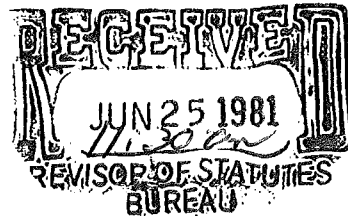


SWCD 1



ORDER OF THE
BOARD OF SOIL AND WATER CONSERVATION DISTRICTS
ADOPTING RULES

Relating to rules concerning procedures for implementing the requirements of the Wisconsin Environmental Policy Act.

Analysis prepared by the Board of Soil and Water Conservation Districts:

The Wisconsin Environmental Policy Act (WEPA) was enacted April 29, 1972, as s. 1.11, Wis. Stats. WEPA requires all state agencies to prepare, for all major actions significantly affecting the quality of the human environment, a detailed statement describing the environmental impact of the proposed action, alternatives to the actions, and other requirements. WEPA additionally requires agencies to study, develop and describe appropriate alternatives in proposals which involve unresolved conflicts concerning alternative uses of available resources.

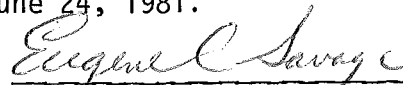
These rules follow substantially the guidelines issued by the U.S. Council on Environmental Quality, as required by s. 1.11 (2)(c), Wis Stats. They define the procedures to be used to determine the need for an Environmental Impact Statement (EIS), describe the contents of an EIS, and outline the procedures to be followed in preparing, holding hearings on, and distributing an EIS. The rules also describe the procedures used to study, develop and describe alternatives to proposed actions.

Pursuant to authority vested in the Board of Soil and Water Conservation Districts by ss. 1.11, 15.03 and 227.014, Wis. Stats., the Board of Soil and Water Conservation Districts hereby adopts rules interpreting s. 1.11, Wis. Stats., as follows:

Sections SWCD 1.01 through SWCD 1.12 of the Wisconsin administrative code are adopted to read:

I certify that this is an exact copy of ch. SWCD 1,
Wis. Adm. Code, adopted by the Board of Soil and
Water Conservation Districts on June 24, 1981.

Date 6-25-81


Eugene C. Savage
Executive Secretary
Board of Soil and Water
Conservation Districts

CHAPTER SWCD 1
WISCONSIN ENVIRONMENTAL POLICY ACT
PROCEDURES FOR BOARD ACTIONS

- SWCD 1.01 Purpose
- SWCD 1.02 Applicability
- SWCD 1.03 Definitions
- SWCD 1.04 Board action type list
- SWCD 1.05 Determination of need for an EIS
- SWCD 1.06 Study, development, and description of alternatives
- SWCD 1.07 Scoping
- SWCD 1.08 Contents of an EIS
- SWCD 1.09 Distribution and review of the DEIS and FEIS
- SWCD 1.10 Public hearing on the EIS
- SWCD 1.11 Interagency procedures on proposed actions involving NEPA or WEPA
- SWCD 1.12 Review of an EIS

SWCD 1.01 Purpose. The purpose of this chapter is to:

- (1) Establish policies and procedures to assure board consideration of the short term and long term environmental and economic effects of board actions upon the human environment.
- (2) Provide principles, objectives, definitions and criteria to be used by the board in the implementation of s. 1.11, Stats. Implementation includes the evaluation of proposed actions; the study, development and description of alternatives where proposed actions involve unresolved conflicts in the use of available resources; and the preparation and review of environmental impact statements.
- (3) Identify major board actions which significantly affect the quality of the human environment and to establish a process to determine the need for an environmental impact statement.
- (4) Provide an opportunity for public input to the decision-making process.

SWCD 1.02 Applicability. This chapter shall apply to all board actions which may affect the human environment.

SWCD 1.03 Definitions.

- (1) "Action" means any activity initiated by the board, or any activity subject to the regulation or approval of the board, which may affect the human environment.
- (2) "Alternatives" means other actions which may be reasonably available to achieve the same or altered purpose of the proposed action, including the alternative of no action.

