

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.

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

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

(21) "Fee" means a charge for the preparation of an environmental impact statement pursuant to section 23.40, Wis. Stats.

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

NR 150.03 Departmental action type list (1) In conformance with executive order number 26 issued on February 12, 1976, and the guidelines made a part thereto, the department has categorized its actions into the following type list which shall determine or play a part in the determination for the need of an EIS:

(a) Type I. These actions will always require an EIS.

<i>Facilities Development</i>	<i>Description</i>
New Properties	Acquisition by fee title of new fish and wildlife properties, parks, forests, and wilderness, wild, natural, scenic and scientific areas.

(b) Type II. These actions may or may not require an EIS, depending on the individual significance of the action. All Type II actions will be evaluated by using an environmental assessment screening worksheet.

<i>Facilities Development</i>	<i>Description</i>
Established Properties and Scattered Parcels	Acquisition by fee title selected parcels of land within established property boundaries and scattered wetlands and fish spawning areas for preservation and conservation purposes.
Wildlife Resource Areas	Establishment of new areas (wilderness, wild, natural, scenic, scientific, etc.) within existing property boundaries.
Building Projects	Construction of buildings (i.e., offices, hatcheries, garages, bathhouses, storage buildings, etc.) on DNR properties.
Public Access	Acquisition and development of sites for public access to lakes, rivers, etc.
Facilities Development	Construction of campgrounds, roads, scenic overlooks, parking lots, dams, dikes, flowages, beaches, trails and other facilities on DNR lands. (Picnic tables, grills, project signs, fences and other minor construction activities are exempt.)
Easements and Leases	Acquisition of rights for DNR land projects.

Property Boundary Adjustments	Boundary adjustments or blocking on previously approved DNR properties.
Sale of Surplus DNR Lands	Sale of DNR lands no longer needed for conservation purposes.
State Park Trails	Acquisition and development of new state park trails.
<i>Financial Assistance</i>	
State Grants-in-Aid	Individual state grants to local units of government (i.e., sewage treatment facilities, snowmobile trails acquisition and development, local park acquisition and development, etc.).
<i>Standards</i>	
Administrative Code	Development of new codes or significant changes in existing codes development for DNR management and regulatory functions (i.e., air and water quality standards, solid waste management, pesticide use, fish and game regulations, park management).
<i>Regulation</i>	
Air Pollution Control	Plan approvals for facilities development (chapter 144, Wis. Stats.).
Bulkhead Line	Approvals on applications involving navigable waters (section 30.11, Wis. Stats.).
Aquatic Nuisance Control	Permits for aquatic nuisance control (section 144.025) (operations at state fish hatcheries and nurseries and previously treated areas are excluded).
County Forest Land Withdrawal	Approvals for withdrawals (chapter 28, Wis. Stats.).
Drainage	Approvals of drainage board actions affecting navigable waters (chapter 88, Wis. Stats.).
Dredging	Permits and contracts involving lakes and harbors, rivers and streams (chapter 30, Wis. Stats.).
Dams	Permits to construct in navigable waters; plan approvals to construct in nonnavigable waters; authority to abandon, transfer or alter (chapter 31, Wis. Stats.).
Bridges and Culverts	Authority to construct private bridges and culverts across navigable waters (chapter 31, Wis. Stats.).
Easements and Leases	Granting of easements and leases on DNR lands (chapter 24, Wis. Stats.).
Enlargement or Alterations of Waterways	Activities defined in sections 30.19 and 30.195, Wis. Stats.
Fills or Structures Below the High Water	Depositing material or placing structures upon the bed of navigable waters (chapter

Mark	30, Wis. Stats.). (Except sand blankets, fish cribs, and riprap projects, sections 30.12(2) (b), (c) and (d).)
Water Level Control	Permits for setting lake levels or temporary drawdowns on controlled lakes and flowages.
Irrigation and Diversion Permits	Authority to divert water from lakes and streams (chapters 30 and 107, Wis. Stats.), excluding wastewater irrigation facilities.
Mining	Approvals to prospect; permits to mine (chapter 318, laws of 1973).
Permit Amendment	Significant amendments to previously issued permits or statutory approvals for Type II regulatory actions.
Pesticide Use	Permits under sections 94.67 to 94.71, Wis. Stats.
Solid Waste Disposal	DNR permitting authority (chapter 144, Wis. Stats.) (one-time disposal approvals are Type III.)
Wastewater Treatment Facilities	DNR authority (chapter 144, Wis. Stats.). (Plan approvals-municipal and industrial)
<i>Policy Recommendations</i>	
Board Policies	Policies proposed by the natural resources board affecting air, water and land resources.
County Forest Ten Year Plans	Approvals of plans covering management activities on county forests.
Master Plans	Plans for development of individual DNR properties.
<i>Facility and Maintenance Operations</i>	
Chemical Treatment	Use of chemicals in fish, wildlife and forest management programs.
<i>Other</i>	
Stocking or Introductions of Exotic Species	The stocking of <i>new</i> (not now present in state) fish or wildlife species.
Proliferation of Aquatic Species	Stocking or introduction (proliferation) of species into new (not now occupied by the species) aquatic environments.
Habitat Management	Specific actions to be assessed require considerable judgment by the originating unit. Examples of actions on DNR lands which are to be assessed include: <ul style="list-style-type: none"> a. Pothole development b. Level ditching in wetlands c. Stream habitat improvements

