

## Chapter NR 150

### WISCONSIN ENVIRONMENTAL POLICY ACT PROCEDURES FOR DEPARTMENT ACTIONS

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**NR 150.01 Purpose.** The purpose of this chapter is to:

(1) Establish a policy to assure governmental consideration of the short- and long-term environmental and economic effects of policies, plans and programs upon the quality of the human environment.

(2) Provide principles, objectives, definitions and criteria to be used by the department in the implementation of ss. 1.11, 1.12, 23.11 (5), and 23.40, 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, investigation and consideration of energy conservation in major decisions which would significantly affect energy usage; and the preparation and review of environmental impact statements (EIS's).

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

(4) 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 early review of an applicant's proposal to determine the need for an environmental impact report (EIR) and EIS.

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

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1981, No. 302, eff. 3-1-81; am. (2), Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.015 Applicability.** This chapter shall apply to all department actions which may affect the quality of the human environment.

**History:** Cr. Register, February, 1981, No. 302, eff. 3-1-81.

**NR 150.02 Definitions.** (1) "Action" means any activity, pursuit or procedure requiring permission from the department, or any activity, pur-

suit or procedure initiated by the department, including proposals for legislation, which may affect the quality of the human environment.

(2) "Adequate FEIS" means a final environmental impact statement that is prepared by the department or in accordance with s. NR 150.10 following preparation of a DEIS and public review that complies with the content requirements of s. NR 150.07 for an FEIS, which discloses reasonably foreseeable environmental impacts to the public and which, together with the FIES hearing record, fully explores the reasonably foreseeable environmental consequences of the proposed action and its alternatives to a sufficient degree to permit a reasoned choice among the alternatives.

(3) "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.

(4) "Appropriate participation" means effective participation by the department with another state or federal agency in preparation of a NEPA or WEPA EIS or EA including one or more of the following, but not limited to, preparation of portions of the EIS or EA within the department's jurisdiction or expertise, appropriate review and comment on the other agency's document or procedures, development of standards of document adequacy, determining content of the EIS or EA, involvement in public participation activities and hearings, policy development and decision-making.

(5) "Compliance with s. 1.12, Stats., alleviation of energy shortages" means the satisfactory completion of an EA or EIS in which the department evaluates the impact on energy resources of a proposed department decision which would significantly affect energy usage, and department consideration of those energy impacts in making its final decision.

(6) "Compliance with WEPA" means the satisfactory completion of all required procedural and substantive steps outlined in this chapter from initial categorization of a proposed action with regard to the need to prepare an EIS through development of any required environmental analysis and appropriate use of that analysis by the decision-maker.

(7) "Cooperating agency" means any state or federal agency, other than the lead agency, which has jurisdiction by law over the proposed action or which has special expertise with respect to any relevant environmental issues.

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

(9) "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.

(10) "EIS" means environmental impact statement. It is a written report prepared pursuant to s. 1.11, Stats., which contains an analysis of anticipated impacts of a proposed action upon the human environment. The draft environmental impact statement (DEIS) is a preliminary version of the final environmental impact statement (FEIS).

(11) "EA" means environmental assessment. It is a documented brief but comprehensive analysis of a proposed Type II action to determine its

environmental impact; study, develop, and describe alternatives; and determine whether the proposed action constitutes a major state action significantly affecting the quality of the human environment.

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

(13) "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.

(14) "Hearing" or "public hearing" means a proceeding conducted by the department in accordance with s. 1.11 and in a manner consistent with s. 227.022, Stats., unless otherwise provided in this chapter.

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

(16) "Informational meeting" means an optional, informal proceeding conducted by the department on a DEIS, an EIR submitted by a person seeking permission, or a department EA to receive public comments on the document and the proposal.

(17) "Joint environmental assessment" means an environmental assessment developed by the department or another state or federal agency in which the department had input sufficient to identify major impacts and alternatives and ensure that the assessment is in compliance with the substantive and procedural requirements of this chapter. The department must make an independent judgment on the need for an EIS.

(18) "Joint environmental impact statement" means an EIS developed by the department and another state or federal agency where the department has commensurate responsibility with the other agency for evaluating environmental impacts and has sufficient control over the EIS process and content of the document to ensure that the provisions of this chapter are met. Either the department or other state or federal agency may be designated the lead agency.

(19) "Lead agency" means the state or federal agency with primary concern or responsibility for a given action as determined through inter-agency consultation or written agreement.

(20) "Letter of instruction" means written guidance provided to a person who has been required to submit an EIR, concerning the scope, content and organization of the EIR.

(21) "Major action" means an action of magnitude and complexity which will cause significant effects upon the quality of the human environment.

(22) "Major decision which would significantly affect energy usage" means a decision of the department which would result in an increase in the use of energy to the extent that availability of local energy supplies to other users could be expected to be measurably affected.

(23) "Mitigating measure" means an activity proposed or undertaken by federal or other state agencies, the department or project sponsor to reduce the severity or extent of adverse environmental impacts that would result from a proposed activity. The conveyance of land, or other assets, to local units of government, the state of Wisconsin or the federal government to offset the adverse impacts of a proposal is not considered a mitigating measure.

(24) "NEPA" means the national environmental policy act (42 USC 4321, et. seq.).

(25) "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.

(26) "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.

(27) "Preapplication services" means those services necessary to evaluate the environmental impact of a project or proposed activity, monitor major developments, and expedite the anticipated preparation of an EIS prior to submission of formal applications, and are part of EIS preparation for the purposes of this chapter.

(28) "Preapplication services agreement" means a written understanding between the department and a person proposing a large, complex, or environmentally sensitive action.

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

(30) "Review" means the study of and comment upon the EIR, DEIS, or FEIS by cooperating agencies.

(31) "Scoping" is an early and open process for identifying the anticipated range of issues in an EIS, the extent to which the identified issues will be addressed, and what are expected to be the significant issues.

(32) "Significant effects" means considerable and important impacts of major state actions on the quality of the human environment.

(33) "Supplemental FEIS" means an additional analysis to complement an existing FEIS when:

(a) The proposed action evaluated by the FEIS is substantially changed from the proposal or alternatives to it which were analyzed in the FEIS, or

(b) The department or a court finds the FEIS to be inadequate.

(34) "Unresolved conflicts concerning alternative uses of available resources" means a department action where an unsettled disagreement between a project sponsor and one or more persons or the department

involves the utilization of a substantial natural or physical resource. To be considered an unresolved conflict concerning alternative uses of available resources, the disagreeing parties must have identified a technically and economically feasible alternative use of the contested physical or natural resource, or both, and have the ability to reasonably implement that alternative.

(35) "Worst case analysis" means an analysis which includes known possible catastrophic environmental consequences of a department decision, the best department judgment, utilizing the available information and best available expertise, on the probability of their occurrences; a description of low probability catastrophic impact events that could reasonably be considered in the decision on the action and a spectrum of events of higher probability but less dramatic impact.

(36) "WEPA" means the Wisconsin environmental policy act (ch. 274, laws of 1971, as amended by ch. 204, laws of 1973, which includes s. 1.11, Stats.).

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am., Register, February, 1981, No. 302, eff. 3-1-81; renum. (2) to (27) to be (3), (6) to (15), (17) to (19), (21), (24) to (32), (4) and (36) and am. (3), (4), (7), (17) to (19) and (28), cr. (2), (5), (16), (20), (22), (23), (33) to (35), Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.021 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; renum. from NR 150.12, Register, February, 1981, No. 302, eff. 3-1-81.

**NR 150.025 Policy.** (1) (a) In accordance with the Wisconsin and national environmental policy acts and regulations issued by the president's council on environmental quality, it is the intention of the natural resources board to declare a policy that will encourage productive and enjoyable harmony among people and their environment; to promote efforts which will prevent or eliminate damage to the environment; and to enrich the understanding of the important ecological systems and natural resources of the state.

(b) The board recognizes the potential for impact of many state and federal actions on all components of the human environment. Therefore, the board declares that it is the continuing policy of the department of natural resources, as the primary environmental agency in state government, to develop an understanding of the environmental consequences of its actions and to use all practicable means and measures to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the requirements of present and future generations.

(2) In order to carry out the policy set forth above, the department shall:

(a) Acknowledge WEPA as an obligation shared by all units of the department to the extent that any unit contemplating regulatory, management or administrative actions subject to WEPA review under this chapter must evaluate and be aware of the environmental consequences of such actions.

(b) Recognize its role as an environmental agency in state government and that it shall set an example in meeting the spirit and intent of WEPA.

(c) Develop, where possible, agreements and understandings with other state, federal and local agencies to provide for early environmental reviews of their major actions, minimize duplication in meeting environmental impact requirements and establish a mechanism for resolution of interagency conflict.

(d) Develop appropriate environmental impact information and analysis along with a discussion of meaningful alternatives and make this available to the decision-maker in a timely manner for all actions where such an evaluation is required by this chapter; and recognize that decisions subject to WEPA requirements cannot be made until the appropriate environmental impact review process is completed.

(e) Implement the environmental impact procedure as an integrated process, not a separate sequence of activities, that must be part of the initial planning process for department projects and initiated at an early stage of the regulatory review process.

(f) Consider the findings of EIS's, EA's and comments received from the public in making decisions on proposed actions.

(g) Insure that compliance with s. 1.12, Stats., alleviation of energy shortages, is achieved in carrying out its WEPA responsibilities and that conservation of energy resources is considered as an important factor when making any major decision which would significantly affect energy usage.

(h) Recognize that where an EIS is required for a major state action, it serves as a coordinating mechanism for a comprehensive department analysis of the entire project and for informing the public and/or obtaining comments on the proposed action.