- (3) "Board" means the board of soil and water conservation districts.
- (4) "Cooperating agency" means any state agency, other than the lead agency, which has jurisdiction over the proposed action or which has special expertise with respect to any environmental impact involved.
- (5) "EIS" means environmental impact statement. It is a written report prepared under 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).
- (6) "Environmental assessment" (EA) means a documented brief but comprehensive analysis of a proposed Type II action. Through this analysis the board shall:
 - (a) determine whether the proposed action constitutes a major state action significantly affecting the quality of the human environment; and
 - (b) study, develop, and describe alternatives.
- (7) "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.
- (8) "Human environment" means all conditions and influences, natural and artificial, which surround and affect all organisms, including people.

- (9) "Joint environmental assessment" means an environmental assessment developed by another state or federal agency, in which the board has 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 board must make an independent judgment on the need for an EIS.
- (10) "Joint environmental impact statement" means an EIS developed by the board and another state or federal agency where the board has equal 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 board or other state or federal agency may be designated the lead agency.
- (11) "Lead agency" means the agency with primary concern or responsibility for a given action as determined through inter-agency consultation or written agreement.
- (12) "Major action" means an action which will cause significant effects upon the quality of the human environment.
- (13) "NEPA" means the National Environmental Policy Act (P.L. 91-190).
- (14) "Resources" means, but is not limited to, land, water, air, energy, plant life, wildlife, aesthetic beauty and human, social, economic, historical and archeological resources.
- (15) "Review" means the study of and comment upon the DEIS or FEIS by cooperating agencies and the public.
- (16) "Scoping" means an early and open process for identifying the anticipated range of issues to be addressed by an EIS, the

extent to which the identified issues will be addressed, and what are expected to be the significant issues.

- (17) "Significant effects" means the considerable and important impacts, beneficial or adverse, of actions on the quality of the human environment.
- (18) "Substantial participation" means full and effective participation by the board with another state or federal agency in preparation of a NEPA or WEPA EIS including, but not limited to:
 - (a) preparation of portions of the EIS within the board's jurisdiction or expertise,
 - (b) appropriate review of the other agency's documents or procedures,
 - (c) development of standards of document adequacy,
 - (d) determining content of the EIS,
 - (e) involvement in public participation activities and hearings,
 - (f) policy development and decision-making.

- (19) "WEPA" means the Wisconsin Environmental Policy Act, s. 1.11, Stats.

SWCD 1.04 Board action type list.

- (1) In conformance with regulations promulgated by the president's council on environmental quality, the board has categorized its actions into the following type list which shall determine, or aid in the determination of, the need for an EIS:
 - (a) Type I actions shall always require an EIS.
 - (b) Type II actions may or may not require an EIS, depending on the significance of the action. All Type II actions shall be evaluated by using an environmental assessment.

When proposed Type II actions involve unresolved conflicts concerning alternative uses of available resources the board shall study, develop and describe appropriate alternatives to the proposed action.

- (c) Type III actions shall not require an environmental assessment or an EIS, unless the board determines otherwise. Type III actions normally do not significantly affect the quality of the human environment. When proposed Type III actions involve unresolved conflicts concerning alternative uses of available resources the board shall study, develop and describe appropriate alternatives to the proposed action.

(2) Type I actions of the board are as follows: None.

(3) Type II actions of the board are as follows:

<u>ACTION CATEGORY</u>	<u>BOARD ACTIONS IN THIS CATEGORY</u>
(a) Facilities Development	None
(b) Financial Assistance	
1. Conservation Aids Program	Grants-in-aid to soil and water conservation districts for conservation projects under s. 92.20, Stats. EA required if conservation project activities would be Type II actions if carried on by the board.
2. Approval of Watershed Projects	Under s. 92.04(g), Stats., the board approves or disapproves federal watershed

	projects for soil conservation, flood control, and other purposes; and carries out feasibility studies and establishes priorities. EA required if activities would be Type II actions if carried on by the board.
(c) Standards	None
(d) Regulation	None
(e) Policy Recommendations	
1. Board Policies	Policies proposed for board approval which are a basic change in existing board practice and which, upon implementation, may have significant effects on the human environment.
2. Soil and Water Conservation District Plans	Approvals of soil and water conservation district plans where the proposed activities would be Type II actions if carried out by the board.
(f) Facility and Maintenance Operations	None
(g) Other	
1. Sponsorship of Special Research Projects	Approval of research projects where activities would be Type

2. Administrative Code

II actions if carried out by the board.

