



CR 83-110

State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

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STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) ss

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. EI-22-83 was duly approved and adopted by this Department on October 26, 1983. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 3rd day of January, 1984.

Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)
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3-1-84

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING, RENUMBERING, AMENDING,
REPEALING AND RECREATING, AND CREATING RULES

IN THE MATTER of repealing s. NR 150.04(15);
renumbering ss. NR 150.02(2) through (27),
150.025(2)(g) & (h), & 150.04(6)(d), (e) &
(f); amending ss. NR 150.01(2), 150.02(3),
(4), (7), (17), (18), (19) & (28), 150.03
(intro.), (1), (6) & (7), 150.04(2), (3), (5),
(6) (intro.) & (a), (7), (8)(a) (intro.) &
(c), (10) & (13), 150.05, 150.07(1),
150.08(1)(c)1.a. & (2)(c) & (d)1.,
150.10(2), 150.105(2)(e) & (3)(b) (intro.),
150.11(1) (intro.) & (e) & (f)2., (g)4., (j)
& (L); repealing and recreating ss.
150.03(2), (3) & (4), & 150.10(3); and
creating ss. NR 150.02(2), (5), (16), (20),
(22), (23), (33), (34) & (35), 150.025(2)(g),
150.04(6)(d), 150.045, 150.07(6) & (7),
150.10(4) & 150.11(1)(f)3. of the Wisconsin
Administrative Code pertaining to Wisconsin's
Environmental Policy Act Procedures for
Department actions

EI-22-83

Analysis Prepared by Department of Natural Resources

The Department proposes to revise ch. NR 150 to reflect recent court decisions concerning the conduct of environmental hearings, and changes in various Department programs requiring compliance with WEPA. The significant changes are:

1. The Department's action type list (NR 150.03) is substantially revised to reflect changes in existing programs, and new and deleted programs, as well as further experience in environmental assessment preparation for unchanged programs. A slight reduction in the total number of assessments prepared by the Department will occur as a result of these changes.

2. Specific language was added to insure visual impact concerns are addressed in Department EA's and EIS's.

3. Language was added to insure compliance with energy concerns in s. 1.12, Stats., in the Department's WEPA process.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 1.11 and 227.014(2)(a), Stats., the State of Wisconsin Natural Resources Board hereby repeals, renumbers, amends, repeals and recreates, and creates rules interpreting ss. 1.11, 1.12, 23.11(5), 23.40, 144.44, and 147.30, Stats., as follows:

SECTION 1. NR 150.01(2) is amended to read:

(2) Provide principles, objectives, definitions and criteria to be used by the department in the implementation of ss. 1.11, 1.12, 23.11(5), and 23.40, Stats. Implementation includes the evaluation of proposed actions; the study, development, and description of alternatives where proposed actions involve unresolved conflicts in the use of available resources, investigation and consideration of energy conservation in major decisions which would significantly affect energy usage; and the preparation and review of environmental impact statements (EIS's).

SECTION 2. NR 150.02(2) through (27) are renumbered (3), (6) through (15), (17) through (19), (21), (24) through (32), (4) and (36) respectively, and (3), (4), (7), (17), (18), (19) and (28) as renumbered are amended to read:

(3) "Alternatives" means other actions or activities which may be reasonably available to achieve the same or altered purpose of the proposed action including the alternative of no action.

(4) "~~Substantial~~ Appropriate participation" means ~~full-and~~ effective participation by the department with another state or federal agency in preparation of a NEPA or WEPA EIS or EA including one or more of the

following, but not limited to, preparation of portions of the EIS or EA within the department's jurisdiction or expertise, appropriate review and comment on the other agency's document or procedures, development of standards of document adequacy, determining content of the EIS or EA, involvement in public participation activities and hearings, policy development and decision-making.

(7) "Cooperating agency" means any state or federal agency, other than the lead agency, which has jurisdiction by law over the proposed action or which has special expertise with respect to any relevant environmental issues.