(i) Recognize that the department has an affirmative duty within its resources to comment on the EIS's of other agencies by virtue of its jurisdiction by law, special expertise or authority.

History: Register, February, 1981, No. 302, eff. 3-1-81; renun. (2) (g) and (h) to be (2) (h) and (i), cr. (2) (g), Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.03 Department action type list.** In conformance with regulations promulgated by the president's council on environmental quality, 40 CFR 1500-1503, the department has categorized its actions into the following type list which identifies actions that will require an EIS, actions that will require an EA but not necessarily an EIS, and actions that normally do not require either an EA or EIS. Where similar groups of actions are listed under different subsections (e.g., under Type II and Type III), both listings should be consulted to aid in the determination of whether an EA or EIS will be required.

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| (1) TYPE I<br>ACTIONS — | These are major department actions which would significantly affect the quality of the human environment and will require the preparation of an EIS. |
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(a) *Department Facilities Development*

1. New Properties Establishment of land acquisition projects over 1,000 acres in size and involving a basic change in existing land use (e.g., agricultural land converted to recreational use).

(b) *Regulation*

1. Power Plant Review Department regulatory actions involving new electric generating facilities with a capacity of 20 MW or more. Development of hydroelectric capabilities of existing dams is excluded.

2. Metallic Mining Department regulatory actions, including permits to mine issued pursuant to s. 144.85, Stats., relating to new mines or to expansions of existing mines, where one or more of the following conditions apply to the new mine or to the expansion:

a. The estimated weight of the ore deposit exceeds 5 million tons;

b. The land area directly committed to mining operations, including waste disposal, exceeds 160 acres; or

c. The principal ore being mined will generate radioactive waste products.

3. Metallic Ore Refining Department regulatory actions involving any new metallic ore refinery intended for commercial production.

4. Hazardous Waste Disposal Facility Department regulatory actions involving new facilities with a total area of over 80 acres committed to solid and hazardous waste disposal or a total volume of over one million cubic yards intended for solid and hazardous waste disposal.

(2) TYPE II ACTIONS —

These actions have the potential to cause significant environmental effects and may involve unresolved conflicts in the use of available resources. These actions will be evaluated by preparation of an EA unless the department has otherwise determined to do an EIS.

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(a) *Department Facilities Development*

1. New Properties Establishment of land acquisition projects less than 1,000 acres in size or over 1,000 acres in size which do not involve a basic change in existing land use.
2. Property Re-designation The re-designation or exchange of 160 acres or more of an existing department property to a different use classification which involves a basic change in existing land use.
3. Public Access Acquisition and development of sites for public access to lakes with no existing developed access and to rivers and streams where there is no existing developed access serving the same reach.
4. Facilities and Building Construction Construction of new buildings, campgrounds, roads, scenic overlooks, parking lots, dams, dikes, flowages, beaches, trails and other facilities costing \$30,000 or more on department lands or projects which would involve Type II actions under par. (b) if carried out by a private applicant. Replacement in kind of existing facilities, and remodeling or renovation activities inside existing buildings are excluded.

Note: \$30,000 is the limit above which approval of the building commission is required under s. 13.48 (10), Stats.

5. Property Boundary Adjustments Boundary adjustments to approved land acquisition projects which result in an increase or decrease of 160 acres or more.
6. Acquisition of Undelineated Parcels Acquisition by fee title of parcels located outside of established land acquisition project boundaries where the total area planned or expected to be acquired exceeds 160 acres in the same township.

(b) *Regulation*

1. Air Pollution Control Permits Permits issued under ss. 144.391 and 144.392 (8), Stats., and permit alterations under s. 144.395 (1) (e), Stats., for:
  - a. New sources or modifications or relocations of existing sources resulting in a potential for increased emissions of 100 tons or more per year, before controls, of particulate matter, sulfur dioxide, carbon monoxide, oxides of nitrogen, volatile organic compounds, lead or lead compounds;



- b. New sources or modifications or relocations of existing sources resulting in a potential for increased emissions, before controls, of any hazardous air contaminant; or
  - c. Any new or modified source requiring analysis under s. 144.393 (2) (d), Stats.
  - d. Permits or approvals for existing sources or for reconstruction or replacement of existing sources are excluded.
2. Dredging Permits and contracts involving lakes and harbors, rivers and streams under s. 30.20, Stats., when one or more of the following criteria apply:
- a. Involves the removal of 3,000 cubic yards or more of material. Restoring the original dimensions of an area legally dredged during the 10 years prior to the date of application are excluded;
  - b. A potential for hazardous wastes or PCBs in the sediments exists; or
  - c. Involves draining or filling of wetlands.
3. Enlargement or Alterations of Waterways Activities defined in s. 30.19, Stats., involving connected waterways; and unconnected waterways and grading when related to extraction of minerals or mineral aggregates or involving draining or filling of wetlands. Activities involving minor boat slips for the private use of riparian property owners are excluded.
4. Channel Changes Approvals to change the course of a navigable stream under s. 30.195, Stats., involving over 500 feet of stream length.
5. Bulkhead Line Approvals of ordinances or proposed leases for modification of existing shorelines under ss. 30.11 and 24.39, Stats.
6. Fills or Structures Below the Ordinary High Water Mark Permits issued under s. 30.12 (2), Stats., for the construction of solid piers, groins, breakwaters and jetties on the beds of navigable waters except those waters listed under s. NR 326.04 (3) (a).

7. Dams Permits to construct, raise or enlarge in navigable waters, approvals of additions or substantial alterations that may affect the level of the flowage or release of water downstream, plan approvals to construct in nonnavigable waters, or authority to abandon, where the dam holds maximum head of 6 feet or more and the pond holds 15 acre-feet or more at maximum water storage elevation under ch. 31, Stats. Transfers of ownership or permits are excluded.
8. Water Level Control Establishment of new levels or approval of drawdowns of controlled lakes and flowages under s. 31.02, Stats., where the dam holds a maximum head of 6 feet or more and the pond holds 15 acre-feet or more at maximum water storage elevation. Establishment of historic levels and approval of drawdowns to relieve conditions which are unsafe or dangerous to life, health or property are excluded.
9. Surface Water Diversion Permits to divert water from lakes and streams under ss. 30.18 (1) (a) and 107.05, Stats. Diversions for agricultural and irrigation purposes under s. 30.18 (1) (b), Stats., are excluded.
10. Obstruction of Waters Permits to enclose navigable waters under s. 30.196, Stats. Consent to the obstruction of navigable waters for the cutting of aquatic plants under s. 30.15 (2), Stats.
11. Barge Fleeting Approval of barge fleeting areas under s. 30.10, Stats., and ch. NR 327.
12. Abandonment of Ways to Water Approval of resolutions or ordinances adopted by a municipality under s. 80.41, Stats.
13. Drainage Approvals of drainage board actions affecting navigable waters under s. 88.31, Stats., where those actions under chs. 30 and 31, Stats., are designated Type II.
14. Aquatic Nuisance Control Permits under s. 144.025 (2) (i), Stats., for mosquito larvaciding involving application to over 160 acres.
15. Sewer Extension Plan Approval Department approval of extension of wastewater collection systems under s. 144.04, Stats., when one or more of the following criteria apply:

- a. Pass through a wetland area greater than 5 acres;
  - b. Tributary to a sewage system which experiences category 1 dry weather bypassing;
  - c. Involves a community with an annual growth rate of 6% or more;
  - d. Has a pipe diameter greater than 18 inches; or
  - e. Extension where the department determines that a potential exists for significant primary or secondary environmental impacts.
16. WPDES Permits Permits issued under s. 147.02, Stats., for new discharges to surface or groundwaters and substantial modifications of permits under s. 147.03, Stats., for increased levels of pollutant discharge resulting from activities to increase production capacity at existing facilities, and for relocation of an existing discharge to a new receiving water. Discharges covered by a general discharge permit, discharges from Type III dredging operations or the relocation of land spreading systems are excluded.
17. Wastewater Plan Approvals Plan approval under s. 144.04, Stats., for municipal and industrial wastewater facilities which will result in the development of a new site and which are not for the purpose of bringing an existing discharge into compliance with applicable standards.
18. Wastewater Sludge Disposal Approval of sludge storage facilities under s. 144.04, Stats., not being constructed at the wastewater treatment plant site and of high-rate land spreading of sludges, under s. 147.02 (1), Stats.
19. Municipal Wastewater Facilities Plans Approval of facilities plans under s. NR 110.08 (1), for new municipal sewage treatment plants and for other reviewable projects which will increase the capacity of an existing treatment facility.
20. Industrial Pretreatment Plan approvals under s. 144.04, Stats., for industrial wastewater pretreatment facilities which:

- a. Result in new process wastewater contribution to a publicly owned treatment works (POTW), and are expected to discharge a toxic pollutant as defined in ch. NR 215, and are expected to have an average wastewater discharge flow greater than 1% of the current average annual flow of the POTW receiving the wastewater; or
  - b. Result in a new process wastewater contribution to a POTW, and are expected to increase the current average annual flow of the POTW receiving the wastewater by 5% or 50,000 gpd, whichever is greater.
  
- 21. Metallic Mining Permits to prospect issued under s. 144.84, Stats.; permits to mine issued under s. 144.85, Stats., for existing mines or expansions of existing mines; and permits to mine issued under s. 144.85, Stats., for new mines where:
  - a. The estimated weight of the ore body is 5 million tons or less,
  - b. The land area directly committed to mining operations, including waste disposal, is 160 acres or less, and
  - c. The principal ore being mined will not generate radioactive waste products.
  
