



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERTS

Regen

- 1 **AN ACT relating to:** modifying and repealing various rules promulgated by the
- 2 Department of Transportation.

Analysis by the Legislative Reference Bureau

This bill makes minor and technical changes to rules promulgated by the Department of Transportation (DOT), including correcting obsolete references and references to defunct programs and updating or repealing provisions that are inconsistent with current statutes and federal rules or that were promulgated based on statutes that have since been amended or repealed. The bill also make several substantive changes to various rules promulgated by DOT, including the following:

- 1. DOT's current rules include provisions implementing the Wisconsin Environmental Policy Act. These rules include provisions that, among other things, establish criteria and procedures relating to environmental assessments, environmental impact statements, environmental reports, and categorical exclusions relating to DOT actions that may affect the quality of the human environment. Many of these rules reference provisions of the National Environmental Policy Act. This bill makes various changes to rules relating to the environmental review process and environmental documentation for transportation projects, including 1) removing examples of specific actions for which an environmental assessment or environmental report is or is not required; 2) standardizing and clarifying content requirements for certain environmental documentation; 3) modifying certain provisions relating to notice and hearing on proposed actions; 4) adding provisions relating to revision of final action documents, including environmental reports and records of decision; 5) modernizing references

to federal law; and 6) eliminating or adding notes and making other minor and technical changes.

2. The bill allows certain recreational vehicle dealers that do not have a permanent facility in the state to display and sell recreational vehicles at certain temporary rally or show sites.

3. The bill eliminates certain timing and documentation requirements related to the motor vehicle emissions inspection and maintenance program.

4. The bill authorizes an alternate design for handicapped parking signs displayed in parking lots.

5. The bill eliminates a continuity-of-service requirement for motor vehicle rental companies.

6. The bill authorizes the use of electronic signatures on applications for special identification cards that afford certain parking privileges for persons with a disability that limits or impairs the ability to walk.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** Trans 28.04 (2) of the administrative code is amended to read:

2 Trans 28.04 (2) Eligible projects shall be located only in Great Lakes or
3 Mississippi River system harbors where vessels take on or discharge a combined
4 total of more than 1,000 tons of commercial cargo per year; where commercial, naval
5 or recreational vessels are built; where passenger or vehicle-carrying ferry service
6 connects the Wisconsin communities along the Great Lakes and Mississippi River,
7 or connects the Wisconsin mainland with other states, Canadian provinces or
8 populated islands in Wisconsin or where commercial fishing vessels unload fish. The
9 U.S. ~~army corps of engineers'~~ Army Corps of Engineers' annual tonnage figures shall
10 be the basis for the tonnage determination; where tonnage figures are not available,
11 the eligible applicant shall provide tonnage figures based on auditable records.

12 **SECTION 2.** Trans 28.06 (1) of the administrative code is amended to read:

1 Trans 28.06 (1) The department shall annually establish deadlines for filing
2 harbor assistance project applications and shall give appropriate notice of the
3 deadlines. Notice shall be by regular or electronic mail, sent to every eligible
4 applicant that has met the planning requirements under s. Trans 28.10. The
5 department shall issue notice of the grant awards within 180 days after an
6 application deadline. No grant funds may be committed to an eligible applicant until
7 a grant agreement is negotiated and signed by the department and the eligible
8 applicant.

9 **SECTION 3.** Trans 28.07 (2) of the administrative code is amended to read:

10 Trans 28.07 (2) For projects funded in part by the U.S. ~~army corps of engineers~~
11 Army Corps of Engineers, the state share may not exceed 50% of the ~~non-federal~~
12 nonfederal share of the project costs.

13 **SECTION 4.** Trans 28.07 (3) of the administrative code is amended to read:

14 Trans 28.07 (3) For projects with federal funding, other than those projects
15 funded in part by the U.S. ~~army corps of engineers~~ Army Corps of Engineers as
16 described in sub. (2), the state share may not exceed 80% of the ~~non-federal~~
17 nonfederal share of project costs; furthermore, the minimum eligible applicant share
18 shall be no less than 10% of project costs.

19 **SECTION 5.** Trans 28.09 (4) of the administrative code is amended to read:

20 Trans 28.09 (4) The eligible applicant shall submit an application to the
21 department by August 1 in order to receive primary consideration for funding during
22 the following calendar year. If funds are available, applications may be submitted
23 by March 15, 1985, and by ~~February~~ August 1 of each year thereafter, for funding in
24 the same calendar year. The department may waive the requirements in this
25 subsection for emergency repair projects.

SECTION 6

1 **SECTION 6.** Trans 31.02 (2) of the administrative code is renumbered Trans
2 31.02 (15m) and amended to read:

3 Trans 31.02 (15m) “BR&H RHS” means the bureau of railroads and harbors
4 section within the department.

5 **SECTION 7.** Trans 31.03 (1) (note) of the administrative code is amended to read:

6 Trans 31.03 (1) (note) Applications may be submitted to BR&H RHS, 4802
7 Sheboygan Avenue, P. O. Box 7914, Madison, Wisconsin 53707-7914.

8 **SECTION 8.** Trans 31.03 (5) (a) of the administrative code is amended to read:

9 Trans 31.03 (5) (a) BR&H RHS shall review an application and notify the
10 applicant of approval or denial of the application within 21 days following receipt of
11 a complete application.

12 **SECTION 9.** Trans 31.03 (5) (c) of the administrative code is amended to read:

13 Trans 31.03 (5) (c) BR&H RHS may require additional information from an
14 applicant to complete its review of an application. If an application is received at
15 least 45 days prior to the date of the first planned operation, BR&H RHS shall have
16 21 days from the receipt of the additional information to render its decision about the
17 application.

18 **SECTION 10.** Trans 31.03 (5) (d) of the administrative code is amended to read:

19 Trans 31.03 (5) (d) BR&H RHS shall notify an applicant in writing of all
20 deficiencies in an application, and the reasons for a denial.

21 **SECTION 11.** Trans 31.03 (6) (a) of the administrative code is amended to read:

22 Trans 31.03 (6) (a) An application which has been denied by BR&H RHS in
23 accordance with sub. (5) (b) 1. may be resubmitted in compliance with this section.

24 **SECTION 12.** Trans 31.03 (6) (b) of the administrative code is amended to read:

1 Trans 31.03 (6) (b) An application which has been denied by ~~BR&H~~ RHS in
2 accordance with sub. (5) (b) 2. or 3. may be resubmitted with the additional
3 information identified in ~~BR&H's~~ RHS's letter denying the original application.

4 **SECTION 13.** Trans 31.03 (6) (c) of the administrative code is amended to read:

5 Trans 31.03 (6) (c) An application which has been denied by ~~BR&H~~ RHS in
6 accordance with sub. (5) (b) 4. or 5. may not be resubmitted until after the sanctions
7 imposed by s. Trans 31.07 (3) have expired.

8 **SECTION 14.** Trans 31.03 (8) of the administrative code is amended to read:

9 Trans 31.03 (8) Any permit issued by the department shall expire on the date
10 specified by ~~BR&H~~ RHS. In no event shall a permit expire later than December 31
11 of the year in which the application proposes operation to commence.

12 **SECTION 15.** Trans 31.04 (1) (h) 2. of the administrative code is amended to
13 read:

14 Trans 31.04 (1) (h) 2. All active grade-crossing warning devices are functional
15 and can be operated by the equipment proposed to be used unless ~~BR&H~~ RHS waives
16 this requirement in writing on the permit.

17 **SECTION 16.** Trans 31.04 (1) (k) 1. of the administrative code is amended to read:

18 Trans 31.04 (1) (k) 1. ~~An~~ Maintenance of an established escrow account
19 approved by the department with a Wisconsin financial institution for the deposit of
20 all amounts received from buyers in advance ticket sales.

21 **SECTION 17.** Trans 31.04 (1) (k) 2. of the administrative code is amended to read:

22 Trans 31.04 (1) (k) 2. A financial instrument, including a bond, a certificate of
23 deposit, or an irrevocable letter of credit, from a Wisconsin financial institution in
24 an amount sufficient to refund the expected advance payments for service and
25 department administrative costs of processing refunds in the event that the

1 excursion is not operated for any reason. The financial instrument described in this
2 subdivision shall be established in favor of or made payable to the state, for the
3 benefit of any buyer who does not receive a refund if performance of the event for
4 which a ticket has been purchased has been cancelled or rescheduled. An applicant
5 shall file with the department any agreement, instrument, or other document
6 necessary to enforce the commitment against the sponsor or any relevant 3rd party.

7 **SECTION 18.** Trans 31.04 (1) (k) 3. of the administrative code is repealed.

8 **SECTION 19.** Trans 55.02 (2m) of the administrative code is created to read:

9 Trans 55.02 (2m) “Approach” means areas beyond the runway end intended
10 to provide safe navigable airspace for aircraft arrivals and departures to and from
11 a landing facility.

12 **SECTION 20.** Trans 55.06 (3) (a) of the administrative code is amended to read:

13 Trans 55.06 (3) (a) An airport owner shall maintain clear and safe runway
14 protection zones as described in FAA advisory circular 150/5300-13, Airport Design,
15 as amended, except for runway lighting fixtures, markers and metrological
16 instruments whose locations are fixed by their functional purposes or a structure
17 approved by the FAA. The owner shall establish positive control of the runway
18 protection zones through the acquisition of fee title or ~~avigation~~ easement. The
19 owner shall prevent the erection or creation of a structure or place of public assembly
20 in the runway protection zone.

21 **SECTION 21.** Trans 55.06 (4) (a) of the administrative code is amended to read:

22 Trans 55.06 (4) (a) A public airport owner shall adopt the following ordinances
23 within 6 months after receipt of a sample ordinance receiving notice from the
24 secretary:

25 **SECTION 22.** Trans 55.06 (8) (c) of the administrative code is amended to read:

1 Trans 55.06 (8) (c) The airport layout plan and each amendment, revision or
2 modification to the plan shall be subject to the approval of the secretary, which
3 approval shall be evidenced by the signature of a duly authorized representative of
4 the secretary on the face of the airport layout plan. The airport owner may not make
5 or permit a change or alteration in the airport or in any of its facilities other than in
6 conformity with the airport layout plan as approved by the secretary if the changes
7 or alterations might adversely affect the safety, utility or efficiency of the airport.

INS 22 7-8
8 **SECTION 23.** Trans 56.04 (3) (b) 4. of the administrative code is repealed and
9 recreated to read:

10 Trans 56.04 (3) (b) 4. Latitude and longitude coordinates of the proposed
11 structure.

12 **SECTION 24.** Trans 57.04 (1) (b) of the administrative code is amended to read:

13 Trans 57.04 (1) (b) A displaced threshold shall be marked similar to attached
14 diagram B for runways with other than paved surfaces. Runways with paved
15 surfaces shall be marked in accordance with the latest FAA advisory circular
16 150/5340-1G, "Standards for Airport Markings," September 27, 1993 marking
17 standards. In addition, if the runway is lighted, ~~the displaced threshold it~~ shall be
18 lighted in accordance with ~~FAA advisory circular 150/5340-24, "Runway and~~
19 ~~Taxiway Edge Lighting System," September 3, 1975. It applies to low intensity~~
20 ~~runway lighting systems and medium intensity systems~~ the latest FAA lighting
21 standards.