Promulgation in new codes or changes in existing codes where the implementation of the proposed codes may have significant effects on the human environment and the board has substantial discretion in formulating significant provisions of the code.

3. Legislation

Board proposals for new programs or major changes in existing programs, the implementation of which may have significant effects on the human environment.

(4) Type III actions of the board are as follows:

<u>ACTION CATEGORY</u>	<u>BOARD ACTIONS IN THIS CATEGORY</u>
(a) Facilities Development	None
(b) Financial Assistance	None
(c) Standards	
1. Guidelines or Administrative Rules for Soil and Water Conservation District Plans and Reports	Under ss. 92.04(4)(k) and (l), the board may require, and set standards for, plans and reports prepared by soil and water conservation districts.
(d) Regulation	None
(e) Policy Recommendations	
1. Board Policies	Policies proposed for board

approval which are not a basic change in existing board practice or which, upon implementation, will not have significant effects on the human environment.

2. Soil and Water Conservation District Plans Approvals of soil and water conservation district plans where the proposed activities would be Type III actions if carried out by the board.

(f) Facility and Maintenance Operations None

(g) Other

1. Administrative Code Promulgation of new codes or changes in existing codes when the implementation will not have significant effects on the human environment or the board has limited discretion in formulating important provisions of the code.

2. Legislation Proposals for new programs or changes in existing programs the implementation of which would not have significant effects on the human environment.

SWCD 1.05 Determination of need for an EIS.

- (1) During the early planning stages, the board shall determine the need for preparing an EIS on its sponsored actions. The action type list shall be used to determine the category of the proposed action.
- (2) In determining whether a Type II action is a major action significantly affecting the quality of the human environment the board shall base its decision on an environmental assessment (EA) which shall contain the following information:
 - (a) A brief description of the proposed action including maps and graphs, if applicable.
 - (b) A brief description of those factors in the human environment affected by the proposed action.
 - (c) A brief evaluation of significant primary and secondary environmental effects that would result if the proposal is implemented.
 - (d) A listing of other agencies or groups contacted and the comments of, and other pertinent information from, the agencies and groups.
 - (e) An evaluation section which contains brief discussions of the following specific factors:
 1. Stimulation of secondary (indirect) effects.
 2. Creation of a new environmental effect.
 3. Impacts on geographically scarce environmental features.
 4. Precedent-setting nature of the action.
 5. Significant controversy associated with the action.
 6. Conflicts with official agency plans or local, state, or national policy.

7. Cumulative impacts of repeated actions of this type.
8. Foreclosure of future options.
9. Impacts on agricultural lands, groundwater, wetlands and waters of the state.
10. Modification or destruction of aesthetic beauty.
11. Modification or destruction of historical, scientific or archeological sites.
12. Direct or indirect impacts on ethnic or cultural groups.
13. Alternatives to the proposed action that will result in substantially different utilization of resources.

If the proposed action will lead to any of these results, the need to prepare an EIS is increased.

- (3) Where proposed actions are likely to be repeated or where they have similarities such as common timing, impacts, alternatives, methods of implementation, or subject matter, a generic environmental assessment should be prepared. The board shall, when addressing a single action already covered by a generic EA, consider the relevance of the generic assessment to the specific action.
- (4) A draft EA shall be prepared by the board, or shall be prepared jointly with another agency, and shall include a preliminary recommendation on the need for an EIS.
- (5) Except for assessments prepared on projects where statutory review deadlines preclude, the board shall issue a news release for each EA.
 - (a) The news release shall include the following information:
 1. The name of the project and project sponsor.
 2. A brief description of the project including location.
 3. The board's preliminary determination on the need for an EIS.

4. A contact person within the board who can provide copies of the assessment and answer questions.
 5. A date by which the board will receive and consider comments before making final its decision on the need for an EIS.
- (b) When deemed appropriate by the board a legal notice required under another statute and containing the above information may be used instead of a news release.
 - (c) The board shall mail the news release or legal notice to news media in the vicinity of the proposed action. If the proposed action may affect several communities or have statewide impact, the board shall mail the news release to media which have regional or statewide range, as appropriate.
- (6) Following the deadline for receipt of public comment on the assessment, the board shall review the assessment, consider all public comments, make required modifications, and approve the assessment. A public hearing may be held to receive further public input and aid in the review of and decision on the need for an EIS.
 - (7) The board shall establish and periodically update a mailing list to include all individuals, organizations and agencies that have requested notification of all assessments.
 - (8) 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 the original EA shall then be filed in the Madison, Wisconsin office of the board as a finding of no significant impact. The assessment is a public record which is available for review upon request.
 - (9) If a finding is made in the EA that an EIS is required for a proposed Type II action, the board shall prepare a DEIS and an FEIS.

