

## Chapter NR 150

ENVIRONMENTAL IMPACT STATEMENT  
PROCEDURES AND PREPARATION FEES

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**NR 150.01 Purpose and authority.** (1) The purpose of this chapter is to provide principles, objectives, definitions and criteria to be used by the department in the implementation of section 1.11, section 23.11(5), and section 23.40, Wis. Stats. Implementation includes the evaluation of proposed actions and the preparation and review of environmental impact statements (EIS's).

(2) The identification of major actions significantly affecting the quality of the human environment and subsequent decision on the need for an EIS is the responsibility of the department.

(3) 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 used by the department in the decision-making process.

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

(5) The intent of the Wisconsin Environmental Policy Act (section 1.11, Wis. Stats.) is to require governmental consideration of the short- and long- term environmental and economic effects of policies, plans and programs upon the human environment and to provide an opportunity for public input to the decision-making process.

**History:** Cr. Register, September, 1976, No. 249, eff. 10-1-76.

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

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

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

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

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

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

(7) "Environmental Assessment Screening Worksheet" means a documented brief but comprehensive analysis of a proposed Type II action to determine its environmental impact and whether an EIS is required.

(8) "Statement of Nonsignificant Impact" means a completed environmental assessment screening worksheet which indicates that the proposed action is not a major action which will significantly affect the quality of the human environment and that no EIS is required.

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

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

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

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

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

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

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

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

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

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

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, September, 1976, No. 249, eff. 10-1-76.

**NR 150.09 Public hearing on the EIS** (1) Whenever a proposed action requires an EIS, the department shall schedule at least one public hearing on the proposal before taking final action. Such public hearing shall be held not less than 30 days after the distribution of the EIS. The EIS shall be entered into the record of the hearing, and comments may be received and testimony taken regarding the content of the EIS as well as other matters relevant to the proposal.

(2) Unless applicable statutes require a different place or notice for the hearing, the hearing shall be held in the locality affected. If the proposed action has statewide significance it may be held in Madison. The department shall publish a class I notice as defined in chapter 985, Wis. Stats., in a newspaper circulated in the area affected, or in the official state paper for actions of statewide significance, at least 15 days prior to the hearing.

(3) The hearing shall be conducted in accordance with section 227.022, Wis. Stats., unless it is a contested case as defined in section 227.01 (2), Wis. Stats., in which event the hearing shall be conducted in accordance with sections 227.07 through 227.14, Wis. Stats.

(4) After the hearing, the department shall carefully review the hearing record, the comments received on the EIS and the proposal.

If the department finds that the EIS is inadequate, it may continue the hearing and remand the EIS for redraft including such additional research as it deems necessary. If the EIS is adequate, the department shall, within 60 days after the close of the hearing, render a written decision on the proposed action, stating findings of fact including findings as to environmental impact.

(5) A written copy of the decision on the proposed action shall be sent to the sponsors of the proposal, to all agencies, groups and citizens responding to the EIS or PER, to other parties requesting it and to others as required by law.

**History:** Cr. Register, September, 1976, No. 249, eff. 10-1-76.

**NR 150.10 Proposed actions involving NEPA** (1) Where a proposed action involves a federal agency approval or decision and it has been determined that an EIS must be prepared in accordance with NEPA, the WEPA requirement for a state EIS shall not be waived unless:

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

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

(2) If the NEPA EIS appears to comply with the requirements of WEPA and this chapter, a public hearing shall be held in accordance with this chapter. However, where deemed necessary to avoid delay, and where full disclosure to the public for review and comment is guaranteed, the department may hold the public hearing on the draft NEPA EIS prior to its preparation in final form.

**History:** Cr. Register, September, 1976, No. 249, eff. 10-1-76.

**NR 150.11 Environmental impact statement charges.** (1) In accordance with section 23.40, Wis. Stats., the department will charge a fee for the preparation of an EIS on actions requiring permission from the department. This section shall not apply, however, to applications of municipalities, as defined under section 345.05 (1) (a), Wis. Stats., or to environmental impact statements related thereto.

(a) Any person as defined in NR 150.02 (17), with the exception of municipalities, and state agencies, departments, boards and commissions included in chapter 15, Wis. Stats., in addition to 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. For those projects or proposed actions requiring 2 or more department permits, licenses or approvals, the estimate of the cost need only be submitted with the initial permit application.

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

1. Land and land rights.
2. Structures, appurtenances and improvements.
3. Project facilities and equipment.
4. Site preparation.
5. Labor costs.
6. Technical costs (i.e. architectural and engineering design and biological data collection).
7. Financial costs (i.e. escalation costs and interest charges).
8. Other costs necessary to complete the project.

These 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.

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

(d) If the department determines that an EIS shall be required for the proposed project or action in accordance with NR 150.04, it shall

send a letter to the applicant stating its intent to prepare an EIS and requesting a certified statement of the estimated cost of the proposed project or action. The following format will be used by the applicant to certify the estimated cost:

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

Date \_\_\_\_\_

Gentlemen:

I hereby certify that the estimated cost of the (name of proposed project of 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)

(e) Upon receipt of the certified statement the department shall evaluate and verify the cost figure and supporting information. The department shall then notify the applicant by certified mail and indicate on an invoice the estimated cost of the project or proposed action and the amount of fee to be paid.

(f) The department shall charge a fee of .05% of the estimated cost of the project or proposed action or \$10 whichever is greater. This fee shall not be applied to environmental impact statements completed prior to July 31, 1975; or to impact statements prepared by the department for municipal, state and federal projects or actions.

(g) Upon receipt of the invoice, the applicant may pay the fee in one sum or in equal installments. The number of installment payments shall be negotiated between the applicant and the department on a case-by-case basis. The department shall not commence work on the EIS until the initial payment has been received from the applicant. The applicant shall pay the entire fee prior to the public hearing on the EIS.

(h) If the applicant withdraws the application for the proposed project or action for any reason once the process of preparing an EIS has been initiated, the department shall refund any payment or portion thereof that is over and above the expenses actually and reasonably incurred by the department.

(i) Upon completion of the EIS and prior to the required public hearing, the department shall contact the applicant and determine if there has been a substantial change in the estimated cost of the proposed project or action. Fee charges shall be adjusted by the department if the original estimated cost has increased or decreased by 15% or more. The applicant shall remit additional payment or receive a refund in accordance with the department's adjusted estimates of the original cost. Additional payment shall be remitted by the applicant in accordance with NR 150.11 (1) (g).

(j) Payment of fees for the preparation of an EIS pursuant to section 23.40, Wis. 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 contingent upon the recommendations or certifications of any other federal, state, county or municipal government or agency.

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

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

**History:** Cr. Register, November, 1976, No. 251, eff. 12-1-76.

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

**History:** Cr. Register, November, 1976, No. 251, eff. 12-1-76.