22 **SECTION 25.** Trans 57.05 (2) (f) of the administrative code is amended to read:

23 Trans 57.05 (2) (f) ~~FR IFR~~ and VFR traffic considerations. A certificate of site
24 approval may be denied if the proposed site underlies the airspace in the primary

1 approach area for an instrument approach, and the traffic pattern altitude conflicts
2 with published altitudes for the approach.

3 **SECTION 26.** Trans 100.01 (2) (note) of the administrative code is amended to
4 read:

5 Trans 100.01 (2) (note) For purposes of accident reporting, at least one car,
6 truck, bus, or motorcycle must be in transport for the department to consider the
7 accident reportable. For information on occupational licenses, see s. Trans 117.03 (2)
8 (k). Forms used in this chapter are MV 3038 resolution authorizing power of
9 attorney under ch. 344, Stats., MV 3039 minors release, MV 3041 release of liability,
10 MV 3044 evaluation of property damage, MV 3045 evaluation of personal injuries,
11 MV 3046 evaluation of motor vehicle damage, MV 3069 application for
12 self-insurance, MV 3070 safety responsibility self-insurance certificate, MV 3100
13 notice of incomplete report, MV 3128 installment agreement to pay damages, MV
14 3343 compliance notification, MV 3347 emergency vehicle involvement, MV 3384
15 safety responsibility information, MV 3385 informational letter to injured party, and
16 MV 3387 reinstatement instructions, MV 4000 Wisconsin motor vehicle accident
17 report. Forms may be obtained, free of charge, from Wisconsin Department of
18 Transportation, Traffic Accident Section, P.O. Box 7919, Madison, WI 53707-7919.

19 **SECTION 27.** Trans 100.03 (3) of the administrative code is amended to read:

20 Trans 100.03 (3) The department shall assume that all accident reports it
21 receives from enforcement agencies or operators meet the reporting criteria of s.
22 346.70 (1), Stats., or the minimum requirements for safety responsibility act under
23 s. ~~343.12~~ 344.12, Stats. An accident report filed by a police agency for an accident
24 that is not reportable shall be returned to the reporting agency. A report from
25 another source for an accident that is not reportable shall be discarded. If the

1 department determines from credible evidence received, which could include
2 property damage estimates or signed statements, that an accident that has been
3 abstracted as part of a driver's record is not reportable, the accident will not be
4 included in a public abstract of the driver's driver record maintained under s. 343.23,
5 Stats.

6 **SECTION 28.** Trans 100.07 (1) (note) of the administrative code is repealed.

7 **SECTION 29.** Trans 100.07 (2) (a) of the administrative code is amended to read:

8 Trans 100.07 (2) (a) If the department determines that one or more people
9 involved in an accident were uninsured, the department may mail evaluation reports
10 to all other persons involved in the accident. ~~The date on which the department first~~
11 ~~mails evaluation reports to any person shall be considered the "mailing date" under~~
12 ~~this subsection. The department shall mail the evaluation reports to the address~~
13 ~~provided in the accident report.~~

14 **SECTION 30.** Trans 100.07 (2) (b) (intro.) and 2. (intro) of the administrative
15 code are consolidated, renumbered Trans 100.07 (2) (b) (intro.) and amended to read:

16 Trans 100.07 (2) (b) (intro.) In determining the amount of security required:
17 ~~2. The~~ the department ~~may~~ shall consider an evaluation report filed with the
18 department ~~more than 21 days after the mailing date~~ if it meets all of the following
19 requirements:

20 **SECTION 31.** Trans 100.07 (2) (b) 1. of the administrative code is repealed.

21 **SECTION 32.** Trans 100.07 (2) (b) 2. a. and b. of the administrative code are
22 renumbered Trans 100.07 (2) (b) 1m. and 2m.

23 **SECTION 33.** Trans 100.07 (5) of the administrative code is amended to read:

24 Trans 100.07 (5) The department shall make a determination of the amount
25 of security required for an accident within ~~90 days of receiving an accident report~~ one

1 year of the date of the accident, or at such later date as individual circumstances of
2 an accident may require.

3 **SECTION 34.** Trans 100.07 (6) (b) 2. of the administrative code is repealed.

4 **SECTION 35.** Trans 100.07 (6) (b) 5. of the administrative code is created to read:

5 Trans 100.07 (6) (b) 5. The uninsured has complied with neither Trans 100.12
6 nor 100.13.

7 **SECTION 36.** Trans 100.08 (7) (b) of the administrative code is amended to read:

8 Trans 100.08 (7) (b) More than one year after the date of deposit or date of
9 suspension, whichever is later earlier, has passed and no notice of the
10 commencement of a court action has been filed by a party in interest. In calculating
11 the time period under this subsection, any period of time a claimant was stayed from
12 commencing an action against the owner, operator or bond because of a bankruptcy
13 proceeding may not be considered.

14 **SECTION 37.** Trans 100.10 (7) of the administrative code is amended to read:

15 Trans 100.10 (7) Hearings shall be informal. Hearsay and documentary
16 evidence may be received by the hearing examiner and relied upon as the basis for
17 a decision. ~~Telephone testimony~~ Testimony of persons involved in the accident may
18 not be permitted by telephone, electronic submission of documents, or other remote
19 communication method.

20 **SECTION 38.** Trans 100.18 (1) (e) of the administrative code is amended to read:

21 Trans 100.18 (1) (e) More than ~~20~~ 5 years from the entry date of the judgment
22 have elapsed.

23 **SECTION 39.** Trans 106.02 (4) of the administrative code is repealed.

24 **SECTION 40.** Trans 106.02 (11) of the administrative code is amended to read:

1 Trans 106.02 (11) “Satisfactory driving record” means a driving record that
2 does not contain moving violations which result in more than 6 demerit points within
3 a one year period, by date of violation, or does not indicate that the applicant was,
4 within one year, by date of violation, causally negligent in 2 or more traffic collisions
5 or does not contain a conviction for OWI or any OWI-related charge within one year.
6 Out-of-state traffic convictions and accidents shall be treated as though they
7 occurred in Wisconsin.

****NOTE: Does s. DHS 75.16 (5) (b) 4. (intro.) need treatment due to this change?
Do you want to specify that this is by date of violation?

8 **SECTION 41.** Trans 106.02 (12) of the administrative code is amended to read:

9 Trans 106.02 (12) “School” means an institution providing one or more of the
10 programs defined in sub. (4), (5), (6) or ~~(7)~~ (8) and authorized under s. 345.60, Stats.

11 **SECTION 42.** Trans 106.03 (3) (a) of the administrative code is amended to read:

12 Trans 106.03 (3) (a) Only one group dynamics traffic safety school program may
13 be certified in each WTC district unless the department determines that there is a
14 need for additional programs in a district. This paragraph does not apply to a
15 program provided by an accredited institution of higher education operated by a
16 federally recognized American Indian tribe or band in this state.

****NOTE: The instruction for this provision was a little unclear. Have I correctly
interpreted the intent of this change?

17 **SECTION 43.** Trans 106.03 (4) (a) of the administrative code is amended to read:

18 Trans 106.03 (4) (a) Only one multiple offender traffic safety school program
19 may be certified in each WTC district unless the department determines that there
20 is a need for additional programs in a district. This paragraph does not apply to a
21 program provided by an accredited institution of higher education operated by a
22 federally recognized American Indian tribe or band in this state.

****NOTE: The instruction for this provision was a little unclear. Have I correctly interpreted the intent of this change?

1 **SECTION 44.** Chapter Trans 113 (title) of the administrative code is amended
2 to read:

3 **CHAPTER TRANS 113**
4 **ADMINISTRATIVE SUSPENSION OF**
5 **OPERATING PRIVILEGE FOR OPERATING**
6 **A MOTOR VEHICLE WITH A PROHIBITED**
7 **ALCOHOL CONCENTRATION**
8 **OR A DETECTABLE AMOUNT OF A**
9 **RESTRICTED CONTROLLED SUBSTANCE**

10 **SECTION 45.** Trans 113.01 of the administrative code is amended to read:

11 **Trans 113.01 Purpose and scope.** As authorized by s. 85.16 (1), Stats., the
12 purpose of this chapter is to establish the department's administrative
13 interpretation of s. 343.305 (7) and (8), Stats., relating to arrest for operating with
14 a prohibited alcohol concentration or a detectable amount of a restricted controlled
15 substance, administrative suspension of operating privilege and reviews therefor.
16 Section 343.305 (7) (a), Stats., authorizes the department to administratively
17 suspend the operating privilege of a person whose test results indicate the presence
18 of a detectable amount of a restricted controlled substance in the person's blood or
19 a prohibited alcohol concentration.

20 **SECTION 46.** Trans 113.03 (intro.) of the administrative code is amended to
21 read:

22 **Trans 113.03 Law enforcement officer actions and information**
23 **provided to driver.** (intro.) If a person is tested for alcohol concentration or

1 presence of a restricted controlled substance in accordance with s. 343.305, Stats.,
2 and test results indicate a prohibited alcohol concentration or presence of a restricted
3 controlled substance, the law enforcement officer shall:

4 **SECTION 47.** Trans 113.03 (1) of the administrative code is repealed.

5 **SECTION 48.** Trans 113.04 (3) (c) of the administrative code is amended to read:

6 Trans 113.04 (3) (c) Whether the person had a prohibited alcohol concentration
7 or a detectable amount of a restricted controlled substance at the time the offense
8 allegedly occurred.

9 **SECTION 49.** Trans 113.04 (3) (e) of the administrative code is amended to read:

10 Trans 113.04 (3) (e) If one or more tests were administered in accordance with
11 s. 343.305, Stats., whether each of the test results for those tests indicate the person
12 had a prohibited alcohol concentration or a detectable amount of a restricted
13 controlled substance.

14 **SECTION 50.** Trans 113.04 (8) of the administrative code is amended to read:

15 Trans 113.04 (8) If at any time the person submits written evidence from a
16 facility certified by the state laboratory of hygiene and meeting the requirements of
17 s. 885.235 (1), Stats., indicating the person did not have a prohibited alcohol
18 concentration or a detectable amount of a restricted controlled substance, the
19 suspension will be vacated.