- d. Forest game habitat activities
- e. "Trail" construction (game management)
- f. Prescribed burning (over 40 acre units)
- g. Clearing of land (over 40 acre units)
- h. Spring pond dredging
- i. Water level control

Silvicultural Practices Includes tree planting, timber stand improvement, harvest (logging), insect control, aesthetic cutting, and type conversion of DNR lands only—over 40 acre units. Activities to be considered by DNR project area or by program. Plantation thinning is exempt.

(c) Type III. These actions will never require an environmental assessment screening worksheet or an EIS.

Financial Assistance

<i>Financial Assistance</i>	<i>Description</i>
Revenue Sharing Bond	Certification for pollution abatement facilities.
Pollution Tax Exemptions	Certification or approval for water pollution control facilities tax exemptions.
Feasibility Study Grants	State grants to local units of government to conduct feasibility studies (i.e., inland lake studies, etc.)

Regulation

Forest Crop Law Withdrawals	Withdrawal of lands from the program pursuant to chapter 77, Wis. Stats.
Woodland Tax Law Withdrawals	Withdrawal of lands from the program pursuant to chapter 77, Wis. Stats.
Air and Water Quality Monitoring	Determination of air and water quality (chapter 144, Wis. Stats.).
Bait and Trammel Net Licensing	DNR authority (chapter 29, Wis. Stats.).
Bait Dealers Permit	DNR authority (chapter 29, Wis. Stats.).
Bird Banding Permit	DNR authority (chapter 29, Wis. Stats.).
Birds or Animals Causing Damage	Permits to eradicate or control (chapter 29, Wis. Stats.).
Boat Registration	DNR authority (sections 30.50 to 30.80, Wis. Stats.).
Burning Permits	DNR authority in intensive and extensive fire control districts (chapter 26, Wis. Stats.).
Children's Fish Pond License	DNR authority (chapter 29, Wis. Stats.).
Christmas Tree Dealer's License	DNR authority (section 134.60, Wis. Stats.).
Scientific Collectors Permits	DNR authority (chapter 29, Wis. Stats.).

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Commercial Fishing License	DNR authority (chapter 29, Wis. Stats.).
Special Deer Dealer License	DNR authority (chapter 29, Wis. Stats.).
Deer Hunting Party Permits	DNR authority (chapter 29, Wis. Stats.).
Dog Trial and Training Permits	DNR authority (chapter 29, Wis. Stats.).
Wholesale Fish Dealers License	DNR authority (chapter 29, Wis. Stats.).
Rough Fish Transport Permits	DNR authority (chapter 29, Wis. Stats.).
Sport Fishing Licenses	DNR authority (chapter 29, Wis. Stats.).
Fur Dealers License	DNR authority (chapter 29, Wis. Stats.).
Guide Licenses	DNR authority (chapter 29, Wis. Stats.).
Hunting Licenses	DNR authority (chapter 29, Wis. Stats.).
Law Enforcement Activities	All enforcement procedures and actions by DNR conservation wardens, special wardens, etc.
Pollution Abatement and Enforcement Orders	DNR authority (chapters 144 and 147, Wis. Stats.).
Private Game and Fur Farm and Shooting Preserve Licenses	DNR authority (chapter 29, Wis. Stats.).
Operator Certification: waterworks, sewage treatment plants and industrial wastewater treatment facilities	DNR authority (chapter 144, Wis. Stats.).
Snowmobile Registration	DNR authority (chapter 350, Wis. Stats.).
Taxidermist Licenses	DNR authority (chapter 29, Wis. Stats.).
Trapping Licenses	DNR authority (chapter 29, Wis. Stats.).
Well Drillers Permits	DNR authority (section 162.04, Wis. Stats.).
Wildlife Exhibit Licenses	DNR authority (chapter 29, Wis. Stats.).
Concession Agreements	Operation of concessions within state parks (section 27.01, Wis. Stats.).
Wastewater Facility Extension Plan Approvals	(chapter 144, Wis. Stats.) Environmental reviews conducted as a normal course of action. Exceptional cases may require further review and analysis.
Water Supply Systems Plan Approvals	(chapter 144, Wis. Stats.) Environmental reviews conducted as a normal course of action. Exceptional cases may require further review and analysis.
WPDES Permits	Water discharge permits (chapter 147,