- 22. Solid and Hazardous Waste Feasibility Reports Report approvals under s. 144.44 (2) and (9), Stats., chs. NR 157, 180, 181 and 182 for:
  - a. New landfills or expansion of existing landfill with a new or additional design capacity of 50,000 cubic yards or more.
  - b. Noncontainerized storage facilities with a design capacity greater than 50,000 cubic yards or 100 tons per day (wet weight).
  - c. Any hazardous waste or PCB disposal facility except for those meeting the criteria listed under sub. (1) (b) 4.
  - d. Any metallic mining waste facility.
  - e. Any hazardous waste treatment, including incineration, or storage facility except small storage facilities under s. NR 181.435.

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23. Solid Waste Plan approvals under ch. NR 180 for  
Plan of transfer, processing or incinerator facilities with a design capacity of 100 tons per  
Operation day (wet weight) or more based on at  
least 8 hours of operation each day.

- 24. Solid Waste Land Spreading Plan Plan approvals under s. NR 180.14.
- 25. County Forest Land Withdrawal Approvals for withdrawals of lands under s. 28.11, Stats. Withdrawal of land due to errors of title or survey are excluded.
- 26. Radioactive Waste Approval of drilling for site exploration under s. 144.833, Stats.

(c) *Financial Assistance*

- 1. LAWCON Grants-in-Aid New individual land and water conservation fund (LAWCON) grants-in-aid to local units of government for initial acquisition or development of a new community-wide park or for additional acquisition or development in any existing park that would be a Type II action if carried out by the department.
- 2. State Grants-in-Aid for Local Parks and County Conservation Aids New individual grants-in-aid to local units of government under s. 23.09 (12), Stats., for enhancing fish and wildlife habitat where activities are involved that would be Type II actions if carried out by the department; or under ss. 23.09 (20) and 66.36 (1), Stats., for the initial acquisition or development of a new community-wide park or for additional acquisition or development in any existing park that would be a Type II action if carried out by the department.
- 3. Snowmobile and Motorcycle Grants-in-Aid New individual grants-in-aid to local units of government under ss. 23.09 (25) (a), (26) and 350.12 (4), for acquisition, development and maintenance of snowmobile and off-road-vehicle trails and facilities when the project involves actions that would be Type II if carried out by the department.
- 4. Wildlife Habitat Grants-in-Aid New individual grants-in-aid to counties under s. 23.09 (17m), Stats., for land management practices benefitting wildlife which would be a Type II action if carried out by the department.
- 5. Inland Lake Rehabilitation Grants-in-Aid New individual grants-in-aid to inland lake rehabilitation districts when the project involves actions otherwise listed as Type II under this chapter. Grants for feasibility studies are excluded.

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6. State Forestry Loans      Loans issued under s. 28.11 (8) (b) 2., Stats., that would result in actions otherwise listed as Type II under this chapter.
- (d) *Policy Recommendations*
1. Board Policies      Policies proposed for natural resources board approval which are a basic change in existing department practice and which, upon implementation, will have material effects on the human environment.
  2. County Forest Ten Year Plans      Approvals of plans covering management activities on county forests where the proposed activities would be Type II actions if carried out by the department.
  3. Long Range Plans      Plans or modifications of plans adopted or approved by the department outlining a specific long range course of action that would essentially pre-determine future individual department actions affecting the human environment.
  4. Master Plans      Conceptual elements of all master plans; any management plans for individual department properties that involve activities otherwise listed as Type II under this chapter.
- (e) *Other*
1. Habitat Management      Actions designed to improve fish and wildlife habitat including:
    - a. Forest wildlife habitat activities involving more than 60 contiguous acres or more than a total of 160 acres within a department property during a calendar year;
    - b. Prescribed burning involving more than 320 acres within a department property during a calendar year;
    - c. Clearing of land involving more than 60 contiguous acres or more than a total of 160 acres within a department property during a calendar year;
    - d. Spring pond dredging;
    - e. All habitat management activities involving filling or draining of wetlands;
    - f. Installation of fish barriers;

- g. Herbicide treatment activities in accordance with registered label instructions and uses for brush control or control of nuisance vegetation involving broadcast application to 160 acres or more within a department property during a calendar year; or
- h. Pesticide treatment of public waters for removal of rough or deleterious fish. Spot treatment to aggregations of selected species are excluded.
2. Silvicultural Practices      Actions on department properties including:
- a. All harvesting activities involving more than 60 contiguous acres or more than a total of 160 acres within a department property during a calendar year;
- b. Forest type conversion or prescribed burning involving a total of 320 acres or more within a department property during a calendar year; or
- c. All chemical pesticide treatment activities involving broadcast application to 160 acres or more within a department property during a calendar year.
3. Research Projects      The conduct of research including the use of pesticides not in accordance with label instructions and uses, involving substantial land, air, water or habitat manipulation; and laboratory research involving the potential for material environmental effects outside the laboratory or other actions otherwise listed as Type II under this chapter.
4. Legislation      Department proposals for new programs or major changes in existing programs, the implementation of which would have material effects on the human environment.
5. Administrative Rules      Promulgation of new rules or changes in existing rules developed for department resource management or regulatory functions when the implementation of the proposed rule will have material impacts on the human environment, and the department has substantial discretion in formulating important provisions of the rule. Editorial changes in or clarifications of existing rules and the codification of existing department practice are excluded.



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| 6.  | Environmental Restoration             | Planning and carrying out comprehensive restoration of aquatic environments.  |
| 7.  | Introduction of New or Exotic Species | Stocking or introduction of nonindigenous species, by the department or by permit under s. 29.535, Stats. Stocking of common hybrids from only endemic species are excluded.  |
| 8.  | Sale of Land                          | Recommendations to declare state-owned lands as no longer necessary for the state's use for conservation purposes under s. 24.085, Stats. Recommendations to correct errors of survey are excluded.   |
| 9.  | Department Gravel Pits                | The creation of sand, gravel or borrow pits on department properties when 50% or more of the material to be excavated is intended for sale under s. 23.20, Stats.   |
| 10. | Easements and Leases                  | Conveyance of easements, land use permits, licenses and leases on department lands for activities which would be Type II actions if carried out by the department and which are otherwise unregulated by the department. Underground utility and telephone lines, recreational trail highway crossings and minor highway realignments are excluded. |
- (3) TYPE III ACTIONS —
- These actions normally do not have the potential to cause significant environmental effects, normally do not significantly affect energy usage and normally do not involve unresolved conflicts in the use of available resources. Therefore, unless the department determines otherwise, these actions will not require an EA or an EIS.
- (a) *Department Facilities Development*
- |    |                         |  |
|----|-------------------------|--|
| 1. | Land Acquisitions       | Acquisition by fee title of selected parcels of land within established land acquisition project boundaries.   |
| 2. | Property Re-designation | The re-designation or exchange of all or a portion of an existing department property to a different use classification when less than 160 acres involves a basic change in existing land use. |

3. Public Access Acquisition and development of sites for public access to lakes with existing access and to rivers and streams where there is an existing developed access serving the same reach except those meeting the criteria of sub. (2) (a) 4.
4. Facilities and Small Buildings Construction of facilities and buildings costing less than \$30,000 on department lands; minor construction activities such as picnic tables, grills, project signs, pit toilets and fences; replacement in kind of existing facilities, leasing of facilities and buildings; and remodeling or renovation activities inside existing buildings.
5. Property Boundary Adjustments Boundary adjustments to approved land acquisition projects which result in an increase or decrease of less than 160 acres.
6. Acquisition of Undelineated Parcels Acquisition by fee title of parcels located outside of established land acquisition project boundaries where the total area planned or expected to be acquired does not exceed 160 acres in the same township.
7. Easements and Leases Acquisition of certain land rights for department projects.

(b) *Regulation*

1. Air Pollution Control Permits Permits issued under ss. 144.391, 144.392 (8) and 144.3925 (6), Stats., and permit alterations under s. 144.395 (1) (e), Stats., for:
  - a. Existing sources of air contaminants;
  - b. Reconstruction or replacement of existing sources of air contaminants; or
  - c. New sources or modifications or relocations of existing sources resulting in a potential for increased emissions of less than 100 tons per year, before controls, of particulate matter, sulfur dioxide, carbon monoxide, oxides of nitrogen, volatile organic compounds, lead or lead compounds unless an analysis is required under s. 144.393 (2) (d), Stats.
2. Dredging Permits and contracts except for those meeting one or more of the criteria listed under sub. (2) (b) 3.

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3. Enlargement or Alteration of Waterways Permits for activities involving boat slips for the private use of riparian property owners; and unconnected waterways and grading, under s. 30.19, Stats., unless related to extraction of minerals aggregates or involving filling or draining of wetlands.
4. Channel Changes Issuance of permits to change the course of a navigable stream under s. 30.195, Stats., involving 500 feet or less of stream length.
5. Pierhead Lines Approvals of pierhead line ordinances and maps adopted under s. 30.13, Stats.
6. Fills or Structures Below the Ordinary High Water Mark Permits for sand blankets, fish cribs, riprap and fords pursuant to s. 30.12 (3) (a) 1, 2, 3, and 4, Stats., and permits for structures on the beds of navigable waters issued under s. 30.12 (2), Stats., except those listed under sub. (2) (b) 6.
7. Dams Permits to construct, raise or enlarge in navigable waters, approvals of additions or alterations that do not substantially affect the level of the flowage or release of water downstream and approval of plans to construct in nonnavigable waters where the dam holds less than 6 feet or the pond holds less than 15 acre-feet at maximum water storage elevation; plan approvals of dams permitted in navigable waters; and transfers of ownership or permits for existing dams; under ch. 31, Stats.
8. Water Level Control Establishment of new levels and approval of temporary drawdowns of controlled lakes and flowages where the dam holds a maximum head of less than 6 feet and the pond holds less than 15 acre-feet at maximum water storage elevation; establishment of historic levels for controlled lakes and flowages; and approvals of temporary drawdowns to relieve conditions which are unsafe or dangerous to life, health or property; under ss. 31.02 and 31.19, Stats.
9. Surface Water Diversion Permits to divert water under s. 30.18 (1) (b), Stats., for agricultural and irrigation purposes.
10. Bridges and Culverts Authority to construct bridges and roadway culverts across navigable waters under ss. 30.10, 30.12, 30.123 and 31.23, Stats.