20 **SECTION 51.** Trans 113.04 (9) (intro.) of the administrative code is amended to
21 read:

22 Trans 113.04 (9) (intro.) If the examiner finds to a reasonable certainty by
23 evidence that is clear, satisfactory and convincing that the criteria in s. 343.305 (8)
24 (b), Stats., for administrative suspension have not been satisfied, or that the person

1 did not have a prohibited alcohol concentration or a detectable amount of a restricted
2 controlled substance at the time the offense allegedly occurred:

3 **SECTION 52.** Trans 113.04 (10) (intro.) of the administrative code is amended
4 to read:

5 Trans 113.04 (10) (intro.) If the examiner finds to a reasonable certainty by
6 evidence that is clear, satisfactory and convincing that the criteria for administrative
7 suspension have been satisfied and that the person had a prohibited alcohol
8 concentration or a detectable amount of a restricted controlled substance at the time
9 the offense allegedly occurred:

10 **SECTION 53.** Trans 118.01 of the administrative code is amended to read:

11 **Trans 118.01 Purpose and scope.** The purpose of this chapter is to establish
12 an employer notification program to permit an employer to register the name of an
13 ~~employe~~ employee and be notified by the department whenever a conviction or
14 suspension, revocation, cancellation, disqualification or out-of-service order is
15 recorded on the driving record of the Wisconsin licensed ~~employe~~ employee and any
16 other driving record information that the department may reasonably include in this
17 program.

18 **SECTION 54.** Trans 118.01 (note) of the administrative code is amended to read:

19 **Trans 118.01 (note)** Authority for this chapter can be found at s. 343.247 (2),
20 ~~Stats. Forms used in this chapter are MV3555 Employer Notification Customer~~
21 ~~Agreement and MV3556 Employe Enrollment Request. These forms are available~~
22 ~~from the Wisconsin Department of Transportation, Bureau of Driver Services, P.O.~~
23 ~~Box 7917, Madison, WI 53707.~~

24 **SECTION 55.** Trans 118.03 of the administrative code is amended to read:

1 **Trans 118.03 Employer notification application requirements.**

2 Employer notification is obtained through the system used to access the public
3 abstract of the driver's driving record maintained under s. 343.23, Stats. An
4 application for the ~~employer notification program~~ public abstract request system
5 shall be made to the department upon forms prescribed by the department, ~~shall be~~
6 ~~accompanied by the required fees as set forth in s. Trans 118.08~~ and shall include
7 such information as the department reasonably requires. The department may
8 assign these duties to a 3rd-party designee.

9 **SECTION 56.** Trans 118.04 of the administrative code is amended to read:

10 **Trans 118.04 ~~Employer Customer account codes numbers.~~ (1) ISSUANCE.**

11 The department shall issue ~~an employer~~ a customer account code number upon
12 receipt of a properly completed ~~employer notification customer~~ data access
13 agreement form and any other information that the department reasonably
14 requires.

15 **(2) USAGE.** The department may require that the employer use the employer
16 customer account code number for purposes of identification and invoicing
17 procedures.

18 **SECTION 57.** Trans 118.05 (intro.) of the administrative code is amended to
19 read:

20 **Trans 118.05 ~~Employer notification customer~~ Electronic DMV records**
21 **service data access agreement form.** (intro.) The employer shall submit an
22 ~~employer notification customer~~ a data access agreement form and any other
23 information that the department reasonably requires under any of the following
24 situations:

25 **SECTION 58.** Trans 118.05 (1) of the administrative code is amended to read:

1 Trans 118.05 (1) When the employer is submitting an original application for
2 enrollment in the employer notification program public abstract request system.

3 SECTION 59. Trans 118.05 (2) of the administrative code is repealed.

4 SECTION 60. Trans 118.05 (3) of the administrative code is amended to read:

5 Trans 118.05 (3) When the employer changes its agency name or address, or
6 both.

7 SECTION 61. Trans 118.05 (4) of the administrative code is amended to read:

8 Trans 118.05 (4) When the employer requests a renewal of registration for the
9 employer notification procedure public abstract request system.

10 SECTION 62. Trans 118.06 (title) of the administrative code is amended to read:

11 (B) Trans 118.06 (title) ~~Employee~~ Employee enrollment request form. ^{Strike}

12 SECTION 63. Trans 118.06 (1) of the administrative code is amended to read:

13 Trans 118.06 (1) ~~EMPLOYEE~~ EMPLOYEE ENROLLMENT. An employer may enroll an
14 employee employee in the employer notification program by ~~submitting a written~~
15 ~~request to the department~~ entering the employee's information online through the
16 public abstract request system.

17 SECTION 64. Trans 118.06 (2) of the administrative code is repealed.

18 SECTION 65. Trans 118.07 of the administrative code is amended to read:

19 (B) Trans 118.07 **Withdrawal of employees employees and employers. (1)**

20 ~~EMPLOYEE~~ EMPLOYEE WITHDRAWAL. An employer may withdraw an employee employee,
21 and shall withdraw a former employee, from the employer notification program by
22 ~~submitting a written request to the department. The written request shall contain~~
23 ~~the information set forth in s. Trans 118.06 (2) (a) to (f)~~ removing the employee from
24 the employer's public abstract request system online roster.

1 (2) EMPLOYER WITHDRAWAL. An employer may withdraw from the employer
2 notification program by submitting a ~~written~~ request to the department. The request
3 shall include the employer's name, account code, and any other information the
4 department reasonably requires.

5 **SECTION 66.** Trans 118.08 (1) of the administrative code is amended to read:

6 Trans 118.08 (1) EMPLOYER INITIAL ENROLLMENT. The department shall register
7 an employer in the employer notification program upon receipt of a properly
8 completed ~~employer notification customer~~ data access agreement form ~~together with~~
9 ~~the proper fee.~~ The registration of an employer in the public abstract request system
10 employer notification program shall ~~be issued for the calendar year and is valid only~~
11 ~~during the calendar year for which issued.~~ For each ~~account code issued to an~~
12 ~~employer, the fee shall be \$20 for an application submitted before July 1 of a year and~~
13 ~~\$10 for an application submitted on or after July 1~~ remain in effect for 4 years unless
14 terminated early by the department or employer.

15 **SECTION 67.** Trans 118.08 (2) of the administrative code is amended to read:

16 Trans 118.08 (2) RENEWAL. At least 30 ~~60~~ days prior to the expiration of an
17 ~~employer notification customer~~ a data access agreement form, the department shall
18 ~~mail to the last known address of~~ notify the employer ~~a notice of the date upon which~~
19 ~~the employer's registration fee must be paid and the new employer notification~~
20 ~~customer~~ data access agreement form must be returned. An employer who does not
21 return the ~~renewal form and fee by the date provided in the notice~~ may be removed
22 from the program. ~~The renewal fee for the employer notification program is \$20 per~~
23 ~~account code assigned to the employer.~~

24 **SECTION 68.** Trans 118.08 (3) to (6) of the administrative code are repealed.

SECTION 69

1 **SECTION 69.** Trans 118.09 of the administrative code is repealed and recreated
2 to read:

3 **Trans 118.09 Payment.** Employers shall make payments, in a manner
4 determined by the department, at the time of requesting information.

5 **SECTION 70.** Trans 118.10 of the administrative code is amended to read:

6 **Trans 118.10 Failure to comply with terms of program.** The department
7 may ~~not provide employer notification documents to an employer~~ suspend or
8 terminate access to employer notification if the employer has failed to comply with
9 any of the provisions of this chapter including, but not limited to, paying any ~~invoice~~
10 ~~or~~ fee when due.

11 **SECTION 71.** Trans 118.11 of the administrative code is repealed.

12 **SECTION 72.** Trans 118.12 (1) of the administrative code is amended to read:

13 Trans 118.12 (1) **CONTENT.** The employer ~~notification document will contain all~~
14 ~~of the following information:~~ be provided with an electronic copy of the employee's
15 current driving record.

16 **SECTION 73.** Trans 118.12 (1) (a) to (f) of the administrative code are repealed.

17 **SECTION 74.** Trans 118.12 (2) of the administrative code is amended to read:

18 Trans 118.12 (2) **SOURCE.** The source of the information supplied to the
19 employer ~~on the notification document~~ shall be limited to the data retained and
20 available in the department's computer database for holders of Wisconsin driver's
21 licenses ~~or identification cards.~~

22 **SECTION 75.** Trans 118.12 (3) of the administrative code is amended to read:

23 Trans 118.12 (3) **WHEN ISSUED NOTIFIED.** ~~Employer~~ Electronic notification
24 documents will be issued provided when there is ~~any change~~ activity described in s.

1 Trans 118.01 in the driver record maintained by the department for an enrolled
2 driver employee.

3 **SECTION 76.** Trans 118.12 (3) (note) of the administrative code is amended to
4 read:

5 Trans 118.12 (3) (note) No notification will be provided upon initial enrollment.
6 Employers may obtain driver abstracts when hiring ~~employes~~ employees under ch.
7 Trans 195.

8 **SECTION 77.** Trans 118.13 (title) of the administrative code is amended to read:

9 **Trans 118.13 (title) Employee Employee and employer responsibilities.**

10 **SECTION 78.** Trans 118.13 (1) of the administrative code is amended to read:

11 Trans 118.13 (1) ~~EMPLOYE~~ EMPLOYEE RESPONSIBILITIES. Nothing in this chapter
12 shall be construed to relieve the ~~employe~~ employee from the driver notification
13 requirements described under s. 343.245 (2), Stats.

14 **SECTION 79.** Trans 118.14 of the administrative code is amended to read:

15 **Trans 118.14 Construction of this rule.** Nothing in this chapter shall be
16 construed to relieve the applicant for ~~an employer notification document~~ a driver
17 record from submitting a complete application ~~with the~~ or payment of appropriate
18 fees described in this chapter. In the event of a conflict between the provisions of ch.
19 Trans 195 and the provisions of this chapter, the provisions of this chapter shall
20 control.

21 **SECTION 80.** Trans 130.03 (1) (g) of the administrative code is amended to read:

22 Trans 130.03 (1) (g) The signature of the person or, if applicable, the signature
23 of anyone authorized to sign for the applicant, including a health care specialist. A
24 signature under this paragraph includes an electronic signature, as defined in s.
25 137.11 (8), Stats.

1 **SECTION 81.** Trans 131.01 (2) (note) of the administrative code is amended to
2 read:

3 Trans 131.01 (2) (note) Forms used in this chapter are MV 2016, substitute
4 renewal notice; ~~MV 2470, vehicle inspection report~~; MV 2472, application for letter
5 of temporary exemption from emission test requirements; ~~MV 2588, exchanged~~
6 ~~engine certificate~~; ~~MV 2594, quality assurance inspection report~~. Copies can be
7 obtained from the Wisconsin Department of Transportation, Dealer and Agent
8 Section, P. O. Box 7909, Madison, WI 53707-7909.

9 **SECTION 82.** Trans 131.02 (15) (note) of the administrative code is amended to
10 read:

11 Trans 131.02 (15) (note) All references made to the Federal Rule in this
12 document are to 40 CFR Part 51, Subpart S Inspection/Maintenance Program
13 Requirements; Final Rule dated November 5, 1992, as amended through ~~January 1,~~
14 ~~2001~~ April 7, 2006.

15 **SECTION 83.** Trans 131.02 (24) of the administrative code is amended to read:

16 Trans 131.02 (24) “Inspection station” means an inspection facility operated
17 by a party, or a subcontractor of the party, under contract with the department for
18 the purpose of conducting vehicle emission inspections required by s. 110.20, Stats.