(17) "Joint environmental assessment" means an environmental assessment developed by the department or another state or federal agency in which the department had input sufficient to identify major impacts and alternatives and ensure that the assessment is in compliance with the substantive and procedural requirements of this chapter. The department must make an independent judgment on the need for an EIS.

(18) "Joint environmental impact statement" means an EIS developed by the department and another state or federal agency where the department has equal commensurate responsibility with the other ~~agency(ies)~~ agency for evaluating environmental impacts and has sufficient control over the EIS process and content of the document to ensure that the provisions of this chapter are met. Either the department or other state or federal agency may be designated the lead agency.

(19) "Lead agency" means the state or federal agency with primary concern or responsibility for a given action as determined through interagency consultation or written agreement.

(28) "Preapplication services agreement" means a written understanding between the department and a person proposing a large, complex, or environmentally sensitive action ~~that the department may perform, and the person will be responsible for the actual full cost of, preapplication services.~~

SECTION 3. NR 150.02(2), (5), (16), (20), (22), (23), (33), (34) and (35) are created to read:

(2) "Adequate FEIS" means a final environmental impact statement that is prepared by the department or in accordance with s. NR 150.10 following preparation of a DEIS and public review that complies with the content requirements of s. NR 150.07 for an FEIS, which discloses reasonably foreseeable environmental impacts to the public and which, together with the FEIS hearing record, fully explores the reasonably foreseeable environmental consequences of the proposed action and its alternatives to a sufficient degree to permit a reasoned choice among the alternatives.

(5) "Compliance with s. 1.12, Stats., alleviation of energy shortages" means the satisfactory completion of an EA or EIS in which the department evaluates the impact on energy resources of a proposed department decision which would significantly affect energy usage, and department consideration of those energy impacts in making its final decision.

(16) "Informational meeting" means an optional, informal proceeding conducted by the department on a DEIS, an EIR submitted by a person seeking permission, or a department EA to receive public comments on the document and the proposal.

(20) "Letter of instruction" means written guidance provided to a person who has been required to submit an EIR, concerning the scope, content and organization of the EIR.

(22) "Major decision which would significantly affect energy usage" means a decision of the department which would result in an increase in the use of energy to the extent that availability of local energy supplies to other users could be expected to be measurably affected.

(23) "Mitigating measure" means an activity proposed or undertaken by federal or other state agencies, the department or project sponsor to reduce the severity or extent of adverse environmental impacts that would result from a proposed activity. The conveyance of land, or other assets, to local units of government, the state of Wisconsin or the federal government to offset the adverse impacts of a proposal is not considered a mitigating measure.

(33) "Supplemental FEIS" means an additional analysis to complement an existing FEIS when:

(a) The proposed action evaluated by the FEIS is substantially changed from the proposal or alternatives to it which were analyzed in the FEIS, or

(b) The department or a court finds the FEIS to be inadequate.

(34) "Unresolved conflicts concerning alternative uses of available resources" means a department action where an unsettled disagreement between a project sponsor and one or more persons or the department involves the utilization of a substantial natural or physical resource. To be considered an unresolved conflict concerning alternative uses of available resources, the disagreeing parties must have identified a technically and economically feasible alternative use of the contested physical or natural resource, or both, and have the ability to reasonably implement that alternative.

(35) "Worst case analysis" means an analysis which includes known possible catastrophic environmental consequences of a department decision, the best department judgment, utilizing the available information and best available expertise, on the probability of their occurrences; a description of low probability catastrophic impact events that could reasonably be considered in the decision on the action and a spectrum of events of higher probability but less dramatic impact.

SECTION 4. NR 150.025(2)(g) and (h) are renumbered (h) and (i).

SECTION 5. NR 150.025(2)(g) is created to read:

(g) Insure that compliance with s. 1.12, Stats., alleviation of energy shortages, is achieved in carrying out its WEPA responsibilities and that conservation of energy resources is considered as an important factor when making any major decision which would significantly affect energy usage.