11. Floodplain Zoning Approvals of ordinances and amendments under s. 87.30, Stats.
12. Shoreland Zoning and Wetland Mapping Approval of ordinances, wetland inventory maps and amendments under ss. 59.971, 61.351, 62.231 and 144.26, Stats.
13. Floodplain Studies Approvals of hydraulic and hydrologic data and studies related to delineation of the floodplain or floodway or to determine the effects of proposed developments under s. 87.30, Stats.
14. Aquatic Nuisance Control Permits under s. 144.025 (2) (i), Stats., except for mosquito larvaciding involving over 160 acres.
15. Sewer Extension Plan Approval Department approval under s. 144.04, Stats., for extensions of wastewater collection systems except for those meeting one or more of the criteria listed under sub. (2) (b) 15.
16. WPDES Permits Permits for existing discharges under s. 147.02, Stats.; modifications of permits under s. 147.03, Stats., for existing discharges not resulting from activities to increase production capacity at existing facilities and which do not involve a change in receiving water; discharges covered by a general discharge permit; discharges from the relocation of land spreading systems and discharges from Type III dredging operations.
17. Wastewater Plan Approvals Plan approval under s. 144.04, Stats., for the relocation of land spreading sites and for new municipal and industrial wastewater facilities which will not result in development of a new site or which are for the purpose of bringing an existing discharge into compliance with applicable standards.
18. Wastewater Sludge Disposal Approval of sludge storage facilities, under s. 144.04, Stats., being constructed at the wastewater treatment plant site and approval of land spreading of sludge, under s. 147.02 (1), Stats., except for high rate disposal.
19. Municipal Wastewater Facilities Plans Approval of facilities plans, under s. NR 110.08 (1), for reviewable projects which will not increase the capacity of an existing treatment facility.

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20. Industrial Pretreatment Approval of plans for pretreatment of industrial wastes under s. 144.04, Stats., except for those meeting the criteria in sub. (2) (b) 20.
21. Metallic Mining Certification of completion or partial completion of the reclamation plan and the release of reclamation bonds under s. 144.90, Stats.
22. Solid and Hazardous Waste Feasibility Reports Report approvals under s. 144.44 (2), Stats., and ch. NR 180 or 181, for:
- a. New landfills, or expansion of existing landfills, with a new or additional design capacity of less than 50,000 cubic yards, for non-hazardous solid waste.
  - b. Noncontainerized storage facilities for non-hazardous solid waste with a design capacity of less than 50,000 cubic yards or 100 tons per day (wet weight).
  - c. Processing facilities and incinerators for non-hazardous solid waste.
  - d. Approvals under ch. NR 181 for small storage facilities for hazardous waste.
23. Solid Waste Plan of Operation Plan approvals under ch. NR 180, for:
- a. Transfer, processing or incinerator facilities with a design capacity of less than 100 tons per day (wet weight) based on at least 8 hours of operation each day.
  - b. Noncontainerized storage facilities and air curtain destructors.
24. Metallic Minerals Exploration License Issuance of licenses, certificates of completion, and bond releases to individual explorers under s. 144.832, Stats.
25. Construction Observation Reports Approval of reports for solid or hazardous waste facility under ch. NR 180 or 181.
26. One-Time Disposal Approval of facilities for one-time disposal of solid waste under s. NR 180.13.
27. Closure Plans Approval of plans for the closure of a solid or hazardous waste facility under s. NR 180.13 or 181.42 (8).

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| 28.  | Solid Waste<br>Open Burning                                   | Licenses issued under s. 144.436, Stats., and approvals of wood burning facilities under ch. NR 180.  |
| 29.  | Solid Waste<br>Exemptions                                     | Exemptions from licensing granted under s. 144.44 (7), Stats., or ch. NR 180.   |
| 30.  | Hazardous<br>Waste<br>Variances,<br>Waivers and<br>Exemptions | Variances, waivers and exemptions from licensing requirements under s. 144.64 (3), Stats., s. NR 181.19 or 181.53 (2).  |
| 30m. | Hazardous<br>Waste Licenses                                   | Issuance of transportation service licenses under s. 144.64 (1), Stats.   |
| 31.  | Solid Waste<br>Management<br>Plan                             | Final plan approvals under s. NR 185.07.  |
| 32.  | Engine Waste<br>Oil Plans                                     | Approval of informal plans of operation for collection and storage facilities under s. NR 183.07.   |
| 33.  | Waste<br>Management<br>Fund and Financial<br>Responsibility   | Actions under s. 144.441, Stats., for solid or hazardous waste disposal facilities.   |
| 34.  | Permit<br>Alterations<br>Exemptions and<br>Variances          | Permit extensions, alterations, variances, approvals and exemptions from emission limits under s. 144.396 (1) or 144.402, Stats., or ss. NR 154.02 (3) or (4), 154.06 (8) (a), 154.09 (1), 154.11 (6) (a) 1. b., 154.13 (4) (a) 5, (6) (a) 1. c. or (13) (d). |
| 35.  | Local Air Pollution<br>Control<br>Programs                    | Actions under s. 144.401 or 144.41, Stats., for county air pollution control programs.  |
| 36.  | Emission Plans<br>and Programs                                | Actions under s. NR 154.09 (1), 154.11, 154.12, 154.13 or 154.20 (2) (d) on RACT compliance plans, emission control action programs and maintenance, startup or shutdown emission plans or schedules.   |
| 37.  | Open Burning<br>Methods;<br>Habitat<br>Management<br>Burns    | Approvals of methods under s. NR 154.10 (1) (i) or (k) or approval of prescribed burns for forest or wildlife habitat management under s. NR 154.10 (1) (c) for projects involving less than 320 acres.   |
| 38.  | Nonattainment<br>Area<br>Documents;<br>Sources Affected       | Issuance of documents defining, listing, describing or identifying nonattainment areas or air contaminant sources under s. NR 154.03 and s. 144.371, Stats.   |

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| 39. | Portable Source Relocation   | Approval under s. NR 154.055 (2) and s. 144.391 (5), Stats., for portable sources of air contaminants.  |
| 40. | Auto Emission Inspections  | Certification or withdrawal of certification under s. 144.42, Stats., of counties where inspections are required.   |
| 41. | Boathouse Repair Cost Certification  | Certification of required maintenance and repair costs under ch. NR 325.  |
| 42. | Water Quality Certification  | Certification or waiver of the right to certify under s. 401 (a), 33 USC 1341. Exceptional cases such as those involving filling of wetlands may require further analysis.  |
| 43. | Reports and Fees For Environmental Discharges.   | Actions under s. 144.96, Stats., for effluent discharges and air emissions.   |
| 44. | Air and Water Quality Testing and Monitoring   | Department acceptance of air and water quality monitoring by private applicants under ss. 144.09 and 144.31 (2) (f), Stats., actions relating to air pollution source reporting, record-keeping, testing, compliance determination methods and instrumentation under s. NR 154.06 (2), (3), (5) and (6) and approval of reference and equivalent procedures for measuring air quality under s. NR 155.04. |
| 45. | Operator Certification: Waterworks, Wastewater Treatment Plants and Industrial Wastewater Treatment Facilities | Certification of operators of waterworks and wastewater treatment plants under s. 144.025 (2) (1), Stats., and ch. NR 114.  |
| 46. | High Capacity Well Permits   | Permits and approvals issued under s. 144.025 (2) (e), Stats.   |
| 47. | Well Drillers Permits  | Issuance of permits under s. 162.04, Stats.   |
| 48. | Private Wells  | Determinations of compliance with ch. NR 112.   |
| 49. | Water Supply Systems Plan Approvals  | Plan approvals under s. 144.04, Stats., for public water main extensions and waterworks.  |

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- 50. Forest Crop Law Entries and Withdrawals Entry or withdrawal of lands from the program under ss. 77.02 and 77.10, Stats.
- 51. Woodland Tax Law Entries and Withdrawals Entry or withdrawal of lands from the program under s. 77.16, Stats.
- 52. County Forest Mineral Prospecting Agreements Approvals of agreements entered into by counties under s. 28.11 (3) (i), Stats., to prospect for ore or minerals on county forest lands.