	Wis. Stats.)—exceptional cases will require further analysis.
Private Fish Management Permits	DNR authority (chapter 29, Wis. Stats.).
Private Fish Hatchery Permits	DNR authority (chapter 29, Wis. Stats.).
Sand Blanket, Fish Cribs, and Riprap Project Permits	DNR authority (sections 30.12 (2) (b), (c) and (d), Wis. Stats.).
Water Quality Certification	Certification under 401 (a) PL 92-500. Exceptional cases will require further analysis.
Wild Rice and Other Aquatic Plant Licenses	DNR authority (chapter 29, Wis. Stats.).
Permits to Take Rough Fish	DNR authority (chapter 29, Wis. Stats.).
Serving Game to Guests	DNR authority (chapter 29, Wis. Stats.).
Forfeitures and Petitions	Actions under sections 30.03 and 144.537, Wis. Stats.
Administrative Review Procedures	Actions under chapter 227, Wis. Stats.
Forest Crop Law Entries	Entry of lands to the program pursuant to chapter 77, Wis. Stats.
Woodland Tax Law Entries	Entry of lands to the program pursuant to chapter 77, Wis. Stats.
<i>Policy Recommendations</i>	
Board Policies	Policies proposed by the natural resources board affecting personnel, administrative operating procedures, etc.
Long Range Plans	Plans for long range DNR activities which are not directed to specific projects or activities.
<i>Facility and Maintenance Operations</i>	
Refuges and Closed Areas	Established by DNR for fish management, wildlife management or human safety.
Education Programs	Conducted by DNR personnel in schools, with clubs, civic groups, etc.
Extension Services	Services performed by DNR personnel (i.e., technical advice in forestry, wildlife, land and water management, etc.).
Farming Operations	Activities on DNR lands, including sharecropping.
Fire Control Operations	Operations including training, educational programs and fire suppression.
Fish Hatchery Operations	Procedures including spawning, hatching, disease control and rearing of both

	warmwater and coldwater fish species at DNR hatcheries and rearing ponds.
Road and Parking Lot Resurfacing	Projects on DNR lands which do not entail a major change or extension.
Forest Nursery Operations	Procedures including seed procurement, lifting and disbursing plants, and disease control.
State Game Farm Operations	Procedures including hatching and rearing wildlife species.
Operations of the MacKenzie Environmental Center	All educational and maintenance activities.
Mechanical Removal of Rough and Deleterious Fish	Activities by DNR personnel in public waters of the state.
Park Operations	Activities and programs routinely conducted at DNR parks (i.e., nature programs, campground operations, day use, and entertainment programs).
Routine Game and Fish Stocking	Includes pheasant stocking programs, other special game management (excluding new exotics), and warmwater and cold-water fish stocking (excluding new exotics).
Repair and Maintenance	Maintenance of existing DNR facilities to prevent or reduce deterioration or damage.
<i>Other</i>	
Inventories	Includes all surveys conducted by DNR personnel in the field for game management, fish management, forestry, fire control, environmental protection, etc.
Research Projects	Projects conducted by DNR and approved by the research advisory council (exceptional projects involving substantial land or water manipulation may require further review).
Gifts and Bequests	Money, land, equipment, services, etc., given to DNR to promote activities to benefit natural resource programs.

(d) All actions not specifically listed shall be assessed on a case-by-case basis for determination of type.

(2) A copy of the Action Type list is available for public review at the department's district offices and at the central office in Madison.

(3) 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, September, 1976, No. 249, eff. 10-1-76.

Register, October, 1976, No. 250
Environmental Protection

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

(2) If the department determines that an EIR is needed to assist in making an environmental analysis of a proposed Type II action, the person seeking permission shall be notified of this determination by letter from the department within 30 days after the department has received the request for permission. The person seeking permission shall provide such a report within an agreed time after consultation with the department. An application or request for permission shall not be considered complete until section 1.11, Wis. Stats., has been fully complied with.

(3) The department may require an EIR if the area affected exceeds 40 acres, or the cost of the proposed action exceeds \$25,000.00. In determining the need for the EIR, the department will consider:

- (a) the scope and complexity of the proposed action;
- (b) the information available to the department;
- (c) the concerns of persons affected by the proposed action.

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

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

- (a) A description of the proposed action including maps and graphs if appropriate.
- (b) A listing and brief description of alternatives.
- (c) A listing of other agencies or groups contacted and the comments and other pertinent information of the agencies and groups.
- (d) An evaluation section which contains specific questions that must be answered.