- (10) When the board determines that a proposed action will require an EIS and that the proposed action will involve one or more other state or federal agencies, the lead agency shall be determined through interagency consultation. A joint environmental assessment may be used by the board to aid in reaching its independent decision on the need for an EIS. 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 shall define the responsibility of each agency in the development of a single EIS.

SWCD 1.06 Study, development and description of alternatives.

- (1) Whenever a proposed action involves unresolved conflicts concerning alternative uses of available resources, the board shall, in detail, study and develop alternatives to the proposed action and, in a detailed written report, describe all reasonable alternatives to the proposed action, including the alternative of no action.
- (a) If the proposed action is a Type I action, the report shall be included in the EIS.
 - (b) If the proposed action is a Type II action, the report shall be included in the EA, and, if an EIS is prepared, in the EIS.
 - (c) If the proposed action is a Type III action, the board shall prepare a separate detailed written report.
- (2) A proposed action involves unresolved conflicts concerning alternative uses of available resources when:
- (a) The proposed action reasonably may be anticipated to materially use or affect a resource, temporarily or permanently; and
 - (b) The resource is reasonably suited to one or more other uses; and

- (c) There is a discernible conflict, competition, difference or incompatibility between the use made of the resource by the proposed action and the other use, including the existing use, to which the resource is reasonably suited; and
 - (d) The conflict, competition, difference, or incompatibility between the action's use or impacts and the other uses to which the resource is reasonably suited cannot be avoided or resolved if the action as proposed is implemented.
- (3) Examples of the types of conflicts of alternative uses may include but are not limited to:
- (a) Impacts on the resource that are different in kind or degree from the impacts on the resource if the proposed action is not taken; or
 - (b) Irreversible or irretrievable commitment of resources; or
 - (c) Cumulative effects of the action with existing and anticipated future uses of resources; or
 - (d) Actions that may set precedents regarding impacts on future uses of resources.
- (4) The board shall make a written report of its determination of whether a proposed action involves unresolved conflicts concerning alternative uses of available resources that indicates:
- (a) The evaluation of the proposed action against the criteria listed in SWCD 1.06(2); and
 - (b) The basis of a determination that the proposed action does not involve unresolved conflicts concerning alternative uses of available resources.

SWCD 1.07 Scoping.

- (1) As soon as possible after the decision to prepare an EIS, the board 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, potentially affected federal, state and local agencies, any potentially affected Indian tribe, 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 board 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.

SWCD 1.08 Contents of an EIS.

- (1) When an environmental impact statement (EIS) is required, a draft environmental impact statement (DEIS) and a final environmental impact statement (FEIS) shall be prepared by the board or prepared for the board under contract by a consultant with supervision and final editorial review by the board. The DEIS shall emphasize significant environmental issues identified during the scoping process. The FEIS shall be based in part upon comments received on the DEIS and on information received from other sources. An EIS shall substantially follow applicable regulations issued by the president's council on environmental quality (40 C. F. R. Part 1500, et seq.), and shall provide analysis of the environmental implications of a proposed action contemplated by the board. An EIS shall include:
 - (a) A description of the proposed action and of the affected environment including the project location, type of facility or project, time schedules, relevant maps and diagrams, and other pertinent information which will adequately allow an assessment of the potential environmental impact by commenting agencies and the public.
 - (b) The probable impact of the proposed action on the natural and socio-economic environment. Secondary as well as primary consequences to the environment will be included wherever possible. This section shall also include an evaluation of the archeological, architectural and historical significance of the project site and of structures on the site. An analysis shall also be made of the energy impacts of the proposed action.