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| 53. | Bait Dealers Permit                    | Issuance of permits under s. 29.137, Stats.   |
| 54. | Birds or Animals Causing Damage        | Permits to eradicate or control issued under ss. 29.594 to 29.596, and 94.67 to 94.71, Stats. |
| 55. | Boat Registration                      | Registration under ss. 30.50 to 30.80, Stats.   |
| 56. | Burning Permits                        | Issuance of permits in intensive and extensive fire control districts under s. 26.12, Stats.  |
| 57. | Children's Fish Pond License           | Issuance of licenses under ss. 23.09 and 23.11, Stats.  |
| 58. | Scientific Collectors Permits          | Issuance of permits under s. 29.17, Stats.  |
| 59. | Commercial Fishing License             | Issuance of licenses under ss. 29.30 to 29.37, Stats.   |
| 60. | Special Deer Dealer License            | Issuance of licenses under s. 29.578, Stats.  |
| 61. | Hunter's Choice Permits                | Issuance of permits under s. 29.108, Stats.   |
| 62. | Competitive Events on Department Lands | Issuance of permits under ss. 23.09 to 23.11 and 29.255, Stats.                               |
| 63. | Wholesale Fish Dealers License         | Issuance of licenses under s. 29.135, Stats.  |
| 64. | Rough Fish Transport Permits           | Issuance of permits under s. 29.47, Stats.  |
| 65. | Sport Fishing Licenses                 | Issuance of licenses under ss. 29.14 to 29.147, Stats.  |
| 66. | Fur Dealers License                    | Issuance of licenses under s. 29.134, Stats.  |
| 67. | Guide Licenses                         | Issuance of licenses under ss. 29.165 and 29.166, Stats.                                      |
| 68. | Hunting Permits and Licenses           | Issuance of permits and licenses under ss. 29.085, 29.10 to 29.12 and 29.174, Stats.          |
| 69. | Falconry Permits                       | Issuance of permits under ch. NR 18.  |

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| 70. | Private Game and Fur Farm and Shooting Preserve Licenses | Issuance of licenses under ss. 29.572 to 29.578, Stats.                                |
| 71. | Trapping Licenses  | Issuance of licenses under s. 29.13, Stats.  |
| 72. | State Park, Forest and Trail Admission                   | Issuance of admission stickers and tags under s. 27.01 (2r), Stats.                    |
| 73. | Snowmobile Registration                                  | Registration under s. 350.12, Stats.   |
| 74. | Wildlife Exhibit Licenses                                | Issuance of licenses under s. 29.585, Stats.   |
| 75. | Concession Agreements                                    | Agreements allowing operation of concessions within state parks under s. 27.01, Stats. |
| 76. | Private Fish Management Permits                          | Issuance of permits under s. 29.513, Stats.  |
| 77. | Private Fish Hatchery Permits                            | Issuance of permits under s. 29.52, Stats.   |
| 78. | Wild Rice and Ginseng Licenses                           | Issuance of licenses under ss. 29.544 and 29.547, Stats.                               |
| 79. | Permits to Take Rough Fish                               | Issuance of permits under s. 29.625, Stats.  |
| 80. | Serving Game to Guests                                   | Issuance of permits under ss. 29.578 and 29.49, Stats.                                 |
| 81. | Sturgeon Spearing Licenses                               | Issuance of licenses under s. 29.148, Stats.   |
| 82. | Net and Set Line Licenses for Inland Waters              | Issuance of licenses under ss. 29.30 and 29.37, Stats.                                 |
| 83. | Net and Set Hook Licenses for Outlying Waters            | Issuance of licenses under s. 29.33, Stats.  |
| 84. | Net Licenses for Mississippi and St. Croix Rivers        | Issuance of licenses under s. 29.34, Stats.  |

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| 85. | Slat and Trammel Net Licenses for the Mississippi River                    | Issuance of licenses under s. 29.343, Stats.   |
| 86. | Set or Bank Pole Licenses  | Issuance of licenses under s. 29.36, Stats.  |
| 87. | Permits to Take, Export, Transport Possess or Propagate Endangered Species | Issuance of permits under s. 29.415 (6), Stats.  |
| 88. | Permits to Introduce Fish and Game   | Issuance of permits under s. 29.535, Stats., except the introduction of nonindigenous species.   |
| 89. | Certification of Municipal Fish Hatcheries                                 | Certification under s. 29.536, Stats.  |
| 90. | Confidential Status  | Actions on requests for confidential status under s. NR 2.19.  |
| 91. | Administrative Procedural Regulations                                      | Actions under ss. 227.014 (2) (a) and 227.09 (1), Stats.   |
| 92. | Rehabilitation Permits   | Issuance of permits under s. 29.174, Stats., for the temporary possession of wild animals to provide first aid and temporary care administered to orphaned, injured or confiscated wildlife. |

(c) *Financial Assistance*

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| 1. | LAWCON Grants-in-Aid | New individual land and water conservation fund (LAWCON) grants-in-aid to local units of government for initial acquisition, expansion or initial development of a new neighborhood park; or for additional acquisition or development in any park that would be a Type III action if carried out by the department. |
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2. State Grants-in-Aid for Local Parks and County Conservation Aids New individual grants-in-aid to local units of government under s. 23.09 (12), Stats., for enhancing fish and wildlife habitat, where activities are involved that would be Type III actions if carried out by the department; or under ss. 23.09 (20) and 66.36 (1), Stats., for the initial acquisition, expansion or initial development of neighborhood parks or for additional acquisition or development in any park that would be a Type III action if carried out by the department.
3. Snowmobile and Motorcycle Grants-in-Aid New individual grants-in-aid to local units of government under ss. 23.09 (25) (a) and (26) and 350.12 (4), Stats., for acquisition, development and maintenance of snowmobile and off-road-vehicle trails and facilities when the project involves actions that would be Type III if carried out by the department.
4. Wildlife Habitat Grants-in-Aid New individual grants-in-aid to counties under s. 23.09 (17m), Stats., for land management practices benefiting wildlife that would be a Type III action if carried out by the department.
5. Inland Lake Rehabilitation Grants-in-Aid New individual grants-in-aid to inland lake rehabilitation districts when the project involves actions that would be Type III under this chapter, and grants for feasibility studies.
6. Forestry Loans Loans issued under s. 28.11 (8) (b) 2., Stats., that would result in activities otherwise listed as Type III under this chapter.
7. Wastewater Facility Grants New individual grants-in-aid under the Wisconsin fund point source program, or department recommendations for new individual grants-in-aid or advance of allowance under the federal construction grants program, to municipalities for facilities planning (step one), development of plans and specifications (step two), or construction (step three).
8. Revenue Sharing Bond Certification of pollution abatement facilities.
9. Pollution Tax Exemptions Certification or approval for water pollution control facilities tax exemptions.
10. Feasibility Study Grants State grants to local units of government to conduct feasibility studies.

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| 11. | Floodplain and Shoreland Mapping Grants              | Grants-in-aid to municipalities under s. 87.31, Stats., to undertake mapping of floodplain and shoreland areas.   |
| 12. | Solid Waste Management Grants                        | Grants under ss. 144.781 to 144.784, Stats., to develop areawide solid waste management plans and to conduct feasibility studies.   |
| 13. | Nonpoint Source Pollution Abatement Grants           | Grants to designated management agencies under s. 144.25, Stats., to implement priority watershed plans and local priority projects.                                      |
| 14. | Park and Forest Road Aids                            | Grants-in-aid to towns and counties under s. 23.09 (27), Stats., for repair maintenance or renovation of existing roads within or bordering department parks and forests. |
| 15. | Individual Septic Tank Replacement or Rehabilitation | Grants to counties under s. 144.245, Stats., for failing private sewage systems.  |
| 16. | Wildlife Damage Aids                                 | Grants to counties under s. 29.598, Stats., for wildlife damage claims and prevention measures.   |

(d) *Policy Recommendations*

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| 1. | Board Policies               | Policies proposed for natural resources board approval affecting personnel, administrative operating procedures, etc., and policies affecting department resource management and regulatory activities which are not a basic change in existing department practice or which, upon implementation, will not have material effects on the human environment. |
| 2. | County Forest Ten Year Plans | Approvals of plans covering management activities on county forests where the activities would be Type III actions if carried out by the department.  |
| 3. | Long Range Plans             | Plans or modifications of plans adopted or approved by the department that would not essentially pre-determine future individual department actions affecting the physical or biological environment.   |

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| 4. | Master Plans<br>and<br>Management<br>Plans | Implementation elements of master plans and management plans, and conceptual elements of management plans for individual department properties unless it involves activities otherwise listed as Type II under this section. |
| 5. | Priority<br>Watershed Plans                | Approval of plans under ch. NR 120.  |

(e) *Other*

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| 1. | Habitat<br>Management      | <p>Actions designed to improve fish and wildlife habitat including:</p> <p>a. Forest wildlife habitat activities involving less than 60 contiguous acres or less than a total of 160 acres within a department property during a calendar year;</p> <p>b. Prescribed burning involving less than 320 acres within a department property during a calendar year;</p> <p>c. Clearing of land involving less than 60 contiguous acres, or less than a total of 160 acres within a department property during a calendar year;</p> <p>d. Pothole development;</p> <p>e. Level ditching in wetlands;</p> <p>f. Stream habitat improvement;</p> <p>g. Herbicide treatment activities in accordance with registered label instructions and uses for brush control or control of nuisance vegetation involving spot applications or less than 160 acres within a department property during a calendar year;</p> <p>h. Mechanical removal of rough or deleterious fish, or the use of pesticides in accordance with label instructions and uses for spot removal of aggregations of rough or deleterious fish in public waters;</p> <p>i. "Trail" construction (wildlife management); or</p> <p>j. Water level control.</p> |
| 2. | Silvicultural<br>Practices | Actions on department properties including:   |

- a. All harvesting activities involving less than 60 contiguous acres or less than 160 acres in total within a department property during a calendar year;
  - b. Forest type conversion or prescribing burning involving less than 320 acres in total within a department property during a calendar year;
  - c. All pesticide treatment activities in accordance with registered label instructions and uses when applied to less than 160 acres within a department property during a calendar year;
  - d. All nonbroadcast applications of pesticides in accordance with registered label instructions and uses including spot applications and row applications at time of planting; or
  - e. Tree planting; plantation thinning; timber stand improvement activities (except pesticide treatments), or noncommercial cutting for aesthetic management.
3. Research Projects Projects conducted by the department which do not involve substantial land, air, water or habitat manipulation and research conducted in an office, library, computer facility and in the laboratory when there is no potential for material environmental effect outside the laboratory as a result of the conduct of the research or other actions otherwise listed as Type III under this section.
4. Legislation Proposals for new programs that would not result in material effects on the human environment and for minor changes in existing programs.
5. Administrative Rules Promulgation of new rules, emergency rules or changes in existing rules developed for department resource management or regulatory functions when:
- a. The implementation will not have material impacts on the human environment, or
  - b. The department has limited discretion in formulating important provisions of the rule.

