discretion in formulating major provisions of the code.

(d) *Regulation*

1. Air Pollution Control Plan approvals for facilities development resulting in new sources of air contaminants pursuant to s. 144.39, Stats.
2. Bulkhead Line Approvals of ordinances and/or proposed leases for modification of existing shoreline pursuant to s. 30.11 and s. 24.39, Stats.
3. County Forest Land Withdrawal Approvals for withdrawals pursuant to s. 28.11, Stats.
4. Drainage Approvals of drainage board actions affecting navigable waters pursuant to s. 88.31, Stats.
5. Dredging Permits and contracts involving lakes and harbors, rivers and streams pursuant to s. 30.20, Stats., except maintenance dredging and utility (electric, sewer, water and phone) trench crossings.
6. Dams Permits to construct or raise and enlarge in navigable waters, plan approvals to construct in nonnavigable waters, and authority to abandon, except for ponds of less than 5 surface acres, pursuant to ch. 31, Stats. Transfers of ownership are excluded.
7. Easements & Leases Granting of easements and leases on department lands. Underground utility and telephone lines are excluded.
8. Enlargement or Alterations of Waterways Activities defined in s. 30.19, Stats. involving connected waterways. Unconnected waterways and grading are excluded unless related to mineral extraction.
9. Fills or Structures Below the High Water Mark Permits issued for placing structures upon the bed of navigable waters, pursuant to s. 30.12, Stats., for the construction of boathouses, groins and breakwaters. Other structures under s. 30.12 (2) (a), Stats., and sand blankets, fish cribs and riprap projects, pursuant to s. 30.12 (2) (b), (c) and (d), Stats., are excluded.

10. Sewer Extension Plan Approval Department approval of extension of wastewater collection systems pursuant to s. 144.04, Stats., when one or more of the following criteria apply:
- a. Conflict with the areawide water quality management plan or completed elements of such plan.
 - b. Pass through a wetland area greater than 5 acres.
 - c. Pass through a floodway or floodplain except as necessary to cross a stream or river.
 - d. Tributary to a sewage system which experiences dry weather bypassing.
 - e. Involves a community with an annual growth rate of 6% or more.
 - f. Has a pipe diameter greater than 12 inches.
 - g. Extension where the department determines that a potential exists for significant primary and/or secondary environmental impacts.
11. WPDES Permits Water discharge permits issued pursuant to s. 147.02, Stats., for new discharges and modifications of permits for increased levels of pollutant discharge at existing facilities.
12. Water Level Control Authority for setting levels of controlled lakes and flowages. Drawdowns for the purpose of dam safety are excluded.
13. Irrigation & Diversion Permits Permits to divert water from lakes and streams pursuant to ss. 30.18 (1) (a) and 107.05, Stats. Diversions for agricultural and irrigation purposes pursuant to s. 30.18 (1) (b), Stats., are excluded.
14. Mining Approvals to prospect issued pursuant to s. 144.84, Stats., and permits to mine issued pursuant to s. 144.85, Stats.
15. Pesticide Use Permits issued pursuant to ss. 94.67 to 94.71, Stats.
16. Wastewater Treatment Facilities Department plan approval pursuant to s. 144.04, Stats., for municipal and industrial wastewater treatment facilities. New facilities and modifications of existing facilities, if designed to meet applicable standards for an existing discharge, are excluded.

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| 17. | Solid and Hazardous Waste Disposal | Initial licensure pursuant to ss. 144.44 and 144.64, Stats., for new solid waste and hazardous facilities. Annual license renewal for existing facilities and one-time disposal approvals are excluded. |
| 18. | Power Plant Review | Any department action involving a new electric generating facility of less than 20 MW capacity. |
| 19. | Channel Changes | Changing the course of a navigable stream pursuant to s. 30.195, Stats., when related to mineral extraction. |
| (e) <i>Policy Recommendations</i> | | |
| 1. | Board Policies | Policies proposed by the natural resources board affecting air, water and land resources. |
| 2. | County Forest Ten Year Plans | Approvals of plans covering management activities on county forests. |
| 3. | Master Plans | Plans for development of individual department properties. |
| 4. | Long Range Plans | Plans or modifications of plans adapted or approved by the department outlining a long range course of action that would significantly affect case specific department decisions such as 208 and solid waste areawide plans, and the state recreation plan. |
| (f) <i>Facility and Maintenance Operations</i> | | |
| 1. | Chemical Treatment | Use of chemicals in fish, wildlife and forest management programs. Use of chemicals at department hatcheries and animal rearing facilities are exempt. |
| (g) <i>Other</i> | | |
| 1. | Stocking or Introductions of Exotic Species | The stocking of new fish or wildlife species which are not now present in state. |
| 2. | Proliferation of Aquatic Species | Stocking or introduction of species into new aquatic environments not now occupied by the species. |
| 3. | Forest Insect Control | Chemical control of forest pest insects. |
| 4. | Habitat Management | Actions designed to improve fish and wildlife habitat including: |
| | a. | Forest game habitat activities involving more than 60 acres. |