- (c) Alternatives to the proposed action, including a rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternatives, including the alternative of no action, particularly those that might avoid all or some of the adverse environmental effects of the proposed action. Consideration will be given to the economic costs and benefits and energy impacts of each alternative wherever possible.
- (d) Probable adverse environmental effects which cannot be avoided should the proposal be implemented. Protective and mitigative measures that can be taken as part of the proposed action will be identified.
- (e) The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. The EIS shall describe the extent to which the proposed action involves tradeoffs between short-term economic gains at the expense of long-term environmental productivity or vice versa, and the extent to which the proposed action forecloses future options.
- (f) Significant irreversible and irretrievable commitments of resources that would be involved in the proposed action if implemented including a statement identifying the extent to which the proposed action irreversibly curtails the range of potential uses of the environment.
- (g) An assessment of economic impact, including a consideration of the economic advantages and disadvantages, where these may be expected to occur. This consideration shall address

benefits as well as costs to the public and private sectors. Depending on the type of action being considered, the economic impact analysis may vary from a few sentences to an extensive report.

- (h) An evaluation of the impacts of the proposed action on agricultural land and wetlands.
 - (i) A summary of the scoping process used and the major issues identified for detailed analysis in the EIS.
 - (j) Any other related analysis required under another rule, statute or federal regulation or law which does not conflict with the purpose of the EIS.
- (2) The EIS shall be an analysis document that enables environmental and economic factors to be considered in the development of a proposed action. It shall be considered by the board in the decision-making process.
 - (3) The EIS is not a document of justification for a proposed action or alternative. Disclosure of adverse environmental effects may be used to determine that a proposed action be denied or terminated.
 - (4) Environmental impact statements shall be written in plain language and should use appropriate graphics to aid decision-makers and the public. Where appropriate, an EIS may be combined with other required environmental or planning documents. The text of the EIS shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.
 - (5) Where proposed actions are likely to be repeated or where they have relevant similarities such as common timing, impacts, alternatives, methods of implementation, or subject matter, a generic EIS shall be

prepared. The board shall, when addressing a single action already covered by a generic EIS, examine the relevance of the generic statement to the specific action.

SWCD 1.09 Distribution and review of the DEIS and FEIS.

(1) Distribution and review of the DEIS.

(a) Copies of the DEIS shall be distributed to:

1. The governor's office.
2. State, federal and local government agencies having special expertise, interest or jurisdiction.
3. Regional and county planning agencies located within the proposed project or action area.
4. Offices of the department of natural resources located in the vicinity of the proposed project or action area and the department of natural resources central office in Madison.
5. The applicant in the matter, if any.
6. Libraries:
 - a. For proposed actions affecting a local area: the nearest library. In addition, the county clerk or town clerk shall be requested to make the document available in the county courthouse, city hall or town hall.
 - b. For projects of regional importance: public libraries with geographic distribution which provides public access without undue travel.

- c. Projects having statewide significance:
 - public libraries providing reasonable access by the individuals who would be potentially affected by the proposed action.
- (b) Copies of the DEIS shall also be provided to any individual or organization who requests a copy. A nominal 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 board and location where copies of the DEIS are available for review shall be mailed to:
 - a. All local and regional units of government which have jurisdiction over the area that may be affected by the proposed action. The board shall request these units of government to post the announcement sheet at the places normally used for public notice.
 - b. Local and regional news media in the area affected.
 - c. Individuals or organizations which have demonstrated an interest and have requested to receive this type of information.
 - d. All participants in the scoping process not covered in subd. a. through c. above.

(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. Depending upon the length and complexity of the DEIS, the board may extend this 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 board for the review of the DEIS.

(e) If other statutory time limits for board 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 to all persons, organizations and agencies to which the DEIS was distributed, and, in addition, to any person, organization or agency which submitted substantive comments on the DEIS.

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

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

(d) Period of time for the comment on the FEIS.

1. A period of not less than 45 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 federal, state, and local agencies and the public. A reasonable request for an extension, up to 15 days beyond the initial review period, may be granted by the board for the review of the FEIS.

2. If other statutory time limits for board 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.

SWCD 1.10 Public hearing on the EIS.

(1) Informational meeting on the DEIS.

