

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

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

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

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

(a) Any person as defined in s. NR 150.02 (19), with the exception of municipalities, state agencies, departments, boards and commissions included in ch. 15, Stats., and the federal government, who files an application for a permit, license or approval granted or issued by the department, shall include with the application an estimate of the cost of the project or proposed action when deemed necessary by the department.

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

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

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

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

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

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

Date _____

Dear _____:

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

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

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

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

b. For a proposed action or project whose estimated cost is more than 5 million dollars but less than 20 million dollars, the estimated fee shall be \$10,000.00 or .25% of the estimated cost, whichever is greater.

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

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

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

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

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

1. Actual salary costs, based upon a rate burdened for leave time and calculated on a quarterly basis plus fringe benefits calculated at the previous year actual rate, for time spent by department staff for: preapplication services; coordination, problem identification and data collection leading to the submittal of an EIR by the applicant, if required; review of the applicant's EIR, if required; data collection and analysis leading to and including the preparation of the DEIS and FEIS; and the public hearings on the DEIS and FEIS.

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

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

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

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

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

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

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

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

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

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

(j) Following the department's determination that an EIS is required or subsequent to execution of a preapplication services agreement, the department may bill the applicant or person proposing the action as often as every month for actual department costs incurred up to that time. The applicant shall remit to the department the full amount of any EIS fee invoice within 60 days of the date of the invoice. The department shall cease work on the EIS, including preapplication services, if the full

amount of any EIS fee invoice is not paid within 60 days of the date of the invoice. The department shall determine the full amount of the EIS fee and notify the applicant within 30 days following the close of the FEIS hearing and bill the applicant for any unpaid portion of the fee. The applicant shall pay the entire fee prior to the department's determination on compliance with WEPA.

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

(l) If the applicant withdraws the applications for a proposed project or action for any reason once the process of preparing an EIS has been initiated or terminates a preapplication services agreement, the department shall determine actual cost incurred to the date of the withdrawal or termination plus any additional costs to terminate outstanding contracts. The applicant shall be responsible for those costs.

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

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

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

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

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