19 **SECTION 84.** Trans 131.02 (38) of the administrative code is amended to read:

20 Trans 131.02 (38) “Recognized automotive emission repair technician” means
21 a person who has received and has proof of formal training in both diagnosis and
22 repair of automotive engines and related systems and who is in good standing with
23 the department and in compliance with this chapter and s. 110.20, Stats.

24 **SECTION 85.** Trans 131.02 (39) of the administrative code is amended to read:

1 Trans 131.02 **(39)** “Recognized repair facility” means a franchised new car
2 dealer or other business with a Wisconsin sales tax number that performs emission
3 repairs as a regular part of its business activities ~~and, that~~ employs at least one
4 recognized automotive emission repair technician, and that is in good standing with
5 the department and in compliance with this chapter and s. 110.20, Stats.

6 **SECTION 86.** Trans 131.02 (45) of the administrative code is amended to read:

7 Trans 131.02 **(45)** “Technical assistance center” means either a separate
8 contractor or subcontractor facility or a portion of an inspection station which, under
9 the direction of a master automotive technician, is equipped to perform both emission
10 inspections and complete diagnostic evaluations of nonexempt vehicles.

11 **SECTION 87.** Trans 131.02 (54) of the administrative code is amended to read:

12 Trans 131.02 **(54)** “Vehicle inspection report” means a ~~serially numbered~~
13 document issued at an inspection station or authorized inspection facility or
14 technical assistance center or by an inspector designated by the department to
15 perform the functions of a technical assistance center at the time of vehicle
16 inspection, indicating that the vehicle has been inspected in accordance with the
17 provisions of this chapter, and may include data reported electronically.

18 **SECTION 88.** Trans 131.03 (6) (d) 5. of the administrative code is amended to
19 read:

20 Trans 131.03 **(6)** (d) 5. If the inspection computer system is not able to download
21 the vehicle OBD II records, the OBD inspection shall be aborted, and the vehicle shall
22 be reinspected ~~with an OBD II inspection in a separate inspection facility inspection~~
23 lane.

24 **SECTION 89.** Trans 131.03 (10) (a) 1. of the administrative code is amended to
25 read:

1 Trans 131.03 (10) (a) 1. ~~The reinspection shall take place within 30 days of the~~
2 ~~initial inspection or the owner or lessee shall present satisfactory evidence that the~~
3 ~~repairs and adjustments which were performed on the vehicle could not have been~~
4 ~~made within 30 days of the initial inspection. Additionally, the vehicle shall have~~
5 ~~been repaired or adjusted according to s. 110.20, Stats., and this chapter.~~

6 **SECTION 90.** Trans 131.03 (10) (a) 2. (intro.) of the administrative code is
7 amended to read:

8 Trans 131.03 (10) (a) 2. (intro.) The vehicle shall may be accompanied by its
9 previous vehicle inspection reports. Repair information, as completed by the person
10 performing the repairs, shall may be indicated in the space provided on the reports,
11 ~~unless it is~~ and may be reported electronically, upon performance of the repair. The
12 completed repair section on the vehicle inspection report, or the data reported
13 electronically, shall may indicate all of the following:

14 **SECTION 91.** Trans 131.03 (10) (c) of the administrative code is amended to read:

15 Trans 131.03 (10) (c) If the vehicle passes the reinspection, the contractor shall
16 retain all any previously-issued vehicle inspection reports it determines are
17 necessary to retain and issue a vehicle inspection report indicating compliance. If
18 the vehicle does not pass the reinspection, the contractor shall issue a vehicle
19 inspection report indicating ~~non-compliance~~ noncompliance. If the owner or lessee
20 requests a waiver of compliance from emission limitations, the waiver investigator
21 shall review the request and shall either approve or deny the request in accord with
22 s. Trans 131.04. If approved, the waiver investigator shall retain all
23 previously-issued vehicle inspection reports, except the latest on which the waiver
24 is indicated as granted.

****NOTE: Should the document-retention requirement for waiver investigators also be eliminated?

1 **SECTION 92.** Trans 131.03 (10) (d) 1. of the administrative code is amended to
2 read:

3 Trans 131.03 (10) (d) 1. A vehicle may receive ~~no more~~ not fewer than 2
4 reinspections. ~~The reinspections shall occur within 30 days of initial inspection.~~

5 **SECTION 93.** Trans 131.03 (11) (j) of the administrative code is repealed.

6 **SECTION 94.** Trans 131.03 (11) (m) of the administrative code is repealed.

7 **SECTION 95.** Trans 131.03 (12) of the administrative code is amended to read:

8 Trans 131.03 (12) RECONSTRUCTED AND HOMEMADE VEHICLES. Any nonexempt
9 vehicle registered as reconstructed or homemade under s. 341.268, Stats., shall be
10 inspected for compliance with requirements applicable to the model year of the
11 vehicle as indicated on the vehicle's registration documents, unless the owner both
12 requests that the vehicle be inspected by engine year and provides a completed
13 MV2588, ~~exchanged engine certification form, to the waiver investigator.~~ In
14 addition, the vehicle owner shall locate the engine number on the engine for purposes
15 of engine year verification by the waiver investigator.

16 **SECTION 96.** Trans 131.03 (15) (a) (intro.) of the administrative code is amended
17 to read:

18 Trans 131.03 (15) (a) (intro.) The operator of each vehicle inspected shall
19 receive a vehicle inspection report, ~~MV 2470~~, at the conclusion of the inspection. The
20 vehicle inspection report data may also be reported electronically. The inspection
21 report, or the vehicle inspection report data reported electronically, shall indicate:

22 **SECTION 97.** Trans 131.03 (15) (b) of the administrative code is amended to
23 read:

1 Trans 131.03 (15) (b) Each operator of a vehicle failing or rejecting the
2 inspection shall receive an inspection report supplement containing repair,
3 reinspection and waiver application instructions, as well as information on the
4 possible causes of failure or rejection found during the inspection.

5 SECTION 98. Trans 131.03 (15) (c) of the administrative code is amended to read:

6 Trans 131.03 (15) (c) Each operator of a vehicle failing or rejecting the initial

7 inspection shall receive a list of ~~recognized automotive emission repair technicians~~ strike

8 ~~and~~ recognized repair facilities by area which includes information required under

9 s. Trans 131.15. This listing may include other consumer information useful in

10 obtaining vehicle emission repair service.

11 SECTION 99. Trans 131.07 (1) (c) of the administrative code is amended to read:

12 Trans 131.07 (1) (c) The operator presents payment to the contractor of a

13 monetary fee as ~~determined~~ if required by contract.

14 SECTION 100. Trans 131.08 (2) of the administrative code is amended to read:

15 Trans 131.08 (2) APPLICATION. The department shall provide an application

16 form, MVD2472, on which the vehicle owner or lessee shall state their his or her

17 name, permanent address, temporary address, if used, and daytime telephone

18 number and may allow application in any other manner. The vehicle owner or lessee

19 shall identify the vehicle involved, provide the reason for requesting a letter of

20 temporary exemption, certify that the vehicle is unavailable for emission inspection,

21 and state the date when the vehicle will again be operated within a Wisconsin county

22 subject to the emission inspection requirements of this chapter.

23 SECTION 101. Trans 131.11 (1) (a) of the administrative code is amended to

24 read:

1 Trans 131.11 (1) (a) All contractor and subcontractor inspection functions,
2 including those occurring at the inspection stations, other authorized inspection
3 facilities, technical assistance centers or other facility by an inspector designated by
4 the department to perform the functions of a technical assistance center, and vehicles
5 used to conduct remote sensing, shall be audited on an unscheduled basis, at a
6 minimum, according to the frequency established in the federal rule.

7 **SECTION 102.** Trans 131.15 (2) (intro.) of the administrative code is amended
8 to read:

9 Trans 131.15 (2) (intro.) DATA COLLECTION. Whenever a nonexempt vehicle
10 receives a reinspection, the contractor shall attempt to collect the following emission
11 repair information from the vehicle inspection report ~~as required by s. Trans 131.03~~
12 ~~(11)~~:

13 **SECTION 103.** Trans 131.15 (3) (b) of the administrative code is amended to
14 read:

15 Trans 131.15 (3) (b) Beginning in the third month of the vehicle emission
16 inspection program, the contractor shall produce a summary report of the
17 performance of local repair facilities that have repaired vehicles for reinspection.
18 The report shall be provided to the motorist at the time of initial vehicle emission
19 inspection failure. ~~The report shall be updated on a quarterly basis or made~~
20 available on the contractor's Internet site.

21 **SECTION 104.** Trans 131.15 (3) (c) of the administrative code is repealed.

22 **SECTION 105.** Trans 142.07 (4) (e) of the administrative code is created to read:

23 Trans 142.07 (4) (e) 1. Each dealer maintains a permanent facility in this state
24 in the manner required by sub. (1), except as provided in subd. 2.

1 2. The department may exempt a dealer from the facility requirement in subd.
2 1., but not from any other requirement of state law, if the dealer is selling recreational
3 vehicles at a rally or show sponsored by an established state, national, or
4 international recreational vehicle association with a minimum membership of 100
5 members. An exemption under this paragraph may not be granted by the
6 department more than once in any 4-year period. Any license issued by the
7 department containing the exemption described in this paragraph shall be limited
8 to one specific event and may not exceed 10 days' duration. An exemption granted
9 under this paragraph will not exempt a dealer from geographic sales restrictions
10 contained in a dealer franchise agreement or other private contractual obligation.

11 **SECTION 106.** Trans 146.04 (4) of the administrative code is repealed.

12 **SECTION 107.** Trans 157.05 (1) (note) of the administrative code is amended to
13 read:

14 Trans 157.05 (1) (note) Forms MV1, Application for Title/Registration,
15 MV2493 MV2488, Vehicle Transfer and Odometer Disclosure Mileage Statement,
16 and MV2790, Trustee's Application for Certificate of Title, can be ordered from DOT
17 Materials Management, 3617 Pierstorff, Madison, WI 53704 or (608) 246-3262 or
18 obtained at a motor vehicle services center. In cases involving the sale of titled
19 vehicles, the Odometer Disclosure Statement on the reverse side of the certificate of
20 title should be used.

21 **SECTION 108.** Trans 175.09 of the administrative code is repealed.

22 **SECTION 109.** Trans 178.02 (7m) of the administrative code is created to read:

23 Trans 178.02 (7m) "MCSA-1" means the form prescribed by the federal Motor
24 Carrier Safety Administration for application for USDOT Number/Operating
25 Authority Registration.

1 **SECTION 110.** Trans 178.03 (1) (intro.) of the administrative code is amended
2 to read:

3 Trans 178.03 (1) (intro.) Except as provided in sub. (2), as provided in 49 CFR
4 ~~367.20~~ part 367, subpart B, fees for registration year 2010 and thereafter are as
5 follows:

6 **SECTION 111.** Trans 178.04 (1) (a) 1. of the administrative code is amended to
7 read:

8 Trans 178.04 (1) (a) 1. The number reported on the MCS-150 most recently
9 filed with the U. S. department of transportation. This subdivision does not apply
10 to reports filed after October 23, 2015.