- b. Prescribed burning involving more than 160 acres.
 - c. Clearing of land involving more than 60 acres.
 - d. Spring pond dredging.
 - e. All habitat management activities requiring a 404 permit from the U. S. Army corps of engineers.
 - 5. **Silvicultural Practices** Harvest (logging) and type conversion on any department property involving more than 120 acres per year. Tree planting, timberstand improvement, aesthetic cutting and plantation thinning are exempt.
 - 6. **Research Projects** The conduct of research involving substantial land, air or water manipulation and laboratory research involving the potential for significant environmental effects outside the laboratory.
- (3) **TYPE III ACTIONS.** - Unless the department determines otherwise, these actions will never require an environmental assessment screening worksheet or an EIS.
 - (a) *Facilities Development*
 - 1. **Acquisition Within Established Properties and of Scattered Parcels** Acquisition by fee title of selected parcels of land within established property boundaries and scattered wetlands and fish spawning areas for preservation and conservation purposes.
 - 2. **Facilities Development and Small Building Projects** Construction of facilities costing less than \$15,000 on department lands, such as picnic tables, grills, project signs, fences and other minor construction activities.
 - 3. **Easements & Leases** Acquisition of certain land rights for department land projects.
 - 4. **Sale of Surplus DNR Land** Sale of department lands no longer needed for conservation purposes.
 - (b) *Financial Assistance*
 - 1. **LAWCON Grants-in-Aid** New individual Land and Water Conservation (LAWCON) grants to local units of government for acquisition and development of outdoor recreation facilities if the grant would result in activities listed as Type III for similar department actions.

2. State Grants-in-Aid for Local Parks, Fish and Game Areas New individual grants-in-aid to local units of government pursuant to s. 23.09 (12), Stats., for enhancing fish and game habitat, and ss. 23.90 (20) and 66.36 (1), Stats., for the acquisition and development of public outdoor recreation facilities if the grant would result in activities listed as Type III for similar department actions.
3. Snowmobile and Motorcycle Grants-in-Aid New individual grants-in-aid to local units of government pursuant to ss. 23.09 (26), 350.12 (4) and 23.09 (25) (a) for acquisition, development and maintenance of snowmobile and off-road-vehicle trails and facilities which do not affect critical resource areas (deer yards, eagle or osprey nests, etc.).
4. Wildlife Habitat Grants-in-Aid New individual grants-in-aid to counties pursuant to s. 23.09, Stats., for land management practices benefiting wildlife which do not affect critical resource areas (deer yards, eagle or osprey nests, etc.).
5. Inland Lake Grants-in-Aid New individual grants-in-aid to inland lake rehabilitation districts of less than \$25,000 and grants for feasibility studies.
6. Revenue Sharing Bond Certification of pollution abatement facilities.
7. Pollution Tax Exemptions Certification or approval for water pollution control facilities tax exemptions.
8. Feasibility Study Grants State grants to local units of government to conduct feasibility studies.

(c) *Standards*

1. Administrative Code Development of new codes or changes in existing codes developed for department management and regulatory functions when the department has limited discretion in formulating major provisions of the code.

(d) *Regulation*

1. Forest Crop Law Entries & Withdrawals Entry or withdrawal of lands from the program pursuant to ss. 77.02 and 77.10, Stats.
2. Woodland Tax Law Entries & Withdrawals Entry or withdrawal of lands from the program pursuant to s. 77.16, Stats.
3. Dredging Permits and contracts for maintenance dredging and utility trench crossing pursuant to s. 30.20, Stats.

4. Dams Permits and plan approvals for ponds less than 5 acres and transfer of ownership of existing dams pursuant to ss. 31.06 and 31.185, Stats.
5. Bridges & Culverts Authority to construct private bridges and culverts across navigable waters pursuant to ss. 30.10 and 31.23, Stats.
6. Air & Water Quality Monitoring Determination of air and water quality performance audits for acceptance of air and water quality monitoring by private applicants pursuant to ss. 144.36 (2) and 144.55, Stats.
7. Enlargement or Alteration of Waterways Unless related to mineral extraction, permits for activities involving unconnected waterways and grading, pursuant to s. 30.19, Stats.
8. Air Pollution Control Plan approvals for control facilities for existing sources. Control facilities costing in excess of five million dollars may require preparation of an environmental impact assessment.
9. Fills or Structures Below the High Watermark Permits for structures other than boat-houses, groins, and breakwaters, pursuant to s. 30.12 (2) (a), Stats., and sand blankets, fish cribs and riprap projects pursuant to ss. 30.12 (2) (b), (c) and (d), Stats.
10. Sewer Extension Plan Approval Department approval pursuant to s. 144.04, Stats., for extensions of wastewater collection systems except for those meeting one or more of the criteria listed under NR 150.03 (2) (d) 10.
11. Water Level Control Temporary drawdowns on controlled lakes and flowages to prevent or alleviate situations which threaten life, health or property.
12. Irrigation & Diversion Permits Permits to divert water pursuant to s. 30.18 (1) (b), Stats., for agricultural and irrigation purposes.
13. Wastewater Treatment Facilities Department plan approval pursuant to s. 144.04, Stats., for new facilities or modification of existing facilities which are designed to meet applicable standards for an existing discharge.
14. Bait Dealers Permit Issuance of permits pursuant to s. 29.137, Stats.
15. Bird Banding Permit Issuance of permits pursuant to s. 29.574, Stats.