- c. An emergency rule would relieve conditions that are hazardous to life, health, property or the environment.
6. Inventories Includes all surveys conducted by department personnel in the field for wildlife management, fish management, forestry, fire control, environmental protection, scientific and natural areas, rare, threatened or endangered plant and animal species, and lake mapping.
  7. Routine Wildlife and Fish Stocking Routine stocking of fish and wildlife game species, and reintroduction of game or nongame species into habitats formerly containing the species.
  8. Sale of land Sale of department lands and recommendations to declare department lands as no longer needed for conservation purposes which involve corrections to errors of survey.
  9. Department Gravel Pits The sale of materials under s. 23.20, Stats., and the creation of sand, gravel or borrow pits on department properties except as provided in sub. (2) (e) 9.
  10. Easements and Leases Conveyance of easements, land use permits, licenses and leases on department lands for activities which would be Type III actions if carried out by the department including the installation of underground utilities.
  11. Refuges and Closed Areas Established by the department for fish management, wildlife management or human safety.
  12. Trout Stream Designation Classification or reclassification of a trout stream under s. NR 1.02 (7) and recommendations for addition of new trout streams to or deletion of existing trout streams from the department publication "Wisconsin Trout Streams".
  13. Fish Hatchery Operations Procedures including spawning, hatching, disease control and rearing of both warmwater and coldwater fish species at department hatcheries and rearing ponds. Includes the use of chemicals or pesticides unless public waters may be adversely affected.
  14. Forest Nursery Operations Procedures including seed procurement, lifting and disbursing plants, and disease and pest control. Includes the use of pesticides.



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| 15. | State Game Farm Operations                       | Procedures including hatching and rearing wildlife species. Includes the use of pesticides.   |
| 16. | Fire Control Operations                          | Operations including training, educational programs and fire suppression.   |
| 17. | Farming Operations                               | Activities on department lands, including sharecropping and the use of pesticides in accordance with label instructions and uses, for cropping corn, hay and small grains.  |
| 18. | Road and Parking Lot Resurfacing                 | Projects which do not entail a major change or extension.   |
| 19. | Repair and Maintenance                           | Maintenance of existing department facilities to prevent or reduce deterioration or damage.   |
| 20. | Aeronautic Operations                            | Aircraft activities for fire detection and suppression, transport of personnel, resource monitoring, surveys, census, aerial photography, and radio telemetry tracking of fish and wildlife.  |
| 21. | Park and Forest Operations                       | Activities and programs routinely conducted at department parks such as nature programs, campground operations, day use and entertainment programs, use of pesticides for poison ivy control, aquatic nuisance control at beaches, and other uses classified as Type III. |
| 22. | Operations of the MacKenzie Environmental Center | All education and maintenance activities.   |
| 23. | Information and Education Programs               | Conducted by department personnel in schools, with clubs, civic groups, other similar groups and at organized exhibitions.  |
| 24. | Extension Services                               | Services performed by department personnel including technical advice in forestry, wildlife, land and water management.   |
| 25. | Gifts and Bequests                               | Money, land, equipment, services, etc., given to the department to promote activities to benefit natural resource programs.   |

(4) The following 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 under s. 144.025 (2) (d) 1., Stats.

(b) Issuance of temporary emergency orders under s. 144.025 (2) (d) 2., Stats.

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

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

(e) 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 under s. 144.025 (2) (r), Stats.

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

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

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

(i) Issuance of orders under 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, in counties exceeding 240,000 inhabitants, into specified lakes.

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

(k) Issuance of orders under s. 144.31 (2) (b), Stats., to effectuate the purposes of ss. 144.30 to 144.426 and 144.96, Stats., pertaining to air quality.

(l) Activities under s. 144.423, Stats., to correct violations of ss. 144.30 to 144.426 and 144.96, Stats., pertaining to air quality.

(m) Issuance of orders to reduce or discontinue air contaminant emissions in the event of an emergency, under s. 144.424, Stats.

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

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

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

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

(r) Issuance of orders to abate or remove a nuisance, and upon non-compliance to abate or remove the nuisance, under to s. 146.14 (1), Stats.

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

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

(u) Adoption of a floodplain zoning ordinance, under s. 87.30, Stats., for municipalities that fail to adopt an adequate ordinance.

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

(w) Issuance of orders, under ss. 30.03, 30.121, 30.195 (5) and (6), 31.02, 31.18, and 31.19, Stats., and ch. NR 330, directing performance or discontinuance of acts necessary to protect public rights or interest in navigable waters.

(x) All enforcement and rescue procedures and actions by department including conservation wardens, special wardens, and pilots.

(y) Issuance of orders under ss. 144.965 and 144.975, Stats.

(z) Adoption or approval of enforcement plans to meet established standards or policies.

(za) Appropriation requests initiated by the department or developed on request by the department.

(zb) Adoption of emergency rules by the natural resources board under ss. 227.014 and 227.027, Stats.

(zc) Approval of plans of operation for solid waste landfills or hazardous waste facilities under s. 144.44 or 144.64, Stats.

(zd) Issuance of operating licenses for solid waste facilities or hazardous waste facilities under s. 144.44 or 144.64, Stats.

(ze) Issuance of enforcement orders under ss. 144.44 (8), 144.47, 144.72 and 144.73, Stats.

(zf) Issuance of orders or department actions under ss. 144.76 (4) (a) and (b) and 144.76 (7), Stats.

(zg) Waivers of compliance issued to prevent emergency conditions under ss. 144.44 (7) and 144.64 (1) (c), Stats.

(zh) Alteration, suspension, or revocation of permits under s. 144.395, Stats., except as provided in s. 144.395 (1) (e), Stats.

(5) Unless the department determines otherwise, substantial changes in previous Type II actions will require an EA.

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

(7) Where a proposed department action has been included in a previous EIS or EA prepared by the department or in accordance with s. NR 150.10, the department shall consider the relevance of the previous EIS or EA to the proposed action in determining the need for an EIS, supplemental FEIS or EA.

(8) Where an EA is prepared on a proposal involving multiple regulatory actions, it must address each of the approvals and indicate the conformance of the project with applicable statutes, rules, and regulations.

(9) When a Type III proposal involves identifiable impacts on habitat for threatened or endangered species or on unique, scarce or ecologically significant habitat types or ecosystems, the need to prepare an EA is substantially increased.

(10) 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.

(11) 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; am., Register, February, 1981, No. 302, eff. 3-1-81; am. (intro.), (1), (6) and (7), r. and recr. (2) to (4), Register, February, 1984, No. 338, eff. 3-1-84; am. (3) (b) 22. and (3) (b) 30., cr. (2) (b) 22.e. and (3) (b) 30m., Register, June, 1985, No. 354, eff. 7-1-85.

**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) The department will determine the need for an EIR to assist in making an environmental analysis of a proposed regulatory action and notify the person seeking permission within 30 days after the department has received the request for permission. The person seeking permission shall provide the EIR 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 pollutant 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 45 days provide the person with a list of department authority, permits and approvals that may be required, other available information that may affect the feasibility of the proposed project, and a preliminary determination on the need for an EIR. A final determination will not be made until formal applications are submitted to the department in accordance with sub. (2).

(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 an 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 an informational meeting on the applicant's EIR to gather additional information for determining the significance of the proposed action and its potential environmental impacts.

(6) Unless the department otherwise determines to prepare an EIS, in determining whether a Type II action is major and whether or not the action will significantly affect the quality of the human environment, the department shall base its decision on an EA which shall contain the following information:

(a) A brief description of the proposed action including a description of proposed prevention and mitigating measures, maps, graphs and other material where appropriate.

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

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

(d) A brief evaluation of the project's impact on endangered and threatened species, fish and wildlife habitat, wetlands, scenic values, scientific and natural areas, energy use, and air and water quality when affected.

(e) A brief study, development and 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.

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

(g) An evaluation section which contains brief discussions of the specific factors in this paragraph. If the proposed action will lead to any of these results, the need to prepare an EIS is increased.

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.
9. Direct or indirect impacts on ethnic or cultural groups.

(7) Where proposed actions are likely to be repeated on a recurring basis or where they have relevant similarities such as common timing, impacts, alternatives, methods of implementation, or subject matter, a generic EA may be prepared. The generic EA shall contain the information required in sub. (6) and shall identify any conditions which indicate the need for a specific EA or EIS. The department shall, when addressing a single action already covered by a generic EA, consider the relevance of the generic EA to the action in determining the need for a specific EA or EIS.

(8) (a) The EA shall be prepared by the department, or shall be prepared jointly with another agency, and shall include a preliminary recommendation on the need for an EIS. Except for EA's for proposed administrative codes and legislation and on projects where statutory review deadlines preclude, the department shall develop a news release for each EA to include the information in subds. 1. through 5. When deemed appropriate by the department, a legal notice required under another statute and containing the information in subds. 1. through 5. may be used in lieu of a news release.

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 EA 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 or legal notice to appropriate news media in the vicinity of the proposed action.

(c) Following the deadline for receipt of public comment on the EA, the appropriate district director, bureau director or designee shall review the EA, consider all public comments, make modifications as required and approve the EA. An informational meeting may be held to receive further public input and aid in the review of and decision on the need for a EIS. The director, bureau of environmental impact or designee shall review and sign the document indicating the department's 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.

(9) 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 EA's. On a regular basis the department shall mail a list of environmental assessments to those on the assessment notification mailing list.