11 **SECTION 112.** Trans 178.04 (1) (a) 1m. of the administrative code is created to
12 read:

13 Trans 178.04 (1) (a) 1m. After October 23, 2015, the number reported on the
14 MCSA-1 most recently filed with the U. S. department of transportation.

15 **SECTION 113.** Trans 200.07 (2) (title) of the administrative code is amended to
16 read:

17 Trans 200.07 (2) (title) ~~SIGN DESCRIPTION~~ DESIGN.

18 **SECTION 114.** Trans 200.07 (2) (intro.) of the administrative code is created to
19 read:

20 Trans 200.07 (2) (intro.) For highways open to public travel, signs shall
21 conform to the following requirements:

22 **SECTION 115.** Trans 200.07 (2) (a) of the administrative code is amended to
23 read:

24 Trans 200.07 (2) (a) The sign shall consist of a white rectangle with longer
25 dimension vertical, having green message, a green arrow, if required under this

1 section, and a blue and white international symbol for the barrier-free
2 environments. The sign may shall be reflective ~~or non-reflective~~.

3 **SECTION 116.** Trans 200.07 (2m) of the administrative code is created to read:

4 Trans 200.07 (2m) ALTERNATIVE SIGN DESIGN. For parking lots, signs shall be
5 of the design under sub. (2) or a design containing all of the following:

6 (a) The sign shall contain the international symbol for accessibility, the
7 international symbol for barrier-free environments (wheelchair symbol on a
8 square), or a visually similar symbol. The symbol shall be within a square not less
9 than 5 inches on a side.

10 (b) The sign shall contain either green or blue text on a white background or
11 white text on a blue background.

12 (c) The sign may contain text stating “disabled parking,” “handicapped
13 parking,” “reserved parking,” or the amount of the forfeiture for parking in violation
14 of the sign.

****NOTE: Does s. SPS 362.1110 need to be treated to reflect the changes made to
s. Trans 200.07?

****NOTE: Is the material in par. (c) intended to be optional?

15 **SECTION 117.** Trans 200.07 (4) of the administrative code is repealed.

16 **SECTION 118.** Trans 206.03 (11) (d) of the administrative code is amended to
17 read:

18 Trans 206.03 (11) (d) ~~No~~ Except as provided in s. 86.31 (4), Stats., no federal
19 aid funds shall be used as the local match for an eligible project.

20 **SECTION 119.** Trans 207.02 (3) of the administrative code is amended to read:

21 Trans 207.02 (3) In addition to complying with these standards, it may be
22 necessary for constructing authorities to obtain permits from federal agencies such

1 Trans 310.05 (1) A child under the age of 8 who, because of a medical condition,
2 body size or a physical disability, is incapable of being transported in a child safety
3 restraint system, may be transported without a safety restraint system or safety belt
4 providing:

5 **SECTION 124.** Trans 315.01 (2) of the administrative code is amended to read:

6 Trans 315.01 (2) This chapter applies to all persons who are at least ~~4~~ 8 years
7 old and are subject to the safety belt installation and usage requirements of s. 347.48,
8 Stats.

9 **SECTION 125.** Trans 315.03 (1) of the administrative code is amended to read:

10 Trans 315.03 (1) A person who is at least ~~4~~ 8 years old is exempted from the
11 provisions of s. 347.48 (2m), Stats., if the person cannot be properly restrained in a
12 safety belt because of a physical or medical condition providing:

13 **SECTION 126.** Trans 315.03 (2) of the administrative code is amended to read:

14 Trans 315.03 (2) A person at least ~~4~~ 8 years old being transported in an
15 authorized emergency vehicle as defined in s. 340.01 (3), Stats., when the vehicle is
16 being operated in the performance of official duties, may be transported without a
17 safety belt when the physical or medical needs of the person make restraint by safety
18 belt unreasonable.

19 **SECTION 127.** Trans 400.03 (note) of the administrative code is created to read:

20 ^(title)
21 Trans 400.03 (note) The National Environmental Policy Act (NEPA) requires
22 the federal government to prepare environmental documentation for major federal
23 actions. The Wisconsin Department of Transportation prepares the federal
24 environmental documentation for review and approval by the federal government of
25 actions for which federal funds are to be used by the department. The requirements
for federally funded actions are followed by the department when federal funds are

1 involved. These federally funded actions are also actions of the department to which
2 the Wisconsin Environmental Policy Act (WEPA) applies. Finally, when the
3 department pursues an action for which only state funds are involved, NEPA does
4 not apply, but WEPA still applies. The intent of this chapter is to direct the
5 department to follow NEPA and its implementing regulations for both NEPA and
6 WEPA purposes when federal funds are involved in the proposed action. The intent
7 is to apply WEPA and its implementing rules in this chapter when only state funds
8 are involved in the proposed actions, but to make the WEPA implementing rules
9 track the federal law and federal regulations as closely as possible.

***NOTE: It appears that this (note) is "moved" from s. Trans 400.08 (1) (a).

10 **SECTION 128.** Trans 400.04 (3) (note) of the administrative code is created to
11 read:

12 Trans 400.04 (3) (note) The specific versions of federal regulations and federal
13 agency orders as referenced throughout this chapter are adopted in s. Trans 400.05
14 and are reproduced at appendix 1 to this chapter.

15 **SECTION 129.** Trans 400.04 (3) of the administrative code is amended to read:

16 Trans 400.04 (3) "Categorical exclusion" means an action which meets the
17 definition of the term ~~in the guidelines published by the United States council on~~
18 ~~environmental quality as a federal rule in 40 CFR 1508.4, July 1, 1990, and the rule~~
19 ~~published jointly by the federal highway administration and urban mass transit~~
20 ~~administration of the United States department of transportation and in 23 CFR~~
21 ~~771.117, April 1, 1991, or the procedures published by 23 CFR 771.118, or chapter~~
22 6 of order 5050.4B of the federal aviation administration of the United States
23 ~~department of transportation as order 5050.4A, chapter 3, paragraph 23, October 8,~~

SECTION 129

1 1985, or other actions of the department for which neither an EA, EIS nor other
2 environmental documentation is required by this rule.

3 **SECTION 130.** Trans 400.04 (4) of the administrative code is amended to read:

4 Trans 400.04 (4) “Cooperating agency” means any Native American tribe, or
5 any local, state, or federal agency, other than the lead or transportation agency,
6 which has jurisdiction by law over the proposed action or which has special expertise
7 with respect to any relevant environmental effect generated by the proposed action
8 or alternative.

9 **SECTION 131.** Trans 400.04 (5) of the administrative code is amended to read:

10 Trans 400.04 (5) “Department” means the Wisconsin department of
11 transportation or a local agency when acting under the direction of the department.

12 **SECTION 132.** Trans 400.04 (10) of the administrative code is amended to read:

13 Trans 400.04 (10) “ER” or “environmental report” means a brief document used
14 internally by the department to demonstrate a proposed action fits the criteria or
15 conditions for approval as a categorical exclusion in ~~23 CFR 771.117 (d), April 1,~~
16 ~~1991, or has met the review criteria of paragraph 23.a. of chapter 3 of federal aviation~~
17 ~~administration order 5050.4A of October 8, 1985, under s. Trans 400.08 (1) (cm)~~ or ^(d)
18 has been properly coordinated with other agencies having jurisdiction by law over
19 specific activities.

****NOTE: The cross-reference used in the instructions in sub. (10) is to s. Trans 400.08 (1) (d), but that provision is being renumbered to Trans 400.08 (1) (cm), so I changed the cross-reference. Please advise if this is not the intended cross-reference.

20 **SECTION 133.** Trans 400.04 (15) of the administrative code is repealed.

21 **SECTION 134.** Trans 400.04 (22m) of the administrative code is created to read:

22 Trans 400.04 (22m) “Participating agency” means any Native American tribe
23 or any local, state, or federal agency, other than the lead agency, with an interest in

1 the project. “Participating agency” includes cooperating agencies but does not
2 include nongovernmental organizations or other private entities.

3 **SECTION 135.** Trans 400.04 (24) of the administrative code is amended to read:

4 Trans 400.04 (24) “Reevaluation” means the review of ~~a DEIS or FEIS~~ an
5 approved draft or final environmental document to assess whether there have been
6 significant changes in the proposed action, the affected human environment, the
7 anticipated environmental impacts, or the proposed mitigation measures.

8 **SECTION 136.** Trans 400.05 of the administrative code is amended to read:

9 **Trans 400.05 Federal regulations adopted.** ~~Federal regulations, 23 CFR~~
10 ~~771.115, 771.117, 771.119(a) and 771.123(a), April 1, 1998, adopted jointly by the~~
11 ~~federal highway administration and urban mass transit administration of the~~
12 ~~United States department of transportation, and its federal aviation administration~~
13 ~~order 5050.4A, chapter 3, paragraphs 20, 21, 22, and 23, October 8, 1985, pursuant~~
14 ~~to 40 CFR 1508.4, July 1, 1998, as approved by the United States council on~~
15 ~~environmental quality, and 40 CFR 1506.8 and 1508.17~~ References throughout this
16 chapter to federal regulations and orders are to the following specific versions, which
17 are hereby adopted by the department and are attached hereto in appendix 1: 23
18 CFR 771.115, 771.117, and 771.118, April 1, 2014; 40 CFR 1500.4, 1500.5, 1506.8,
19 and 1508.4, July 1, 2014; 49 CFR 266.19, October 1, 2014; and the United States
20 department of transportation federal aviation administration order 5050.4B,
21 chapters 6, 7, and 9, April 28, 2006.

****NOTE: I changed “this rule” to “this chapter” in s. Trans 400.05.

22 **SECTION 137.** Trans 400.05 (note) of the administrative code is repealed.

23 **SECTION 138.** Trans 400.06 (5) of the administrative code is amended to read:

1 Trans 400.06 (5) Measures necessary to avoid, minimize and to mitigate for the
2 mitigation of adverse environmental impacts of proposed actions shall be part of the
3 development and evaluation of alternatives.

4 **SECTION 139.** Trans 400.06 (6) of the administrative code is amended to read:

5 Trans 400.06 (6) The department shall implement procedures to make the
6 WEPA process more useful to decision makers and the public by reducing paperwork
7 and reducing delay utilizing the means for achieving these goals as specified in the
8 rules of the United States council on environmental quality at 40 CFR 1500.4 and
9 1500.5, July 1, 1990, that which are attached hereto in appendix 1. Environmental
10 documents shall be concise, clear, and to the point and emphasize real environmental
11 issues and alternatives.