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16. Birds or Animals Causing Damage Permits to eradicate or control issued pursuant to ss. 29.594 to 29.596, Stats.
17. Boat Registration Registration pursuant to ss. 30.50 to 30.80, Stats.
18. Burning Permits Issuance of permits in intensive and extensive fire control districts to issue permits pursuant to s. 26.12, Stats.
19. Children's Fish Pond License Issuance of licenses pursuant to ss. 23.09 and 23.11, Stats.
20. Christmas Tree Dealer's License Issuance of licenses pursuant to s. 134.60, Stats.
21. Scientific Collectors Permits Issuance of permits pursuant to s. 29.17, Stats.
22. Commercial Fishing License Issuance of licenses pursuant to ss. 29.30 to 29.37, Stats.
23. Special Deer Dealer License Issuance of licenses pursuant to s. 29.578, Stats.
24. Deer Hunting Party Permits Issuance of permits pursuant to s. 29.107, Stats.
25. Dog Trial and Training Permits Issuance of permits pursuant to s. 29.255, Stats.
26. Wholesale Fish Dealers License Issuance of licenses pursuant to s. 29.135, Stats.
27. Rough Fish Transport Permits Issuance of permits pursuant to s. 29.47, Stats.
28. Sport Fishing Licenses Issuance of licenses pursuant to ss. 29.14 to 29.147, Stats.
29. Fur Dealers License Issuance of licenses pursuant to s. 29.134, Stats.
30. Guide Licenses Issuance of licenses pursuant to ss. 29.165 and 29.166, Stats.
31. Hunting Licenses Issuance of licenses pursuant to ss. 29.04 to 29.12, Stats.
32. Private Game and Fur Farm and Shooting Preserve Licenses Issuance of licenses pursuant to ss. 29.572 to 29.578, Stats.
33. Operator Certification: waterworks sewage treatment plants and industrial wastewater treatment facilities Issuance of certifications to operators of waterworks and sewage treatment plants.

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| 34. Snowmobile
Registration | Registration pursuant to s. 350.12, Stats. |
| 35. Taxidermist
Licenses | Issuance of licenses pursuant to s. 29.136,
Stats. |
| 36. Trapping Licenses | Issuance of licenses pursuant to s. 29.13,
Stats. |
| 37. Well Drillers
Permits | Issuance of permits pursuant to s. 162.04,
Stats. |
| 38. Wildlife Exhibit
Licenses | Issuance of licenses pursuant to s. 29.585,
Stats. |
| 39. Concession
Agreements | Operation of concessions within state
parks pursuant to s. 27.01, Stats. |
| 40. WPDES Permits | Issuance of water discharge permits or
modifications pursuant to ss. 147.02 and
147.03, Stats., for existing discharges. |
| 41. Water Supply
Systems Plan
Approvals | Plan approvals pursuant to s. 144.04,
Stats., for public water main extensions
and waterworks. |
| 42. Private Fish Man-
agement Permits | Issuance of permits pursuant to s. 29.513,
Stats. |
| 43. Private Fish
Hatchery Permits | Issuance of permits pursuant to s. 29.52,
Stats. |
| 44. Water Quality
Certification | Certification under s. 401 (a), PL 92-500.
Exceptional cases will require further
analysis. |
| 45. Wild Rice &
Other Aquatic
Plant Licenses | Issuance of licenses pursuant to ss. 29.544
and 29.545, Stats. |
| 46. Permits to Take
Rough Fish | Issuance of permits pursuant to s. 29.625,
Stats. |
| 47. Serving Game to
Guests | Issuance of permits pursuant to ss.
29.578 and 29.49, Stats. |
| 48. Administrative
Procedural
Regulations | Actions under ss. 227.014 (2) (b) and
227.09 (1), Stats. |
| 49. Aquatic Nuisance
Control | Operations at state fish hatcheries and
permits pursuant to s. 144.025, Stats. |
| 50. Solid Waste
Disposal | Annual license renewals for existing fa-
cilities and one-time disposal approvals
issued pursuant to s. 144.44, Stats. |
| 51. Mining
Exploration
License | Issuance of licenses to individual
explorer. |

52. Channel Changes Issuance of permits to change the course of a navigable stream pursuant to s. 30.195, Stats., except where related to mineral extraction.

(e) *Policy Recommendations*

1. Board Policies Policies proposed by the natural resources board affecting personnel, administrative operating procedures, etc.

(f) *Facility and Maintenance Operations*

1. Refuges and Closed Areas Established by department for fish management, wildlife management or human safety.
2. Education Programs Conducted by department personnel in schools, with clubs, civic groups, etc.
3. Sturgeon Spearing Licenses Issuance of licenses pursuant to s. 29.148, Stats.
4. Net and Set Line Licenses for Inland Waters Issuance of licenses pursuant to ss. 29.30 and 29.37, Stats.
5. Net and Set Hook Licenses for Outlying Waters Issuance of licenses pursuant to s. 29.33, Stats.
6. Net Licenses for Mississippi and St. Croix Rivers Issuance of licenses pursuant to s. 29.34, Stats.
7. Slot and Trammel Net Licenses for the Mississippi River Issuance of licenses pursuant to s. 29.343, Stats.
8. Set or Bank Pole Licenses Issuance of licenses pursuant to s. 29.36, Stats.
9. Permits to Take, Export, Transport, Possess or Propagate Endangered Species Issuance of licenses pursuant to s. 29.415 (6), Stats.
10. Permits to Introduce Fish and Game Issuance of permits pursuant to s. 29.535, Stats.
11. Certification of Municipal Fish Hatcheries Certification pursuant to s. 29.536, Stats.