(6) The environmental assessment screening worksheet shall be prepared and signed by the department person most knowledgeable of the proposed action and approved by the appropriate district or bureau director. The worksheet shall be reviewed and signed by the director of the bureau of environmental impact or designee for compliance with section 1.11, Wis. Stats.

(7) If a finding is made in the worksheet that no EIS is required for a proposed Type II action, the environmental review is complete and the original worksheet shall then be filed in the Madison, Wisconsin,

office of the department as a statement of nonsignificant impact. A copy of the worksheet shall also be filed in the appropriate area, district or bureau office. The worksheet is a public record which is available for review upon request.

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

(9) 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 30 days after the department has received all information necessary for that determination. The person seeking permission shall be informed of this determination by letter from the department. The letter shall include estimated time schedules and other pertinent information relating to the EIS process.

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

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

NR 150.05 Contents and departmental acceptance of an EIR

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

(2) Upon submission of the EIR by the person seeking permission, the department shall review the report to determine its adequacy as a disclosure document and in relation to the letter of instruction indicated in subsection (1) above. The department shall make this determination of adequacy and shall notify the person seeking permission in writing within 60 days after receipt of the report. If the department finds that the EIR does not contain reasonable information to form a definitive picture of the proposed action and its environmental effects, additional information will be requested from the person seeking permission.

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

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

(a) Description of the proposed action.

(b) Probable adverse and beneficial impact of the proposed action on the environment.

(c) Probable adverse environmental effects which cannot be avoided.

(d) Relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity.

(e) Significant irreversible and irretrievable commitments of resource.

(f) Alternatives to the proposed action.

(g) Evaluation of economic impact.

(2) If the department determines that the applicant's EIR adequately discloses the environmental effects of the proposed action and complies with subsection (1) above, the EIR may be used as the PER to permit an early agency and public evaluation of the proposed action.

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

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

(a) A description of the proposed action and of the environment affected, including the project location, type of facility, anticipated costs and benefits, time schedules, maps and diagrams deemed relevant, and other pertinent information which will adequately allow an assessment of the potential environmental impact by commenting agencies and the public.

(b) The probable impact of the proposed action on the physical, social, cultural and economic environment. An evaluation will be made of the positive and negative effects of the proposed action as it relates to the local environment. Secondary as well as primary consequences to the environment will be included wherever possible.

This section shall also include an evaluation of the archeological, architectural and historical significance of the site and structures therein. An analysis shall also be made of the energy impacts of the proposed action.

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

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

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

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

(g) An assessment of economic impact, including a consideration of the economic advantages and disadvantages, where these may be expected to occur. This consideration shall address benefits as well as costs to the public and private sectors. Depending on the type of action being considered, the economic impact analysis may vary from a few sentences to an extensive report.

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

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

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

1. The governor's office.
2. State, federal, and local governmental agencies having special expertise, interest or jurisdiction.
3. Regional and county planning agencies located within the proposed project or action area.
4. Offices of the department located in the vicinity of the proposed project or action area and the department's central office in Madison.
5. Libraries:
 - a. For proposed actions affecting a local area: the nearest library. In addition, the county clerk or town clerk will be requested to make the document available in the county courthouse, city hall or town hall.
 - b. For projects of regional importance: public libraries with a geographic distribution which provides public access without undue travel.
 - c. Projects having statewide significance: public libraries providing reasonable access by the individuals that would be potentially affected by the proposed action.
6. The applicant (for activities requiring permission).

(b) Copies of the PER shall also be provided to any individual or group requesting a copy. A nominal charge may be assessed to cover reproduction and handling costs.

(c) Notice of Availability of the PER. 1. An announcement sheet giving a brief description of the proposed action, description of the administrative procedures to be followed, the date by which comments on the PER are to be submitted to the department, and location where copies of the PER are available for review will be circulated as follows:

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

b. Local and regional news media in the area affected.

c. Groups, clubs, committees, or individuals which have demonstrated an interest and have requested receipt of this type of information.

(d) Period of Time for Comment on the PER. 1. A minimum of 45 days from the date the PER is mailed shall be allowed for the receipt of comments from state, federal and local agencies and the public. Depending upon the length and complexity of the PER, the department may extend the initial review period up to a total of 90 days. A reasonable request for extension, up to 15 days beyond the initial review period, may be granted by the department for the review of the PER.

2. If the department determines that a review period of less than 45 days will suffice for the PER, the department may limit the review period to no less than 20 days in accordance with executive order guidelines. The PER, announcement sheet, public notices and news releases shall call attention to the reduced review period and shall state the date by which comments on the PER must be submitted to the department if they are to be considered in developing the EIS.

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

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

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

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

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

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

History: Cr. Register, 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

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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.