12 **SECTION 140.** Trans 400.07 (2) (intro.) of the administrative code is amended
13 to read:

14 Trans 400.07 (2) (intro.) ~~Except for actions designated CE actions which do not~~
15 ~~require any environmental documentation, actions~~ Actions and procedures
16 designated EIS, EA or ER shall require the following environmental documentation:

17 **SECTION 141.** Trans 400.07 (2) (b) 1. of the administrative code is amended to
18 read:

19 Trans 400.07 (2) (b) 1. An EA shall be prepared for those project actions for
20 which the significance of the environmental impact is not clearly established. If it
21 is concluded from the analysis in the EA that the action is a major action, an EIS shall
22 be prepared. If it is concluded from the analysis in the EA that the action is not a
23 major action, the EA shall be revised to constitute a FONSI, and the FONSI shall
24 serve as the environmental document. The FONSI shall be prepared only after
25 availability of the EA for public, and cooperating and participating agency, review

1 and comment and the incorporation of any appropriate revisions resulting from the
2 public involvement process. Where a permit will be required or other agency
3 coordination is specifically required by law, the FONSI may serve as the vehicle for
4 such permit or coordinating agency approval.

5 **SECTION 142.** Trans 400.07 (2) (c) (intro.) of the administrative code is amended
6 to read:

7 Trans 400.07 (2) (c) (intro.) *ER*. An ER is a procedure followed for an action
8 that is likely to fit the criteria for a conditional categorical exclusion in 23 CFR
9 771.117 (d), ~~April 1, 1998 23 CFR 771.118 (d)~~, or federal aviation administration
10 order ~~5050.4A, chapter 3, paragraph 23.a., October 8, 1985 5050.4B, chapter 6,~~
11 paragraph 605, or otherwise requires coordination with or concurrence of another
12 agency. An environmental report, or ER, shall be prepared to demonstrate whether
13 the proposed action does fit the criteria or conditions for approval as a categorical
14 exclusion and has been properly coordinated with other agencies having jurisdiction
15 by law over specific activities. The ER shall serve as the department's record of
16 coordination with other agencies having jurisdiction over specific activities,
17 including the following activities:

18 **SECTION 143.** Trans 400.08 (1) (a) (intro.) of the administrative code is amended
19 to read:

20 Trans 400.08 (1) (a) (intro.) *EIS – Environmental Impact Statement*. The
21 ~~federal highway administration regulations at 23 CFR 771.115(a) April 1, 1998,~~
22 ~~federal aviation administration order 5050.4A, chapter 3, paragraph 21, October 8,~~
23 ~~1985, identify types of federally funded actions which require the preparation of an~~
24 ~~environmental impact statement.~~ The following are examples of department major

SECTION 143

1 actions that normally require the preparation of an environmental impact
2 statement:

3 **SECTION 144.** Trans 400.08 (1) (a) (intro.) (note) of the administrative code is
4 repealed.

****NOTE: This (note), although repealed here, is recreated in s. Trans 400.03.

5 **SECTION 145.** Trans 400.08 (1) (a) 1. c. of the administrative code is amended
6 to read:

7 Trans 400.08 (1) (a) 1. c. ~~New construction~~ Construction or extension of a fixed
8 rail transit facilities including facility, such as rapid rail, light rail, commuter rail,
9 and automated guideway transit or bus rapid transit, that will not be located within
10 an existing transportation right-of-way.

11 **SECTION 146.** Trans 400.08 (1) (a) 2. a. of the administrative code is amended
12 to read:

13 Trans 400.08 (1) (a) 2. a. ~~First time~~ Unconditionally approving or funding the
14 first airport layout plan approval or airport location approval for a new commercial
15 service airport located in a standard metropolitan statistical area.

****NOTE: Is striking "airport" in the last line of subd. 2. a. consistent with your
intent?

16 **SECTION 147.** Trans 400.08 (1) (a) 2. b. of the administrative code is amended
17 to read:

18 Trans 400.08 (1) (a) 2. b. ~~Federal financial participation in, or airport layout~~
19 ~~plan approval of,~~ Unconditionally approving or funding a new runway capable of
20 handling to accommodate air carrier aircraft at a commercial service airport located
21 in a standard metropolitan statistical area.

22 **SECTION 148.** Trans 400.08 (1) (a) 3. (note) of the administrative code is
23 amended to read:

1 Trans 400.08 (1) (a) 3. (note) The federal highway administration regulations
2 at 23 CFR 771.115 (a) and federal aviation administration order 5050.4B, chapter 9,
3 section 903, identify types of federally funded actions which normally require the
4 preparation of an environmental impact statement. The federal railroad
5 administration regulation at 49 CFR 266.19, ~~October 1, 1997~~, generally identifies
6 actions that do not require an environmental impact statement.

7 **SECTION 149.** Trans 400.08 (1) (b) (intro.) of the administrative code is amended
8 to read:

9 Trans 400.08 (1) (b) (intro.) *EA – Environmental Assessment.* EA procedures
10 apply to actions for which the significance of the environmental impacts is not clearly
11 established and require the preparation of an environmental assessment to make
12 that determination. ~~The federal highway administration regulations at 23 CFR~~
13 ~~771.115(c) April 1, 1998, and the federal aviation order 5050.4A, chapter 3,~~
14 ~~paragraph 22, October 8, 1985 identify the types of federal actions that require the~~
15 ~~preparation of an environmental assessment. Examples of the department’s actions~~
16 ~~that are required to follow the EA procedure are as follows:~~

****NOTE: The change proposed in the instructions, notably the striking of “as follows” at the end of this provision, results in par. (b) (intro.) not being a true introductory paragraph. I believe the provision is now stylistically inappropriate, but I have retained it in the form proposed because this same type of false (intro.) already appears elsewhere in ch. Trans 400.

17 **SECTION 150.** Trans 400.08 (1) (b) 1. of the administrative code is repealed and
18 recreated to read:

19 Trans 400.08 (1) (b) 1. ‘Highways and transit.’ In addition to actions the
20 department determines meet the criteria for an EA action under this chapter, the
21 department may apply EA procedures to the highway and transit actions generally
22 identified in 23 CFR 771.115 (c).

SECTION 151

1 **SECTION 151.** Trans 400.08 (1) (b) 2. of the administrative code is repealed and
2 recreated to read:

3 Trans 400.08 (1) (b) 2. ‘Airports.’ In addition to actions the department
4 determines meet the criteria for an EA action under this chapter, the department
5 may apply EA procedures to actions generally identified in federal aviation
6 administration order 5050.4B.

7 **SECTION 152.** Trans 400.08 (1) (b) 3. of the administrative code is amended to
8 read:

9 Trans 400.08 (1) (b) 3. Administrative facilities. Construction Examples of
10 department actions regarding administrative facilities to which EA procedures
11 normally apply are: construction of a new or replacement administrative building,
12 including an office building, state patrol academy, driver licensing and testing
13 station, state patrol communications building, or other similar facility, at a new
14 location.

15 **SECTION 153.** Trans 400.08 (1) (b) 5. (intro.) of the administrative code is
16 amended to read:

17 Trans 400.08 (1) (b) 5. (intro.) Policy, contract, standard and specification
18 changes. Examples of department actions regarding policy, contract, standards and
19 specifications to which EA procedures normally apply are:

20 **SECTION 154.** Trans 400.08 (1) (c) (intro.) of the administrative code is
21 renumbered Trans 400.08 (1) (d) (intro.) and amended to read:

22 Trans 400.08 (1) (d) (intro.) *ER – Environmental Report.* ER procedures
23 apply to actions identified in 23 CFR 771.117(d), April 1, 1998, and federal aviation
24 administration order 5050.4A, chapter 3, paragraph 23a., October 8, 1985. ER
25 actions require documentation with an environmental report. The environmental

and recreated to read:

1 report shall demonstrate that the action meets the criteria for a categorical exclusion
2 by demonstrating that specific conditions or criteria for the action have been
3 addressed and that significant environmental effects will not result. ~~Examples of ER~~
4 ~~actions to which ER procedures apply are as follows:~~

****NOTE: The change proposed in the instructions, notably the striking of "as follows" at the end of this provision, results in par. (dm) (intro.) not being a true introductory paragraph. I believe the provision is now stylistically inappropriate, but I have retained it in the form proposed because this same type of false (intro.) already appears elsewhere in ch. Trans 400.

SECTION 155. Trans 400.08 (1) (c) 1. of the administrative code is repealed.

SECTION 156. Trans 400.08 (1) (c) 2. of the administrative code is repealed.

****NOTE: The language in the instructions for renumbered par. (c) 1: (intro.) and 2. (intro.) appears below as created par. (dm) 1. and 2.

****NOTE: The instructions call for "switching" pars. (c) and (d), but it is too confusing in the bill to do so because, for example, par. (d) would be both created and repealed. Instead, par. (c) becomes (dm) and par. (d) becomes (cm).

SECTION 157. Trans 400.08 (1) (c) 3. of the administrative code is renumbered

Trans 400.08 (1) (dm) 3. and amended to read:

Trans 400.08 (1) (dm) 3. Administrative facilities. Extensive Examples of department actions regarding administrative facilities to which ER procedures normally apply are: extensive remodeling, expansion or modification of an administrative building, including an office building, state patrol academy, driver licensing and testing station, state patrol communications building, or other similar facility, which either substantially increases the capacity of the facility or substantially changes its use.

SECTION 158. Trans 400.08 (1) (c) 4. of the administrative code is renumbered

Trans 400.08 (1) (dm) 4.

Moved from p. 40
Change components
5
6
Moved from p. 40

SECTION 159

1 **SECTION 159.** Trans 400.08 (1) (c) 5. of the administrative code is renumbered
2 Trans 400.08 (1) (dm) 5., and Trans 400.08 (1) (dm) 5. (intro.), as renumbered, is
3 amended to read:

4 Trans 400.08 (1) (dm) 5. (intro.) Policy, contract, standard and specification
5 changes. Examples of department actions regarding policy, contract, standard, and
6 specification changes to which ER procedures normally apply are:

7 **SECTION 160.** Trans 400.08 (1) (cm) 1. of the administrative code is created to
8 read:

9 Trans 400.08 (1) (cm) 1. 'Highways and transit.' In addition to actions the
10 department determines meet the criteria for a CE action under this chapter, the
11 department may classify as CE actions those highway and transit actions identified
12 in 23 CFR 771.117 (c) and 23 CFR 771.118 (c).

Move
to after
39-5

13 **SECTION 161.** Trans 400.08 (1) (cm) 2. of the administrative code is created to
14 read:

15 Trans 400.08 (1) (cm) 2. 'Airports.' In addition to actions the department
16 determines meet the criteria for a CE action under this chapter, the department may
17 classify as CE actions those airport actions identified in federal aviation
18 administration order 5050.4B.