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| 12. | Extension Services | Services performed by department personnel (i.e., technical advice in forestry, wildlife, land and water management, etc.). |
| 13. | Farming Operations | Activities on department lands, including sharecropping. |
| 14. | Fire Control Operations | Operations including training, educational programs and fire suppression. |
| 15. | Fish Hatchery Operations | Procedures include spawning, hatching, disease control and rearing of both warmwater and coldwater fish species at department hatcheries and rearing ponds. |
| 16. | Road and Parking Lot Resurfacing | Projects on department lands which do not entail a major change or extension. |
| 17. | Forest Nursery Operations | Procedures including seed procurement, lifting and disbursing plants, and disease control. |
| 18. | State Game Farm Operations | Procedures including hatching and rearing wildlife species. |
| 19. | Operations of the MacKenzie Environmental Center | All educational and maintenance activities. |
| 20. | Mechanical Removal of Rough and Deleterious Fish | Activities by department personnel in public waters of the state. |
| 21. | Park Operations | Activities and programs routinely conducted at department parks such as nature programs, campground operations, day use, and entertainment programs. |
| 22. | Routine Game and Fish Stocking | Includes pheasant stocking programs, other special game management, excluding new exotics, and warmwater and coldwater fish stocking, excluding new exotics. |
| 23. | Repair and Maintenance | Maintenance of existing department facilities to prevent or reduce deterioration or damage. |

(g) *Other*

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| 1. | Inventories | Includes all surveys conducted by department personnel in the field for game management, fish management, forestry, fire control, environmental protection. |
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2. **Research Projects** Projects conducted by the department which do not involve substantial land, air or water manipulation and research conducted in an office, library, computer facility and in the laboratory when there is no potential for significant environmental effect outside the laboratory as a result of the conduct of the research.
3. **Gifts and Bequests** Money, land, equipment, services, etc., given to the department to promote activities to benefit natural resource programs.
4. **Habitat Management** Actions designed to improve fish and wildlife habitat including:
 - a. Pothole development
 - b. Level ditching in wetlands
 - c. Forest game habitat activities involving less than 60 acres
 - d. "Trail" construction (game management)
 - e. Prescribed burning involving less than 160 acres
 - f. Clearing of land involving less than 60 acres
 - g. Water level control
 - h. Stream habitat improvement
5. **Silvicultural** Activities include tree planting, plantation thinning and aesthetic cutting, timber stand improvement, harvest (logging) and type conversion involving less than 120 acres per year on department lands.

(4) The following regulatory actions are not major actions significantly affecting the quality of the human environment and are exempt from the provisions of s. 1.11, Stats.:

(a) Issuance of special water pollution abatement orders pursuant to s. 144.025 (2) (d) 1., Stats.

(b) Issuance of temporary emergency orders pursuant to s. 144.025 (2) (d) 2; Stats.

(c) Issuance of orders to obtain compliance with the restrictions on high capacity wells, pursuant to s. 144.025 (2) (e), Stats.

(d) Issuance of orders to enforce agreements to control pollution of interstate waters pursuant to s. 144.025 (2) (j), Stats.

(e) Issuance of orders to abate or department abatement of nuisances under ss. 146.13 and 146.14, Stats., pursuant to s. 144.025 (2) (k), Stats.

(f) Issuance of orders to obtain specific operating results from or to require modifications to, extensions of or replacements of systems or plants which tend to create a nuisance or menace to health or comfort, pursuant to s. 144.025 (2) (r), Stats.

(g) Prohibition of the installation or use of septic tanks in areas where they would impair water quality, pursuant to s. 144.025 (2) (q), Stats.

(h) Department performance of actions ordered under ss. 144.025 (2) (d) and (r), Stats., in cases of noncompliance and collection of the costs from the noncomplying owner, pursuant to s. 144.025 (2) (s), Stats.

(i) Issuance of orders to discontinue the manner or site of refuse disposal in areas subject to flooding, pursuant to s. 144.045, Stats.

(j) Issuance of orders pursuant to s. 144.05, Stats., to owners of treatment plants to file plans for construction necessary to comply with the limitations imposed upon discharges of effluent by cities exceeding 240,000 inhabitants into specified lakes.

(k) Issuance of orders to connect a sewerage system to that of an adjoining town, village or city, pursuant to s. 144.07, Stats.

(l) Issuance of orders pursuant to s. 144.31 (2) (b), Stats., to effectuate the purposes of ss. 144.30 to 144.46 and 144.54, Stats., pertaining to air quality and solid waste management.

(m) Issuance of orders pursuant to ss. 144.35 (1) and 144.44 (8), Stats., to correct violations of ss. 144.30 to 144.46 and 144.54 pertaining to air quality and solid waste management.

(n) Issuance of orders to reduce or discontinue air contaminant emissions in the event of an emergency, pursuant to s. 144.40, Stats.

(o) Requiring corrective measures upon determination that a local air pollution control program is inadequate, pursuant to s. 144.41 (4), Stats.

(p) Issuance of orders pursuant to s. 144.83 (4) (c), Stats., directing particular prospectors or operators to comply with ss. 144.80 to 144.94, Stats.

(q) Issuance of orders to mine operators to comply with mining and reclamation plans, pursuant to s. 144.91 (1), Stats.

(r) Performance of actions ordered under s. 144.91 (1), Stats., in the event of noncompliance, pursuant to s. 144.91 (2), Stats.

(s) Issuance of orders to abate or remove a nuisance, and upon noncompliance to abate or remove the nuisance, pursuant to s. 146.14 (1), Stats.

(t) Issuance of orders, pursuant to s. 162.03 (1) (c), Stats., to modify or discontinue the use of any well if found to be contaminated.

(u) Adoption of a shoreland zoning ordinance, pursuant to s. 59.971, Stats., for counties that fail to adopt an adequate ordinance.

(v) Adoption of a flood plain zoning ordinance, pursuant to s. 87.30, Stats., for counties that fail to adopt an adequate ordinance.