- (a) Whenever a proposed action requires an EIS, the board shall hold an informational meeting on the DEIS not less than 30 days after its issuance.
- (b) The meeting shall be held in the locality affected. On actions of statewide significance, the meeting may be held in Madison.
- (c) At least 30 days before the meeting, notice shall be mailed to the governing bodies of all towns, villages, cities and counties within which any part of the proposed project or activity lies; to the governing bodies of any towns, villages or cities contiguous to any town, village or city within which any part of the proposal lies; to all known departments and agencies required to grant any permit, license or approval necessary for the proposal; to any regional

planning commission within which the affected area lies; to interested persons or organizations who have requested to be notified; and to local and regional news media in the area affected.

(2) FEIS hearings.

- (a) The board shall hold a public hearing on the action or proposal and on the FEIS prior to making its decision. The hearing shall be held not less than 30 days after issuance of the FEIS.
- (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 by publishing at least 25 days prior to the hearing a class I notice as defined in chapter 985, Stats., in a newspaper circulated in the area affected, or in the official state paper for actions of statewide significance. Notice shall also be mailed at least 30 days before the hearing to persons who receive the DEIS; to the governing bodies of all towns, villages, cities and counties within which any part of the proposal lies; to the governing bodies of any towns, villages or cities contiguous to any town, village or city within which any part of the proposal lies; to all known departments and agencies required to grant any permit, license or approval necessary for the proposal; to any regional planning commission within which the

affected areas lies; to interested persons or organizations who have requested to be notified; and to local and regional news media in the area affected.

- (d) Notwithstanding par. (2)(c), notice of hearing on an EIS concerning administrative rules shall be given in the same manner as notice is given for rules hearings.

(3) Procedures for hearings.

- (a) The board shall provide all interested persons or their representatives an opportunity to present facts, views or arguments relative to the action or proposal or the FEIS. The presiding officer may limit oral presentations if he or she feels that the presentations would be repetitious and the length of the hearing would thereby be increased unduly.
- (b) The board shall provide an opportunity for interested persons to present facts, views or arguments in writing whether or not he or she has had an opportunity to present them orally. The schedule for submission of written comments shall be set by the board before the close of the hearing.
- (c) At the beginning of the hearing the board shall present a factual summary of the action or proposal, and shall summarize the procedure used to develop and reach a decision on the EIS. The FEIS shall be entered into the record of the hearing.
- (d) Opportunity for cross examination.
 - 1. A person may petition for an opportunity to cross

examine the person who is responsible for a specific portion of an EIS or present witnesses or evidence. The petition shall include a statement of position on the action or proposal, shall specify statements and issues that are desired to be cross examined or presented, and shall state how the substantial interests of the petitioner are affected. Substantial interests include the legitimate interest of a citizen of the state to protect interests of a public, as well as private, nature. Petitions shall be filed with the board within 20 days after the notice of the FEIS hearing is published under par. (2) (c). The notice published or mailed under par. (2) (c) shall include a statement that the failure to file the petition provided for in this paragraph may preclude opportunity to cross examine.

2. If the board finds that the action or proposal may affect substantial interests of the petitioner, the board shall issue an order stating what persons will be made available for cross examination. Denial of petitions shall be in writing, stating reasons therefor.
- (e) The board or its authorized representative may administer oaths or affirmations and may continue or postpone the hearing to such time and place as it determines. The board shall keep a record of the hearing.

- (4) Decision on FEIS. After the hearing in sub. (2) and (3), the board shall carefully review the hearing record and summarize the comments received on the FEIS and the proposed action or proposal before making a final decision.
- (5) Record of decision. The record of decision shall state the board's decision, and shall identify all alternatives considered by the board in reaching its decision, specifying the alternatives considered to be environmentally preferable. The record of decision shall state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. The record of decision shall be distributed to all persons, organizations and agencies to which the DEIS was distributed, and, in addition, to any person, organization or agency which submitted substantive comments on the DEIS or FEIS.

SWCD 1.11 Interagency procedures on proposed actions involving NEPA or WEPA.