Move
to after
39-6

****NOTE: Paragraphs (cm) 1. and 2. reflect the language of renumbered pars. (d)
1. (intro.) and 2. (intro.).

19 **SECTION 162.** Trans 400.08 (1) (d) (intro.) of the administrative code is
20 renumbered Trans 400.08 (1) (cm) (intro.) and amended to read:

21 Trans 400.08 (1) (cm) (intro.) *CE - Categorical Exclusions.* CE actions are
22 categorically excluded from the requirement to prepare environmental
23 documentation pursuant to the rule published by the United States department of

1 transportation in 23 CFR 771.117, April 1, 1998, or its federal aviation
 2 administration order 5050.4A, chapter 3, paragraph 23, October 8, 1985. CE actions
 3 do not require environmental documentation because, based on past experience with
 4 similar actions, they do not involve significant environmental impacts. They are
 5 actions which do not induce significant impacts to planned growth or land use for the
 6 area, do not require the relocation of significant numbers of people, do not have a
 7 significant impact on any natural, cultural, recreational, historic or other resource,
 8 do not involve significant air, noise, or water quality impacts, do not have significant
 9 impacts on travel patterns, and do not otherwise, either individually or cumulatively,
 10 have any significant environmental impacts. ~~Examples of CE actions include the~~
 11 following:

and recreated to read:

****NOTE: I struck the last clause of par. (cm) (intro.) above, although it was not stricken in the instructions, because after the other changes in the renumbered par. (cm) there are no examples that follow. Also, as discussed above, par. (cm) (intro.) is not actually an (intro.), but I have not tried to correct that.

12 SECTION 163. Trans 400.08 (1) (d) 1. of the administrative code is repealed.

13 SECTION 164. Trans 400.08 (1) (d) 2. of the administrative code is repealed.

Charge components

move from p. 42

****NOTE: The language in the instructions for renumbered par. (d) 1. (intro.) and 2. (intro.) appears above as created par. (cm) 1. and 2.

14 SECTION 165. Trans 400.08 (1) (d) 3. of the administrative code is renumbered
 15 Trans 400.08 (1) (cm) 3. and amended to read:
 16 Trans 400.08 (1) (cm) 3. Administrative facilities. Minor Examples of
 17 department actions regarding administrative facilities that are normally classified
 18 as CE actions are: minor construction or expansion of an airport facility, such as a
 19 runway, taxiway, apron, service or entrance road, or passenger handling or parking
 20 facility.

SECTION 166

1 **SECTION 166.** Trans 400.08 (1) (d) 4. of the administrative code is renumbered

2 Trans 400.08 (1) (d) 4.

3 **SECTION 167.** Trans 400.08 (1) (dm) 1. of the administrative code is created to
4 read:

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

5 Trans 400.08 (1) (dm) 1. 'Highways and transit.' In addition to actions the
6 department determines meet the criteria for an ER action under this chapter, the
7 department may apply ER procedures to the highway and transit actions identified
8 in 23 CFR 771.117 (d) and 23 CFR 771.118 (d).

9 **SECTION 168.** Trans 400.08 (1) (dm) 2. of the administrative code is created to
10 read:

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

11 Trans 400.08 (1) (dm) 2. 'Airports.' In addition to actions the department
12 determines meet the criteria for an ER action under this chapter, the department
13 may apply ER procedures to actions identified in the federal aviation administration
14 order 5050.4B.

15 **SECTION 169.** Trans 400.08 (2) (a) of the administrative code is amended to
16 read:

17 Trans 400.08 (2) (a) Activities exempt by statute or approved as categorical
18 exclusions by the United States council on environmental quality pursuant to 40
19 CFR 1508.4, July 1, 1998.

20 **SECTION 170.** Trans 400.08 (2) (f) of the administrative code is amended to read:

21 Trans 400.08 (2) (f) The budget request of the department as a whole submitted
22 to the department of administration and legislature pursuant to ss. s. 16.42 and
23 19.45 (12), Stats.

24 **SECTION 171.** Trans 400.09 (4) (e) of the administrative code is amended to
25 read:

1 Trans 400.09 (4) (e) Ensure the required involvement of any cooperating and
2 participating agencies.

3 **SECTION 172.** Trans 400.10 (1) (a) 1g. of the administrative code is created to
4 read:

5 Trans 400.10 (1) (a) 1g. The content requirements for an ER under sub. (5).

6 **SECTION 173.** Trans 400.10 (3) (c) of the administrative code is amended to read:

7 Trans 400.10 (3) (c) In addition to the contents required under par. (a), the FEIS
8 shall also incorporate the comments received during the DEIS and subsequent
9 hearing processes. A response shall be made to each substantive environmental
10 issue identified in the comments and not addressed in the DEIS. The response shall
11 include a discussion of the environmental issue, including the identification of the
12 efforts to resolve the issue and the commitments to specific measures to mitigate
13 adverse impacts and enhance beneficial effects.

14 **SECTION 174.** Trans 400.10 (4) (a) 1. of the administrative code is renumbered
15 Trans 400.10 (4) (a) 1r. and amended to read:

16 Trans 400.10 (4) (a) 1r. Stimulation of secondary indirect environmental
17 effects.

18 **SECTION 175.** Trans 400.10 (4) (a) 5. of the administrative code is amended to
19 read:

20 Trans 400.10 (4) (a) 5. The degree of controversy on environmental grounds
21 associated with the proposed action.

22 **SECTION 176.** Trans 400.10 (5) (intro.) of the administrative code is amended
23 to read:

24 Trans 400.10 (5) (intro.) ER CONTENT. The ER may be completed on screening
25 sheets developed by the department. The ER shall reflect compliance with the

noVe

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 applicable laws and regulations of other agencies, and shall include all of the
2 following:

3 **SECTION 177.** Trans 400.11 (1) (b) (intro.) of the administrative code is
4 renumbered Trans 400.11 (1) (b) and amended to read:

5 Trans 400.11 (1) (b) *Notice of availability of a SEE.* A notice of availability of
6 a system plan and its SEE shall be published ~~in the official state newspaper and~~
7 ~~other newspapers, as deemed appropriate. The notice may be combined with a notice~~
8 ~~of opportunity for a public hearing on the system plan. The notice shall: as provided~~
9 in sub. (8).

10 **SECTION 178.** Trans 400.11 (1) (b) 1. to 4. of the administrative code are
11 repealed.

12 **SECTION 179.** Trans 400.11 (2) of the administrative code is amended to read:

13 Trans 400.11 (2) LEIS. In the case of a departmental report or recommendation
14 on a department-initiated proposal for legislation that contains major and
15 significant new proposals that are not within the scope of any categorical exclusion,
16 the department shall prepare a LEIS substantially following the guidelines of the
17 United States council on environmental quality in 40 CFR 1506.8, ~~July 1, 1998.~~ This
18 includes transmission of the LEIS to the legislature concurrent with or within 30
19 days after the legislative proposal is submitted to the legislature, provided that the
20 LEIS must be available in time for legislative hearings and deliberations, and 5 days
21 in advance. There is no scoping requirement and the statement shall be prepared
22 in the same manner as a DEIS, but shall be considered the detailed statement
23 required by s. 1.11 (2) (c), Stats. Any comments on the LEIS shall be given to the
24 department which shall forward them along with its own responses to the legislative
25 committees with jurisdiction.

1 **SECTION 180.** Trans 400.11 (3) (b) (intro.) of the administrative code is
2 renumbered Trans 400.11 (3) (b) and amended to read:

3 Trans 400.11 **(3)** (b) *Notice of availability of DEIS.* A notice of availability of
4 the DEIS shall be published ~~in the appropriate official local newspaper or in a~~
5 ~~newspaper with general circulation within the area affected by the proposed action.~~
6 If the proposed action is of statewide interest, such notice shall also be published in
7 the official state newspaper. Such notice shall include: as provided in sub. (8).

8 **SECTION 181.** Trans 400.11 (3) (b) 1. to 4. of the administrative code are
9 repealed.

10 **SECTION 182.** Trans 400.11 (4) of the administrative code is amended to read:

11 Trans 400.11 **(4)** FEIS AND ROD. The FEIS and ROD shall be printed and
12 distributed, and a notice of availability of the FEIS shall be published, in the same
13 manner as provided for a DEIS under sub. (3), ~~except that.~~ If separate FEIS and ROD
14 documents are necessary under s. Trans 400.13 (1) (am), the decision to proceed with
15 the proposed action and to sign the ROD shall not be made sooner than 30 days after
16 the date of publication of the notice of availability of the FEIS or 90 days after the
17 date of publication of the notice of availability of the DEIS.

18 **SECTION 183.** Trans 400.11 (5) (a) of the administrative code is amended to
19 read:

20 Trans 400.11 **(5)** (a) *Public availability of EA.* The EA shall be made available
21 for public inspection at the department's central office, the appropriate department
22 region office, public libraries as identified under sub. (3) (a) 6., and the office of the
23 local unit of government having requested the proposed action. A charge may be
24 assessed to cover reproduction and handling costs for requested copies of the EA or
25 portions thereof.

1 **SECTION 184.** Trans 400.11 (5) (b) (intro.) of the administrative code is
2 renumbered Trans 400.11 (5) (b) and amended to read:

3 Trans 400.11 (5) (b) *Notice of availability of EA.* A notice of availability of the
4 EA shall be published ~~in the appropriate official local newspaper or in a newspaper~~
5 ~~of general circulation within the area affected by the proposed action. If the proposed~~
6 ~~action is of statewide interest, the notice shall also be published in the official state~~
7 ~~newspaper. The notice may be combined with the notice of opportunity for public~~
8 ~~hearing provided for under par. (c). The notice shall: as provided in sub. (8).~~

9 **SECTION 185.** Trans 400.11 (5) (b) 1. to 5. of the administrative code are
10 repealed.

11 **SECTION 186.** Trans 400.11 (5) (c) of the administrative code is amended to read:

12 Trans 400.11 (5) (c) *Notice of opportunity ~~for~~ to request public hearing on EA.*
13 ~~A~~ If the department determines to afford the opportunity for a public hearing on an
14 EA under s. Trans 400.12 (4) (a), a notice of opportunity ~~for~~ to request a public
15 hearing shall be published when the EA is completed and made available for
16 inspection as provided for under par. (a). Publication of the notice shall be in the
17 appropriate official local newspaper or in a newspaper of general circulation within
18 the area affected by the proposed action. Publication shall also be in the official state
19 newspaper if the proposed action is of statewide interest. The notice shall invite
20 submission of requests for a public hearing on the EA within 30 days after the date
21 of publication of the notice. The notice shall include a description of the procedure
22 for requesting a public hearing.

****NOTE: The instructions reference s. Trans 400.11 (4) (a) in sub. (5) (c), but there is no sub. (4) (a) and sub. (4) seems inapposite. I have changed the cross-reference to s. Trans 400.12 (4) (a). Please advise if this cross-reference is not correct.

1 **SECTION 187.** Trans 400.11 (7) of the administrative code is renumbered Trans
2 400.11 (7) (a) and amended to read:

3 Trans 400.11 (7) (a) The ER shall upon request be made available for inspection
4 at the department's central office, the appropriate department region office, and the
5 office of the local unit of government having requested the proposed action. ~~A~~
6 Subject to par. (b), a notice of availability shall not be required for an ER. A charge
7 may be assessed to cover reproduction and handling costs for requested copies of the
8 ER.