(w) Issuance of orders, pursuant to s. 60.315, Stats., establishing a town sanitary district when a town fails to do so and private sewage disposal systems and/or private water supply systems are located as to tend to cause a menace to health or comfort or pollution of surface waters.

(x) Issuance of orders, pursuant to s. 30.03 (4), Stats., DNR authority to issue orders directing performance or discontinuance of acts necessary to protect the public interest in navigable waters.

(y) All enforcement procedures and actions by department conservation wardens, special wardens, etc.

(z) Issuance of orders pursuant to s. 144.537, Stats.

(5) Unless the department determines otherwise, significant amendments to previously issued permits or approvals under Type II regulatory actions will require an EASW.

(6) All actions not listed under sections NR 150.03 (1), (2), (3) or (4) shall be evaluated on a case-by-case basis for determination of type.

(7) A copy of the action type list will be maintained for public review at the department's district offices and at the central office in Madison.

(8) The action type list will be periodically updated to reflect a change in department programs or a change in the categorization of actions between Types I, II, and III.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.04 Determination of need for an EIR or EIS. (1) Upon the filing of an application with the department for permission to proceed with an action, the department shall determine the need for preparing an EIS. During the early planning stages the department shall also determine the need for preparing an EIS on its sponsored actions. The action type list will be used to determine the category of the proposed action.

(2) If the department determines that an EIR is needed to assist in making an environmental analysis of a proposed Type II action, the person seeking permission shall be notified of this determination by letter from the department within 30 days after the department has received the request for permission. The person seeking permission shall provide such a report within an agreed time after consultation with the department.

(3) Prior to making formal application, any person considering a project that will require department permission may provide the department with a preliminary description of the proposed project. The preliminary project description shall include: the concept of development, a description of major facilities and anticipated pollution discharges, the specific location or locations being considered for the project, and a request that the department make a preliminary determination on the need for an environmental impact report. Upon receipt of such a request, the department shall based on the information provided, within 30 days provide the person with a list of department authority, permits and approvals that would be required, other available information that may affect the feasibility of the proposed project, and a preliminary determination on the need for an EIR. This determination will not become

final until specific applications are submitted to the department in accordance with sub. (2) of this section.

(4) The department may require an EIR if the area affected exceeds 40 acres, or the cost of the proposed action exceeds \$25,000. In determining the need for the EIR, the department will consider:

- (a) The scope and complexity of the proposed action;
- (b) The information available to the department;
- (c) The concerns of persons affected by the proposed action;
- (d) The effect of the proposal on the public interest.

(5) The department may hold a public hearing on the applicant's EIR to gather additional information for determining the significance of the proposed action and its potential environmental impacts.

(6) In determining whether a Type II action is "major" and whether or not said action will "significantly" affect the quality of the human environment, the department shall base its decision on an environmental assessment screening worksheet (EASW) which shall contain the following information:

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

(b) A brief description of the environmental factors most directly affected by the proposed action.

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

(d) A description of reasonable alternatives to the proposed action and a brief evaluation of the significant environmental effects that are different than the anticipated impacts of the proposed action.

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

(f) An evaluation section which contains specific factors that must be discussed.

(7) (a) The EASW shall be prepared by the department and shall include a preliminary recommendation on the need for an EIS. Except for assessments for proposed administrative codes and assessments prepared on projects where statutory review deadlines preclude, the department shall develop a news release for each EASW to include the following information:

1. The name of the project and project sponsor
2. A brief description of the project including location
3. The department's preliminary determination on the need for an EIS
4. A contact within the department where copies of the assessment worksheet can be obtained and to respond to questions

5. A date by which the department will receive and consider comments before finalizing its decision on the need for an EIS.

(b) The department shall mail the news release to appropriate news media in the vicinity of the proposed action.

(c) Following the deadline for receipt of public comment on the assessment worksheet, the appropriate district, bureau director or designee shall review the assessment, consider all public comments, make modifications as required and approve the assessment. A public hearing may be held to receive further public input and aid in the review of and decision on the assessment. The director, bureau of environmental impact or designee shall review and sign the document for compliance with s. 1.11, Stats.

(d) The department's determination on the need for an EIS becomes final upon signing by the director, bureau of environmental impact or designee.

(8) The director, bureau of environmental impact shall establish and periodically update a mailing list to include all individuals, organizations and agencies that have requested notification of all assessment worksheets. On a regular basis the department shall mail a list of environmental assessments to those on the assessment notification mailing list.

(9) If a finding is made in the EASW that no EIS is required for a proposed Type II action, the environmental review is complete and the original EASW shall then be filed in the Madison, Wisconsin, office of the department as a statement of nonsignificant impact. A copy of the EASW shall also be filed in the appropriate area, district or bureau office. The worksheet is a public record which is available for review upon request.

(10) If a finding is made in the EASW that an EIS is required for a proposed Type II action, the department shall prepare a PER and an EIS.

(11) In those cases where a person is seeking permission to proceed with an action, the department shall make its determination on the need for an EIS within 45 days after the department has received all information necessary for that determination. If the department determines that an EIS will be prepared, the person seeking permission shall be informed of this determination by letter from the department. The letter shall include estimated time schedules and other pertinent information relating to the EIS process.

(12) When the department determines that a proposed Type II action will require an EIS and that the proposed action will involve one or more state agencies, the lead agency will be determined through inter-agency consultation. A memorandum of understanding may be developed with those state agencies which have a major responsibility in or are significantly affected by the proposed action. The memorandum of understanding will define the responsibility of each agency in the development of a single EIS on the proposed action and will outline the procedures to be used in the regulatory process.