(10) If a finding is made in the EA that no EIS is required for a proposed Type II action, the environmental review is complete and a reproducible copy of the EA shall then be filed in the Madison, Wisconsin, office of the department as a finding of no significant impact. A copy of

the EA shall also be filed in the appropriate area, district or bureau office. The EA is a public record which is available for review upon request.

(11) 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.

(12) 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 notified of this determination by letter from the department. The letter shall include estimated time schedules and other pertinent information relating to the EIS process. Such notification may occur as part of a scoping process under s. NR 150.06.

(13) When the department determines that a proposed action will require an EIS and that the proposed action will involve one or more state or federal agencies, the lead agency will be determined through inter-agency consultation. A joint environmental assessment may be used by the department to aid in reaching its independent decision on the need for a EIS in accord with s. NR 150.10. A written agreement may be developed with those agencies which have a major responsibility in or are significantly affected by the proposed action. The written agreement 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.

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

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am., Register, February, 1981, No. 302, eff. 3-1-81; am. (2), (3), (5), (6) (intro.) and (a), (7), (8) (a) (intro.) and (c), (10) and (13), renum. (6) (d) to (f) to be (6) (e) to (g), cr. (6) (d), Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.045 Compliance with s. 1.11 (2) (e), Stats.** (1) For any department action which involves unresolved conflicts concerning alternative uses of available resources, the department shall study, develop and describe appropriate alternatives to recommend courses of action through one or more of the following mechanisms:

(a) For Type I actions, preparation of a EIS in accord with s. NR 150.07.

(b) For Type II actions, preparation of an EA in accord with s. NR 150.04 (6) or an EIS if the department determines an EIS is necessary.

(c) For all department actions, holding an informational meeting or hearing under another statute or rule in which conflicting uses of resources are aired and in which participants have the opportunity to discuss alternative courses of action and where the department considers the hearing testimony or meeting results in its decision.

(2) Unless the department determines otherwise, department actions listed in s. NR 150.03 (3) are not of sufficient magnitude to require compliance with s. 1.11 (2) (e), Stats.

**History:** Cr. Register, Register, February, 1984, No. 338, eff. 3-1-84.

**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 provide a letter of instruction which will include instructions on format, required content, level of detail and number of copies to be submitted. As a person seeking permission provides more information about the proposal or makes modifications in the proposal, the letter of instruction is revised to insure the potential environmental effects can be identified in the department's EA or EIS.

(2) The primary purpose of an EIR is to provide a detailed, comprehensive description of the proposed action, the present environmental conditions in the area which would be impacted by the proposed action and the alternatives to the proposed action which the person seeking permission has considered throughout the proposal formulation process. Predictive models, bioassays and other analysis that can be subject to reasonable scientific verification may be also required. The department's instructions to the applicant on EIR content and detail will emphasize these elements of disclosure rather than the applicant's judgments and conclusions concerning the significance of the probable impacts associated with the proposed action.

(3) 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 EIR. The department shall make this determination and notify the person seeking permission within 120 days after receipt if the EIR exceeds 1000 pages in length including appendices or, in the department's judgment, will require a substantial commitment of staff time to determine if it complies with the letter of instruction due to complexity, detail, organization or scope. 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.

(4) If original data concerning existing environmental conditions collected or processed by a person or their agents seeking permission is to be used by the department in its EA or EIS, and that data relates to impacts essential to a reasoned choice among significant alternatives to the proposed action, the data shall be accepted if it meets the requirements outlined in the department's letter of instruction and one or more of the following conditions:

(a) The department, its consultant or cooperating state and federal agencies collects sufficient data to perform a limited statistical comparison with EIR data and can demonstrate that the data sets are statistically similar within a reasonable confidence limit, or;

(b) The data are determined to be within the range of expected results in the professional judgment of a department expert, an expert consultant to the department or expert within a cooperating state or federal agency based on general knowledge and experience in the subject area, relevant literature and published scientific data, or familiarity with the environmental feature being described by the data, or;

(c) The department or its consultant or other cooperating state or federal agencies witness actual collection and analysis to a sufficient extent



to verify the methodology as scientifically and technically adequate for the tests being performed. Analysis performed by a laboratory certified for that purpose by a state or federal agency shall be accepted by the department as verified.

1. The department need not verify all original data provided by a person seeking permission in order to accept all data is accurate. If random data sets or data points are independently verified by the department in accord with this subsection, the remainder of the data may be accepted as accurate by the department and utilized in the department's analysis for inclusion in the EA or DEIS and FEIS. The degree of inaccuracy observed by the department in its verification efforts will determine, in part, the extent of verification to be performed. If the data collected by a person seeking permission are determined to be generally inaccurate or to have been derived through the use of questionable methods, the EIR shall be deemed inadequate until adequately verified data are provided by the person seeking permission.

2. The department will, when it has sufficient knowledge of the applicant's proposal and when the state of the applicant's planning permits, generally identify for the applicant the verification procedures it intends to utilize and request the applicant's cooperation when such cooperation is necessary for department verification of the applicant's data.

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.06 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 (scoping) is beginning.

(2) The scoping process shall include, to the extent possible, affected federal, state and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons. The process may consist of meetings, hearings, workshops, surveys, questionnaires, interagency 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) Allocate assignments for preparation of the EIS among the lead and cooperating agencies.

(d) Set page limits on environmental documents.

(e) Set a time schedule for document preparation and opportunities for public involvement.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; r. and recr., Register, February, 1981, No. 302, eff. 3-1-81.

**NR 150.07 Contents of an EIS.** (1) When an EIS is required, a DEIS and 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 or EIR and on information received from other sources. An EIS shall substantially follow the regulations issued by the president's council on environmental quality, 40 CFR 1500-1508, and shall provide analysis of the environmental and economic implications of a proposed action contemplated by the department. While the format may vary, the EIS shall include:

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

(b) 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 commenting agencies and the public. The EIS should describe, where appropriate, proposed preventative and mitigating measures.

(c) The probable environmental consequences of the proposed action. An evaluation will be made of the positive and negative effects of the proposed action as it relates to the physical, biological and socioeconomic environment. The discussion shall include adverse environmental effects which cannot be avoided should the proposal be implemented, the economic advantages and disadvantages, the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved. Where condemnation authority will be sought by the department or project sponsor under s. 32.095, Stats., the evaluation shall conform to rules, or guidelines of the department of agriculture, trade, and consumer protection for the evaluation of agricultural impacts. 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 and of the visual impacts of the proposed action. An analysis shall also be made of the energy impacts of the proposed action.

(d) 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.

(d) Any other related analysis required under another rule, statute or federal regulation or law which does not conflict with the purpose of the EIS.

(e) A summary of comments submitted by the public or any other state, federal or local agency or tribal government on the proposed action or the department's environmental analysis.

(2) The FEIS 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) An 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) EIS's 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. The text of FEIS's shall normally be less than 150 pages and shall normally be less than 300 pages for proposed actions of unusual magnitude or complexity.

(5) Where proposed actions are likely to be repeated on a recurring basis or where they have relevant similarities such as common timing, impacts, alternatives, methods of implementation, or subject matter, a generic EIS may be prepared. The department shall, when addressing a single action already covered by a generic EIS, examine the relevance of the generic EIS to the specific action.

(6) The department shall prepare a supplemental FEIS if substantial changes are made in the proposed action relevant to environmental concerns; or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, or if the FEIS is determined to be inadequate by the department or a court. If a supplemental FEIS is prepared, it shall be circulated and a hearing held in accord with the provisions of this chapter.

(7) When the department determines there are gaps in relevant information or that scientific uncertainty exists in its evaluation of significant adverse effects on the human environment, it shall clearly indicate in the DEIS and FEIS that such information is lacking or that uncertainty exists. If information relevant to adverse impacts is essential to a reasoned choice among alternatives but is unavailable and the overall costs of obtaining it are not exorbitant, the department shall obtain the information or require the person seeking permission to obtain the information and include the information in the DEIS and FEIS. If, in the department's judgment, the overall cost of obtaining the relevant information is determined to be exorbitant or the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the department shall include in the DEIS and FEIS a worst case analysis and an indication of the probability of its occurrence.

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1981, No. 302, eff. 3-1-81; am. (1), cr. (6) and (7), Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.08 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 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 DEIS shall also be provided to any individual or group requesting a copy. A charge may be assessed to cover reproduction and handling costs.

(c) Notice of availability of the DEIS. 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 DEIS are to be submitted to the department, and location where copies of the DEIS 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 or reasonable alternatives to the proposed action. A request will be made for posting the announcement sheet at the places 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. All participants in the scoping process not covered in subpar. a. through c.

(d) 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 from state, federal and local agencies and the public. Depending upon the length and complexity of the DEIS, 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 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, public notices and news releases 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.

(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 FEIS.** (a) The FEIS shall be distributed in the same manner as the DEIS.

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

(c) The availability of the FEIS will be announced through a notice of public hearing.

(d) Period of time for comment on the FEIS. 1. 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 except as provided in s. 144.836 (3) (c), Stats.

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; am. Register, February, 1981, No. 302, eff. 3-1-81; am. (1) (c) 1. a., (2) (c) and (d) 1., Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.09 Public informational hearings and meetings on the EIS.** (1) **INFORMATIONAL MEETING ON THE DEIS.** Whenever a proposed action requires an EIS, the department shall hold an informational meeting on the DEIS in the locality affected not less than 30 days after its issuance, and provide notice of the meeting in accordance with the procedures of sub. (2) (c).

(2) **FEIS INFORMATIONAL HEARING.** (a) Except as otherwise provided by law, the department shall hold a public informational hearing, in accordance with s. 227.022, Stats., on the proposed action and the FEIS prior to making its decision. The hearing shall be held not less than 30 days after issuance of the FEIS. The schedule for submission of written comments shall be set by the department before the close of the hearing.