- (1) Where another state or federal agency has concurrent responsibility with the board for a proposed Type II action, a joint environmental assessment may be prepared with the other agency if the assessment meets the requirements of this chapter. The board shall make an independent judgment on the need for an EIS in accordance with this chapter.
- (2) Where a proposed action involves another state or federal agency approval or decision and it has been determined that an EIS must be prepared in accordance with NEPA or WEPA, the WEPA requirement for a separate EIS may be waived if:
 - (a) a joint EIS is prepared; or

(b) after review of the other state or federal EIS by the board, 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 board with the other agencies in a coordinated effort to satisfy the requirements of NEPA and WEPA. The following shall aid in determining the appropriate participation required for waiver of a separate WEPA EIS:

1. Where the board action is immediately related to a major purpose or function of a proposed project which has significant environmental effects, substantial participation in the EIS is required.
 2. Where the board action is not immediately related to a major purpose or function of the proposed project or where the proposed project does not have significant environmental impacts, the degree of board participation shall be commensurate with the relationship of its action to the proposed project and the significance of the proposed project's impacts on board areas of responsibility.
- (3) If the EIS appears to comply with the requirements of WEPA and this chapter, public meetings and public hearings shall be held in accordance with this chapter unless they are held in Wisconsin by the lead agency with effective participation by the board.

SWCD 1.12 Review of an EIS.

- (1) As required by s. 1.11 (2)(d), Stats., and federal regulations promulgated by the president's council on environmental quality, the board will receive copies of EIS's prepared by other state and federal agencies. The board shall, to the extent possible, review and comment on each relevant EIS within the time period specified by the sponsoring or lead agency. The board may reply that it has no comment and should so reply when it is satisfied that its views are adequately reflected in the environmental impact statement.
- (2) The board's review of other agencies' EIS's should be used to:
 - (a) Convey the board's perspective on the proposed action and its relation to areas of board concern by virtue of jurisdiction or expertise;
 - (b) Assist federal and state agencies in meeting the objectives and NEPA and WEPA;
 - (c) Provide the board's analysis of the potential environment impacts of the proposed action;
 - (d) Coordinate the board's regulatory and resource management involvements with the proposal;
 - (e) Provide a mechanism 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 board's comments on an EIS should reflect the total environmental responsibilities of the board, especially

in those cases where the basic nature of the EIS indicates a need for a coordinated multi-program response. The board'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.
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 final EIS.
 2. Comments on an environmental impact statement 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 board criticizes a lead agency's predictive methodology, the board should describe the alternative methodology which it prefers and why.
 4. The board shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs.

5. When the board 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.

The rules contained in this order shall take effect on the first day of the month following their publication.

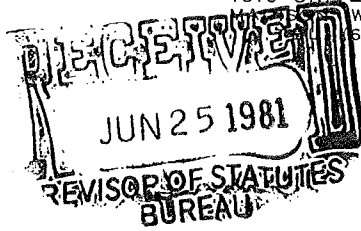
Dated: _____

Eugene C. Savage
Executive Secretary
Board of Soil and Water
Conservation Districts



STATE OF WISCONSIN
BOARD OF
SOIL AND WATER CONSERVATION DISTRICTS

1815 UNIVERSITY AVENUE
WISCONSIN 53706
(608) 262-2634



June 25, 1981

EUGENE C. SAVAGE
Executive Secretary

Byron Berg, Chairman
Rt. 2, Blanchardville, WI 53516
(608) 523-4943

George Nettum, V-Chairman
404 E. South St.
Viroqua, WI 54665
(608) 637-3236

Tony Lorbetske, Secretary
Rt. 2, Rhinelander, WI 54501
(715) 272-1122

MEMBERS:

Eunice M. Garson
Rt. 3, De Pere, WI 54115
(414) 336-8351

Thomas Hanson
Rt. 4, Box 207
Beaver Dam, WI 53916
(414) 885-3823

Elmon G. Ott
Rt. 1, Box 43
Blanchardville, WI 53516
(608) 527-2630

Leonard Peck
Rt. 9, Box 184
Chippewa Falls, WI 54729
(715) 723-4818

Wilma Stanton
Rt. 2, Platteville, WI 53818
(608) 348-9308

Mr. Gary L. Poulson
Revisor of Statutes Bureau
Room 411 W. State Capitol
Madison, WI 53702

Dear Mr. Poulson:

Enclosed is a certified copy of ch. SWCD 1, Wis. Adm. Code, adopted by the Board of Soil and Water Conservation Districts on June 24, 1981.

This rule is submitted for filing in your office, pursuant to s. 227.023, Stats.

Sincerely,

Eugene C. Savage
Executive Secretary

ECS:vk

Enclosure (1)
1. Ch. SWCD 1,
Wis. Adm. Code