(13) An application or request for permission shall not be considered complete until s. 1.11, Stats., has been fully complied with.

(14) Determinations of the department except pursuant to section NR 150.04 (3), regarding the need for an EIS, EIR or on the adequacy of or compliance with WEPA, shall be final and reviewable orders of the department.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.05 Contents and departmental acceptance of an EIR. (1) When the department requests an EIR from a person seeking permission for a proposed action, it shall notify the person in writing and provide instructions on format, required content, level of detail and number of copies to be submitted.

(2) Upon submission of the EIR by the person seeking permission, the department shall review the report to determine if it complies with the request in the letter of instruction. The department shall make this determination and shall notify the person seeking permission in writing within 60 days after receipt of the report. If the department finds that the EIR does not contain reasonable information to form a definitive picture of the proposed action and its environmental effects, additional information will be requested from the person seeking permission.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.06 Contents of the PER. (1) When a preliminary environmental report (PER) is required, it shall be drafted by the department or drafted under contract for the department to clearly describe the proposed action and the alternatives being considered in sufficient detail to allow other agencies and the public to assess the environmental effects of the proposed action and to comment on it. Such document shall include but not be limited to the following:

- (a) Description of the proposed action.
- (b) Probable adverse and beneficial impact of the proposed action on the environment, including economic impacts.
- (c) Probable adverse environmental effects which cannot be avoided.
- (d) Relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity.
- (e) Significant irreversible and irretrievable commitments of resources.
- (f) Alternatives to the proposed action.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.07 Contents of the EIS. (1) When an environmental impact statement (EIS) is required, it 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 EIS shall be based in part upon comments received on the PER or EIR and on information received from other sources. It shall substantially follow the guidelines issued by executive order and be designed to provide analysis of the environmental and economic implications of a proposed action contemplated by the department. The EIS shall include:

- (a) A description of the proposed action and of the environment affected, including the project location, type of facility, anticipated costs

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and benefits, time schedules, maps and diagrams deemed relevant, and other pertinent information which will adequately allow an assessment of the potential environmental impact by commenting agencies and the public.

(b) The probable impact of the proposed action on the physical, social, cultural and economic environment. An evaluation will be made of the positive and negative effects of the proposed action as it relates to the local environment. Secondary as well as primary consequences to the environment will be included wherever possible. This section shall also include an evaluation of the archeological, architectural and historical significance of the site and structures therein. An analysis shall also be made of the energy impacts of the proposed action.

(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 costs and benefits 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 will be identified.

(e) The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. The EIS will 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) An assessment of economic impact, including a consideration of the economic advantages and disadvantages, where these may be expected to occur. This consideration shall address benefits as well as costs to the public and private sectors. Depending on the type of action being considered, the economic impact analysis may vary from a few sentences to an extensive report.

(2) The EIS shall be an analysis document that enables environmental and economic 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.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.08 Distribution and review of the PER and EIS. (1) Distribution and review of the PER.

(a) Copies of the PER shall be distributed as follows:

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1. The governor's office.
2. State, federal, and local governmental agencies having special expertise, interest or jurisdiction.
3. Regional and county planning agencies located within the proposed project or action area.
4. Offices of the department located in the vicinity of the proposed project or action area and the department's central office in Madison.
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 a geographic distribution which provides public access without undue travel.
 - c. Projects having statewide significance: public libraries providing reasonable access by the individuals that would be potentially affected by the proposed action.
6. The applicant (for activities requiring permission).
 - (b) Copies of the PER shall also be provided to any individual or group requesting a copy. A nominal charge may be assessed to cover reproduction and handling costs.
 - (c) Notice of availability of the PER. 1. An announcement sheet giving a brief description of the proposed action, description of the administrative procedures to be followed, the date by which comments on the PER are to be submitted to the department, and location where copies of the PER are available for review will be circulated as follows:
 - a. 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(s) normally used for public notice.
 - b. Local and regional news media in the area affected.
 - c. Groups, clubs, committees, or individuals which have demonstrated an interest and have requested receipt of this type of information.
 - (d) Period of time for comment on the PER. 1. A minimum of 45 days from the date the PER is mailed shall be allowed for the receipt of comments from state, federal and local agencies and the public. Depending upon the length and complexity of the PER, the department may extend the 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 PER.
2. If the department determines that a review period of less than 45 days will suffice for the PER, the department may limit the review period to no less than 20 days in accordance with executive order guidelines. The PER, announcement sheet, public notices and news releases shall call attention to the reduced review period and shall state the date by which comments on the PER must be submitted to the department if they are to be considered in developing the EIS.

(e) If other statutory time limits for department action conflict with the comment and review procedure set out in this subsection, the procedure may be adjusted so long as agency and public input is assured.

(2) Distribution and review of the EIS. (a) The EIS shall be distributed in the same manner as the PER.

(b) A nominal charge may be assessed to individuals or groups requesting the EIS to cover reproduction and handling costs.

(c) The availability of the EIS will be announced through a notice of public hearing or through an announcement sheet similar to the announcement of the availability of the PER.

(d) Period of time for comment on the EIS. 1. A period of not less than 30 days and not more than 90 days from the date the EIS is mailed, depending on the length and complexity of the EIS, shall be allowed for receipt of comments from state and federal agencies and the public.