9 **SECTION 188.** Trans 400.11 (7) (b) of the administrative code is created to read:

10 Trans 400.11 (7) (b) If the department determines to hold, or afford the
11 opportunity for, a public hearing on an ER action under s. Trans 400.12 (4) (b), the
12 department shall make the ER publicly available and provide notice of public
13 availability under sub. (5) as if the ER were an EA.

14 **SECTION 189.** Trans 400.11 (8) of the administrative code is created to read:

15 Trans 400.11 (8) NOTICE OF AVAILABILITY. (a) When an environmental document
16 listed under par. ^c(~~b~~) is made available to the public by the department, a notice of
17 availability shall be published in the appropriate official local newspaper or in a
18 newspaper of general circulation within the area affected by the proposed action. If
19 the proposed action is of statewide interest, the notice shall also be published in the
20 official state newspaper. The notice shall:

- 21 1. Briefly describe the proposed action.
- 22 2. Announce the completion and availability of the environmental document.
- 23 3. List the locations where the environmental document may be inspected.
- 24 4. Except in the case of a ROD or a combined FEIS and ROD document, invite
25 the public to furnish written comments on the proposed action; indicate where

as determined under par. (b)

1 comments are to be sent; and indicate the date that such comments must be
2 submitted to the department. The comment period may not be less than, nor without
3 cause longer than, 45 days after the publication of the notice of availability.

*Insert
AG
48-34*

4 (c) (b) A notice of availability shall be published for the following environmental
5 documents:

6 1. SEE.

7 2. DEIS. ✓

8 3. FEIS and ROD, or a combined FEIS and ROD. ✓

9 4. EA. ✓

10 5. ER, if the department determines that it will hold ^{or} afford the opportunity
11 for a public hearing under s. Trans 400.12 (4) (b).

12 (d) (c) The notice of availability of the environmental document may be combined
13 with other public notices required under this chapter.

14 SECTION 190. Trans 400.12 (3) (a) of the administrative code is amended to
15 read:

16 Trans 400.12 (3) (a) Whenever a proposed action requires an EIS, the
17 department shall hold a public hearing on the DEIS no sooner than 15 days after its
18 notice of availability is published. The hearing shall be held prior to the
19 ~~determination of the recommended selection of the final~~ selection of the final course of action for the
20 proposal, but the department may present a preferred alternative.

21 SECTION 191. Trans 400.12 (4) (title) of the administrative code is amended to
22 read:

23 Trans 400.12 (4) (title) PUBLIC HEARING, OR OPPORTUNITY FOR PUBLIC HEARING, ON
24 EA OR ER.

1 **SECTION 192.** Trans 400.12 (4) of the administrative code is renumbered Trans
 2 400.11¹² (4) (a) and amended to read:

3 Trans 400.12 (4) (a) Unless EA procedures indicate the action is an EIS action,
 4 the department shall hold, or afford the opportunity for, a public hearing on an EA
 5 action prior to the issuance of a FONSI. A public hearing on an EA may be held by
 6 the department at the department's discretion and shall be held if a request for such
 7 a hearing is received by the department within the time specified in the notice of
 8 opportunity ~~for to request~~ a public hearing ~~provided for~~ under s. Trans 400.11 (5) (c).

9 (c) Whenever the department determines to hold a public hearing or approves
 10 a timely request for a public hearing under this subsection, the department shall
 11 proceed in the same manner as provided for a public hearing on a DEIS under sub.
 12 (3), except that the public hearing shall be held no sooner than 15 days after
 13 publication of the public hearing notice and the identity of the EA or ER shall be
 14 referenced in the public hearing notice.

***NOTE: I omitted the paragraph titles for pars. (a) and (b) because no title was provided for par. (c). If you would like these titles restored, I will need a title for par. (c).

15 **SECTION 193.** Trans 400.12 (4) (b) of the administrative code is created to read:

16 Trans 400.12 (4) (b) The department at its sole discretion may determine to
 17 hold a public hearing or afford the opportunity for a public hearing for ER actions.

18 If the department determines to afford the opportunity for a public hearing for an ER

19 action, the department shall publish a notice of opportunity to request a public

20 hearing under s. Trans 400.11 (5) (c).

***NOTE: The reference in par. (b) to s. Trans 400.11 (5) (c) does not seem correct, as this provision relates to an EA. Does this cross-reference need to be changed?

21 **SECTION 194.** Trans 400.13 (1) (a) of the administrative code is repealed.

insert
AG
49-19

SECTION 195

1 **SECTION 195.** Trans 400.13 (1) (am) of the administrative code is created to
2 read:

3 Trans 400.13 (1) (am) To the maximum extent practicable, the department
4 shall expeditiously develop a single document that consists of an FEIS and ROD,
5 unless any of the following applies:

6 1. The FEIS makes substantial changes to the proposed action that are
7 relevant to environmental or safety concerns.

8 2. There are significant new circumstances or information relevant to
9 environmental concerns and that bear on the proposed action or the impacts of the
10 proposed action.

****NOTE: I omitted the paragraph title for par. (am) because par. (b) does not have
a title. If you would like a title for par. (am), please also suggest a title for par. (b).

11 **SECTION 196.** Trans 400.13 (1) (b) (intro.) of the administrative code is amended
12 to read:

13 Trans 400.13 (1) (b) (intro.) The record of decision, whether issued in
14 combination with an FEIS or separately, shall contain the following information:

****NOTE: Section Trans 400.13 (2) (a) also needs to be amended. With the changes
in s. Trans 400.11 (5) (b) and (8), the "30-day period" identified in s. Trans 400.13 (2) (a)
is no longer accurate. Do you want to change this to "45-day period"?

15 **SECTION 197.** Trans 400.13 (3) of the administrative code is created to read:

16 Trans 400.13 (3) ER. (a) Unless the department determines to hold, or afford
17 the opportunity for, a public hearing under s. Trans 400.12 (4) (b), an approved ER
18 document constitutes the department's final decision on a proposed action.

19 (b) When the department holds, or affords the opportunity for, a public hearing
20 on an ER, the decision to revise an ER to constitute a final decision on a proposed
21 action shall not be made until after the end of the 30-day period specified in the
22 notice of availability of the ER provided for under s. Trans 400.11 (5) (b). (8)

insert AB
50-14

comment

1 (c) If potentially significant impacts have not been identified during the ER
2 availability period, the department shall revise the ER as appropriate and shall
3 attach a summary of the public hearing, if a hearing was held, and a summary of any
4 comments received and responses thereto. These items, along with a statement of
5 no significant impact, shall constitute the final action determination document and
6 the record of decision.

7 (d) If, at any point in the ER process, the department determines that the
8 proposed action may have a significant impact on the quality of the human
9 environment, an EIS shall be prepared before proceeding with the proposed action.

***NOTE: As discussed previously, with the changes in s. Trans 400.11 (5) (b) and
(8), the "30-day period" identified in par. (b) above is no longer accurate. Do you want to
change this to "45-day period"?

10 **SECTION 198.** Trans 400.14 (1) (a) of the administrative code is amended to
11 read:

12 Trans 400.14 (1) (a) A reevaluation of a DEIS shall be prepared if 3 years have
13 elapsed before the date of publication of the notice of availability of the FEIS
14 provided for under s. Trans 400.11 (4). A reevaluation of a DEIS shall also be
15 prepared any time prior to the date of publication of the notice of availability of the
16 FEIS if, in the judgment of the department, there have been significant changes in
17 the proposed action, the affected human environment, the anticipated
18 environmental impacts or the proposed mitigation measures. If in either case the
19 reevaluation indicates or confirms any such significant changes, a new
20 environmental document or supplemental DEIS shall be prepared prior to
21 proceeding with the proposed action. The supplemental DEIS shall be prepared and
22 processed in the same manner as a DEIS under this chapter. Preparation of the
23 supplemental DEIS shall not require withdrawal of previous approvals for those

1 aspects of the proposed action not directly affected by the changed condition or new
2 information.

3 **SECTION 199.** Trans 400.14 (2) (a) of the administrative code is amended to
4 read:

5 Trans 400.14 (2) (a) A reevaluation of a FEIS shall be prepared any time there
6 have been, in the judgment of the department, significant changes in the proposed
7 action, the affected human environment, the anticipated environmental impacts or
8 the proposed mitigation measures. If the reevaluation confirms any such significant
9 changes, a new environmental document or supplemental FEIS shall be prepared
10 prior to proceeding with the proposed action. The supplemental FEIS shall be
11 prepared and processed in the same manner as a FEIS under this chapter.
12 Preparation of the supplemental FEIS shall not require withdrawal of previous
13 approvals for those aspects of the proposed action not directly affected by the
14 changed condition or new information.

15 **SECTION 200.** Trans 400.14 (3) of the administrative code is created to read:

16 Trans 400.14 (3) REVISION OF FINAL ACTION DOCUMENT. (a) The department may
17 revise a final action document, including a ROD, FONSI, or ER, in order to do any
18 of the following:

19 1. Select a different alternative, if the new selected alternative is fully
20 evaluated in the FEIS, EA, or ER to the same degree as the originally selected
21 alternative.

22 2. Make substantial changes to mitigation measures or findings discussed in
23 the final agency action.

24 (b) If the department revises a final action document under par. (a), those
25 agencies that reviewed the FEIS, EA, or ER shall be given an opportunity to review

1 and comment on the revised final action document. To the extent practicable, the
2 approved revised final action document shall be provided to all persons,
3 organizations, and agencies that received the FEIS, EA, or ER.

****NOTE: For clarity, I modified the structure of sub. (3), but the substance should
be the same.

4 **SECTION 201.** Trans 401.04 (28) of the administrative code is amended to read:

5 Trans 401.04 (28) “Section 404 permit” means a permit issued by the U.S. army
6 corps of engineers Army Corps of Engineers under 33 USC 1344 of the clean water
7 act, as amended.

8 **SECTION 202.** Trans 510.08 (2) (intro.), (a) and (b) of the administrative code
9 are consolidated, renumbered Trans 510.08 (2) and amended to read:

10 Trans 510.08 (2) A jobs guarantee with the local governing body shall be part
11 of the project agreement when deemed necessary by the department in order to
12 protect the public interest. The local governing body shall, in turn, be encouraged
13 to develop a similar agreement with the economic development project. The jobs
14 guarantee shall obligate the local governing body to reimburse the department for
15 up to the full amount of the grant if either of the following occurs: ~~(a) The guaranteed~~
16 ~~number of direct jobs associated with the economic development project do not result~~
17 ~~within 3 years of the date the project agreement is executed. (b) The the guaranteed~~
18 ~~number of direct jobs associated with the economic development project do not exist~~
19 ~~7 5~~ years after the date the project agreement is executed. The base number of jobs
20 to be used for comparison shall be established on the date funds are awarded.
21 Verification of the number of direct jobs associated with the economic development
22 project shall be made utilizing information available from the department of
23 workforce development and other sources.