(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 proposed action; to any regional planning commission within which any part of the proposed action lies; to the governing bodies of all towns, villages, cities and counties within which any part of the proposed action lies; to any Native American community located within a town which receives notice; to the governing bodies of any towns, villages or cities and Native American communities affected by any part of the proposed action; and to the Wisconsin public intervenor and other interested persons who have requested such notification.

2. At least 25 days prior to the hearing, a class I notice as defined in ch. 985, Stats., shall be published in a newspaper likely to give notice in the

area or to the person affected, or in the official state paper for actions of statewide significance.

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

(3) **RECORD OF DECISION.** After the close of the informational hearing described in sub. (2), the department shall enter a final written record of decision on the proposed action stating findings of fact, including findings as to environmental impact. When a contested case hearing has been held under the provisions of s. NR 2.085, the findings of fact, conclusions of law and decision rendered as a result of the hearing shall serve as a record of decision.

(4) **RELATIONSHIP TO PROCEDURES OF OTHER AGENCIES.** 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 FEIS.

*History:* Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1981, No. 302, eff. 3-1-81; r. and recr. Register, June, 1985, No. 354, eff. 7-1-85.

**NR 150.10 Interagency procedures on proposed actions involving NEPA or WEPA.** (1) Where another state or federal agency has concurrent responsibility with the department for a proposed Type II action, a joint environmental assessment may be prepared with the other state or federal agency provided the assessment meets the requirements of this chapter. The department shall make an independent judgment on the need for an EIS in accordance with this chapter.

(2) Where a proposed action involves a federal or other state agency approval or decision and it has been determined that an EA or EIS must be prepared in accordance with NEPA or WEPA, a separate department EA or EIS shall not be required if:

(a) A joint EA or EIS is prepared;

(b) After review of the other state or federal 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 the EIS was developed and prepared through appropriate participation by the department with the other agencies in a coordinated effort to satisfy the requirements of NEPA or WEPA. The level of department participation shall be commensurate with the department's authority and the significance of the proposed project's impact on the department's area of responsibility; or

(c) After review of the other state or federal EA, the department determines that the requirements as to content of the EA prescribed in this chapter have been met, and the department has made an independent determination on the need for an EIS.

(3) Where an EIS is prepared in accord with sub. (2), the department shall hold public hearings in accordance with this chapter unless the lead agency held public hearings or meetings in Wisconsin and the department appropriately participated in them.

(4) The department may use an EA prepared by another agency or a jointly prepared EA as the record on which its independent judgment on the need for an EIS is based, if the EA meets the requirements of ss. NR 150.03 and 150.04. The department shall develop a news release in ac-

cordance with s. NR 150.04 (8) unless the lead agency conducted a similar notification process in Wisconsin.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1981, No. 302, eff. 3-1-81; am. (2), r. and recr. (3), cr. (4), Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.105 Review of and comment on an EIS.** (1) As required by s. 1.11 (2) (d), Stats., and federal regulations promulgated by the president's council on environmental quality, 40 CFR 1500-1508, the department will receive copies of EIS's prepared by other state and federal agencies. The department shall to the extent possible review and comment on each relevant EIS within the time period specified by the sponsoring or lead agency. The department may reply that it has no comment and should so reply when it is satisfied that its views are adequately reflected in the EIS.

(2) The department's review of other agencies' EIS's should be used to:

(a) Convey the department's perspective on the proposed action and its relation to areas of department concern by virtue of jurisdiction or expertise;

(b) Assist federal and state agencies in meeting the objectives of NEPA and WEPA;

(c) Provide the department's analysis of the potential environmental impacts of the proposed action;

(d) Coordinate the department's regulatory or resource management involvements with the proposal;

(e) Provide a mechanism to insure appropriate preventative and mitigating measures are included in the proposal and for the resolution of environmental conflicts where appropriate; and

(f) Provide technical assistance to federal, state, regional, and local government agencies to aid in their determination of the environmental consequences of their proposed actions.

(3) (a) The department's comments on an EIS should reflect the total environmental responsibilities of the department, especially in those cases where the basic nature of the EIS indicates a need for a coordinated multi-program response. The department's comments should strive to stimulate appropriate consideration of primary and secondary environmental effects by other agencies in their decision-making processes.

(b) Comments should stress fundamental environmental issues and should be of a constructive nature, suggesting, where possible, not only what should be improved, but also discussing alternatives warranting consideration and possible preventative and mitigating measures.

1. The review of the DEIS should address both the environmental impact of the action and the adequacy of the information presented in the DEIS. Comments on the adequacy of the document are to assist the originating agency in developing a comprehensive impact analysis in the FEIS.

2. Comments on an EIS or on a proposed action shall be as specific as possible and may address either the adequacy of the EIS process or the merits of the alternatives discussed or both.

3. When the department criticizes a lead agency's predictive methodology, the department should describe the alternative methodology which it prefers and why.



4. The department shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the DEIS's analysis of significant site-specific effects associated with the granting or approving of necessary permits, licenses, or entitlements.

5. When the department expresses reservations or concerns about a proposal on grounds of environmental impacts, it shall specify the measures considered necessary to resolve such reservations or concerns.

History: Cr. Register, February, 1981, No. 302, eff. 3-1-81; am. (2) (e) and (3) (b) (intro.), Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.11 Environmental impact statement charges.** (1) In accordance with s. 23.40, and 144.833 (6), Stats., the department will charge a fee for the preparation of an EIS on actions requiring permission from the department including, upon agreement with the person proposing the action, a charge for preapplication services, and shall charge the U.S. department of energy or their agents for state EIS-related costs for radioactive waste site exploration under s. 144.833 (6), Stats. This section shall not apply, however, to applications of municipalities, as defined under s. 345.05 (1) (a), Stats., or to related environmental impact statements.

(a) Any person as defined in s. NR 150.02 (19), 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 (e.g., 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 s. 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 \_\_\_\_\_

Dear \_\_\_\_\_:

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) 1. Unless the department determines otherwise, the estimated EIS fee costs are as follows:

a. For a proposed action or project whose estimated cost is 5 million dollars or less, the estimated fee shall be \$10,000.00.

b. For a proposed action or project whose estimated cost is more than 5 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.

c. For a proposed action or project whose estimated cost is more than 20 million dollars but less than 100 million dollars, the estimated fee shall be \$50,000.00 or .15% of the estimated project cost, whichever is greater.

d. For a proposed action or project whose estimated cost is more than 100 million dollars, the estimated fee shall be \$150,000.00 or .10% of the estimated cost, whichever is greater.

2. Upon receipt of the certified statement of estimated project cost, the department shall notify the applicant by certified mail of the estimated full cost of preparation of the EIS. If the department's estimated cost of preparation of the EIS exceeds that specified in subd. 1 by more than 25%, it shall explain the basis for the estimate.

3. If the applicant's estimated cost of the proposed project or action changes by more than 25% during the course of the department's environmental review, the applicant shall notify the department of the new estimated cost by certified mail within 30 days. Upon receipt of such revised cost estimate, the department shall reestimate the cost of the preparation of the EIS in accord with this section and notify the applicant by certified mail.

(g) The department shall charge a fee based on the full cost of the preparation, including distribution, of the DEIS and FEIS incurred subsequent to the decision that an EIS is necessary and including the full cost of preapplication services provided by the department after execution of a preapplication services agreement. The full cost shall include the following:

1. Actual salary costs, based upon a rate burdened for leave time and calculated on a quarterly basis plus fringe benefits calculated at the previous year actual rate, for time spent by department staff for: preapplication services; 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 DEIS and FEIS; and the public hearings on the DEIS and FEIS.

2. Actual expenses for travel and supplies used in conjunction with activities specified in subd. 1.

3. The cost distributing the DEIS and FEIS to those parties or locations specified in s. NR 150.08 (1) (a).

4. The full cost of any consultant retained by the department to perform preapplication services, collect or analyze data, or prepare draft portions of the DEIS or FEIS for department use in developing the FEIS.

5. Administrative indirect costs to be calculated at the current approved department rate based on total direct costs less expenditures for equipment.

(gm) If the department prepares an EIS on radioactive waste site exploration under s. 144.833 (6), Stats., it shall charge a fee based on the full cost to the state for time on activities specified in par. (g).

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

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

2. EIS related department activities up to the amount of permit or plan review fees, if any, reimbursed by the applicant 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, including costs of preapplication services, on a project to be accurately determined.

(j) Following the department's determination that an EIS is required or subsequent to execution of a preapplication services agreement, the department may bill the applicant or person proposing the action as often as every month 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, including preapplication services, 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 FEIS hearing and bill the applicant for any unpaid portion of the fee. The applicant shall pay the entire fee prior to the department's determination on 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 applications for a proposed project or action for any reason once the process of preparing an EIS has been initiated or terminates a preapplication services agreement, the department shall determine actual cost incurred to the date of the withdrawal or termination plus any additional costs to terminate outstanding contracts. The applicant shall be responsible for those costs.

(m) Payment of fees for the preparation of an EIS or for preapplication services 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 agent thereof.

(n) If it is found as a result of the public hearing process or by a court of law that the department has failed to comply with WEPA through deficiencies in the FEIS, the department may seek additional information from the applicant. Under these circumstances the applicant will not be charged an additional fee for the department's preparation of an addendum to the FEIS.

(2) The fees collected under this section shall be deposited in the general fund, except as otherwise provided by law.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1981, No. 302, eff. 3-1-81; am. (1) (intro.) and (e), (f) 2., (g) 4., (j) and (l), cr. (1) (f) 3., Register, February, 1984, No. 338, eff. 3-1-84; am. (1) (intro.) and cr. (1) (gm), Register, May, 1985, No. 353, eff. 6-1-85.

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