2. If other statutory time limits for department action conflict with the comment and review procedure set out in this subsection, the procedure may be adjusted so long as agency and public input is assured.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.09 Public hearing on the EIS. (1) **INFORMATIONAL MEETING ON PER.** Whenever a proposed action requires an EIS, the department shall hold an informational meeting on the PER in not less than 30 days from the date of its issuance. The location and notice of the meeting shall be as provided in subs. (2) (b) and (2) (c) respectively.

(2) **EIS INFORMATIONAL HEARINGS.** (a) The department shall hold a public informational hearing, in accordance with s. 227.022, Stats., on the action or proposal and the EIS prior to making its decision. The hearing shall be held not less than 30 days after issuance of the EIS. The EIS shall be entered into the record of the hearing. Comments may be received and testimony taken on the action or proposal and the EIS. The schedule for submission of written comments shall be set before the close of the hearing by the department.

(b) The hearing shall be held in the locality affected, unless otherwise provided by statute. On actions of statewide significance, the hearing may be held in Madison.

(c) The hearing shall be noticed as follows: 1. At least 30 days prior to the hearing, notice shall be mailed to all known departments and agencies required to grant any permit, license or 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.

2. Publish a class I notice as defined in ch. 985, Stats., in a newspaper circulated in the area affected, or in the official state paper for actions of statewide significance at least 25 days prior to the hearing.

3. Notwithstanding subs. 1. and 2., notice of hearing on an EIS concerning administrative rules shall be given in the same manner as notice is given for rules hearings.

(3) **RECORD OF EIS INFORMATIONAL HEARING.** After the hearing in sub. (2), the department shall carefully review the hearing record and summarize the comments received on the EIS and the proposed action, before making a decision under sub. (4) or (5).

(4) **DECISION ON ACTION OR PROPOSAL ON WHICH A CONTESTED CASE HEARING IS NOT REQUIRED.** (a) Any person may petition for an opportunity to cross examine the person who is responsible for a specific portion of an EIS or present witnesses or evidence. The petition shall include a statement of position on the action or proposal and specific statements and issues that are desired to be cross examined or presented. Petitions for opportunity to cross examine shall be filed with the department within 20 days after the notice of the EIS hearing is published in sub. (2) (c) 2. The notice in sub. (2) (c) 2, published in conformance with sub. (2) (c) 1. shall include a statement that the failure to file the petition provided for in this subsection shall preclude the opportunity to cross examine.

(b) If the department finds that the action or proposal may affect substantial interests of the petitioner, an order shall be issued stating what persons will be made available for cross examination. Denials of petitions shall be in writing. Failure to issue an order within 10 days of the filing of the petition shall constitute a denial.

(c) The opportunity to cross examine shall be given after the informational portion of the hearing is completed.

(d) After the close of the informational hearing described in sub. (2), the department shall enter a final written decision on the proposed action or proposal stating findings of fact, including findings as to environmental impact. The burden of establishing compliance with s. 1.11, Stats., is upon the agency.

(5) When the final decision on an action or proposal is to be made after a contested case hearing as defined in s. 227.01 (2), Stats., and the decision is a major state action under s. 1.11, Stats., the following procedures shall be followed:

(a) Persons wishing to become a party to the contested case proceeding shall serve a notice of appearance on the department within 30 days of the date of the notice of hearing. The notice of the contested case hearing shall include a statement that the failure to file the notice of appearance shall preclude objecting to the admissibility of the EIS at the hearing.

(b) A prehearing conference may be scheduled pursuant to s. 227.09 (1) (f), Stats., to file motions concerning or objecting to the admissibility of portions of the environmental impact statement (EIS). Motions shall be limited to those portions of the EIS concerning issues that will be decided in the contested case hearing. Motions shall be served on the parties to the proceedings 10 days before the prehearing conference, unless the examiner orders otherwise.

(c) 1. The portions of the EIS not objected to by motion in par. (b) shall be admitted into evidence at the contested case hearing.

2. The portions of the EIS subject to motion under par. (b) may be admitted as evidence at the hearing after parties have an opportunity to cross examine witnesses and offer countervailing or rebutting evidence or a stipulation of the parties.

3. The examiner shall deny any motion at the prehearing conference that is ambiguous, overbroad or is not supported by sufficient allegations and information to make that portion of the EIS inadmissible under s. 908.03, Stats.

(6) This section is applicable to the extent it does not conflict with the procedures and rules of another agency if that agency is the lead agency on the EIS.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; r. and recr. Register, June, 1979, No. 282, eff. 7-1-79.

NR150.10 Proposed actions involving NEPA. (1) Where a proposed action involves a federal agency approval or decision and it has been determined that an EIS must be prepared in accordance with NEPA, the WEPA requirement for a state EIS shall not be waived unless:

(a) After review of the NEPA EIS by the department, it appears that the requirements as to content of the EIS prescribed in s. 1.11, Stats., and this chapter have been met; and;

(b) The NEPA EIS was developed and prepared with substantial participation of the department with the federal agency in a coordinated effort to fully satisfy both the requirements of NEPA and WEPA.

(2) If the NEPA EIS appears to comply with the requirements of WEPA and this chapter, a public hearing shall be held in accordance with this chapter unless a public hearing is held in Wisconsin by the lead federal agency.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.11 Environmental impact statement charges. (1) In accordance with s. 23.40, Stats., the department will charge a fee for the preparation of an EIS on actions requiring permission from the department. This section shall not apply, however, to applications of municipalities, as defined under s. 345.04 (1) (a), Stats., or to related environmental impact statements.

(a) Any person as defined in NR 150.02 (17), with the exception of municipalities, state agencies, departments, boards and commissions included in ch. 15, Stats., and the federal government, who files an application for a permit, license or approval granted or issued by the department, shall include with the application an estimate of the cost of the project or proposed action when deemed necessary by the department.

(b) In determining the estimated cost, the applicant shall include both structural and nonstructural costs such as, but not limited to:

1. Land and land rights
2. Structures, appurtenances and improvements
3. Project facilities and equipment
4. Site preparation

5. Labor costs

6. Technical costs (i.e., architectural and engineering design and biological data collection)

7. Financial costs (i.e., escalation costs and interest charges)

8. Other costs necessary to complete the project

(c) In determining the estimated cost, costs shall be projected to the anticipated date of operation of the proposed project. If estimated project costs are required by the public service commission in conjunction with a proposed project or action, the format required by the commission may be used for supplying costs to the department.

(d) The department may seek such further information as it deems necessary to determine whether it must prepare an EIS under s. 1.11, Stats.

(e) If the department determines that an EIS shall be required for the proposed project or action in accordance with NR 150.04, it shall send a letter to the applicant stating its intent to prepare an EIS and requesting a certified statement of the estimated cost of the proposed project or action. The following format will be used by the applicant to certify the estimated cost:

Department of Natural Resources
Bureau of Environmental Impact
Box 7921
Madison, Wisconsin 53707

Date _____

Gentlemen:

I hereby certify that the estimated cost of the (*name of proposed project or action*) is \$ _____ and that the itemized list of these costs which is attached to and made a part of this certification is based on current records of the (*name of applicant/company*) which are available for Department of Natural Resources inspection if required.

(*signature of responsible official*)
(*name and address of applicant/company*)

(f) Upon receipt of the certified statement, the department shall notify the applicant by certified mail the estimated full cost of the preparation of the EIS. The estimated fee costs are as follows:

1. For a proposed action or project whose estimated cost is five million dollars or less, the estimated fee shall be \$10,000.00.

2. For a proposed action or project whose estimated cost is more than five million dollars but less than 20 million dollars, the estimated fee shall be \$10,000.00 or .25% of the estimated cost, whichever is greater.

3. For a proposed action or project whose estimated cost is more than twenty million dollars but less than one hundred million dollars, the estimated fee shall be \$50,000.00 or .15% of the estimated project cost, whichever is greater.

4. For a proposed action or project whose estimated cost is more than one hundred million dollars, the estimated fee shall be \$150,000.00 or .10 percent of the estimated cost, whichever is greater.

(g) The department shall charge a fee based on the full cost of the preparation of the EIS incurred subsequent to the decision that an EIS is necessary. The full cost shall include the following:

1. Actual salary costs, including benefits, for time spent by department staff for: coordination, problem identification and data collection leading to the submittal of an EIR by the applicant, if required; review of the applicant's EIR, if required; data collection and analysis leading to and including the preparation of the PER and EIS; and the public hearing on the EIS.

2. Administrative overhead and support costs to be calculated at the current approved department rate based on total salary costs.

3. The full cost of any consultant retained by the department to collect or analyze data, to prepare the PER, or to prepare draft portions of the EIS for department use in developing the EIS.

(h) The department shall not include in the EIS fee costs associated with the following:

1. Non-EIS related consultation and review of permit application or plans for department approval, and associated public hearings.

2. EIS related department activities reimbursed by the applicant by the payment of permit or plan review fees, if any, under another statute.

3. Department staff time spent on EIS related activities that are reimbursed by the federal government.

(i) The department shall establish accounting procedures that will allow actual costs for development of an EIS on a project to be accurately determined.

(j) Following the department's determination that an EIS is required, the department may bill the applicant as often as every 3 months for actual department costs incurred up to that time. The applicant shall remit to the department the full amount of any EIS fee invoice within 60 days of the date of the invoice. The department shall cease work on the EIS if the full amount of any EIS fee invoice is not paid within 60 days of the date of the invoice. The department shall determine the full amount of the EIS fee and notify the applicant within 30 days following the close of the EIS hearing and bill the applicant for any unpaid portion of the EIS fee. The applicant shall pay the entire fee prior to the department's determination on the adequacy of its EIS and compliance with WEPA.

(k) If the final EIS fee determined by the department exceeds the estimated EIS fee by more than 25%, the department shall provide the applicant with a written explanation of the additional costs. The department shall, if requested, permit the applicant to examine the department's records and accounting procedure regarding the applicant's project.

(l) If the applicant withdraws the application (s) for a proposed project or action for any reason once the process of proposing an EIS has been initiated, the department shall determine actual cost incurred to the date of the withdrawal and the applicant shall be responsible for these costs.

(m) Payment of fees for the preparation of an EIS pursuant to s. 23.40, Stats., shall not be construed to imply department consent or approval of the proposed project or action; to commit the department in any way to grant or deny any permit, license, approval or authority; to limit in any way subsequent essential and approved modifications, future ordered changes and statutory obligations of the department to enforce criteria or standards of environmental quality; or to restrict the department in any way from acting or not acting upon the recommendations or certifications of any other federal, state, county or municipal government or agency or otherwise.

(n) If the EIS is found to be legally or technically inadequate as a result of the public hearing process or by a court of law, the department may seek additional information from the applicant. Under these circumstances the applicant will not be charged an additional fee for preparing an addendum to the EIS.

(2) The fees collected under this section shall be deposited in the general fund.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 150.12 Severability. Should any section, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.