SECTION 6. NR 150.03 (intro.) and (1) are amended to read:

NR 150.03 DEPARTMENT ACTION TYPE LIST. In conformance with regulations promulgated by the president's council on environmental quality, 40 CFR 1500-1508, the department has categorized its actions into the following type list which ~~shall determine or aid in the determination of the need for~~ identifies actions that will require an EIS, actions that will require an EA but not necessarily an EIS, and actions that normally do not require either an EA or EIS. Where similar groups of actions are listed under different subsections (e.g., under Type II and Type III), both listings should be consulted to aid in the determination of whether an EA or EIS will be required.

(1) TYPE I ACTIONS -

These are major department actions which would significantly affect the quality of the human environment and will always require the preparation of an EIS.

(a) DepartmentFacilitiesDevelopment

1. New Properties

~~Establishment or acquisition by fee title of~~
new department properties of land
acquisition projects over 1,000 acres in size and involving a basic change in existing land use (e.g., agricultural land converted to recreational use).

(b) Regulation

1. Power Plant Review

Department regulatory actions involving new electric generating facilities with a capacity of 20 MW or more. Development of hydroelectric capabilities of existing dams is excluded.

2. Metallic Mining

Department regulatory actions, including permits to mine issued pursuant to s. 144.85, Stats., relating to new mines or to expansions of existing mines, where one or more of the following conditions apply to the new mine or to the expansion:

- a. The estimated weight of the ore deposit exceeds 5 million tons;
- b. The land area directly committed to mining operations, including waste disposal, exceeds 160 acres; or
- c. The principal ore being mined will generate radioactive waste products.

3. Metallic Ore Refining

Department regulatory actions involving any new metallic ore refinery intended for commercial production.

4. Hazardous Waste Disposal Facility

Department regulatory actions involving new facilities with a total area of over 80 acres committed to solid and hazardous waste disposal or a total volume of over one million cubic yards intended for solid and hazardous waste disposal.

SECTION 7. NR 150.03(2), (3) and (4) are repealed and recreated to read:

(2) TYPE II ACTIONS. -

These actions have the potential to cause significant environmental effects and may involve unresolved conflicts in the use of available resources. These actions will be evaluated by preparation of an EA unless the department has otherwise determined to do an EIS.

(a) Department
Facilities
Development

1. New Properties Establishment of land acquisition projects less than 1,000 acres in size or over 1,000 acres in size which do not involve a basic change in existing land use.
2. Property
Re-designation The re-designation or exchange of 160 acres or more of an existing department property to a different use classification which involves a basic change in existing land use.
3. Public Access Acquisition and development of sites for public access to lakes with no existing developed access and to rivers and streams where there is no existing developed access serving the same reach.
4. Facilities and
Building
Construction Construction of new buildings, campgrounds, roads, scenic overlooks, parking lots, dams, dikes, flowages, beaches, trails and other facilities costing \$30,000 or more on department lands or projects which would involve Type II actions under par. (b) if carried out by a private applicant. Replacement in kind of existing facilities, and remodeling or renovation activities inside existing buildings are excluded.

Note: \$30,000 is the limit above which approval of the building commission is required under s. 13.48(10), Stats.

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| 5. Property
Boundary
Adjustments | Boundary adjustments to approved land acquisition projects which result in an increase or decrease of 160 acres or more. |
| 6. Acquisition of
Undelineated
Parcels | Acquisition by fee title of parcels located outside of established land acquisition project boundaries where the total area planned or expected to be acquired exceeds 160 acres in the same township. |

(b) Regulation

- | | |
|-------------------------------------|--|
| 1. Air Pollution
Control Permits | Permits issued under ss. 144.391 and 144.392(8), Stats., and permit alterations under s. 144.395(1)(e), Stats., for: <ul style="list-style-type: none"> a. New sources or modifications or relocations of existing sources resulting in a potential for increased emissions of 100 tons or more per year, before controls, of particulate matter, sulfur dioxide, carbon monoxide, oxides of nitrogen, volatile organic compounds, lead or lead compounds; b. New sources or modifications or relocations of existing sources resulting in a potential for increased emissions, before controls, of any hazardous air contaminant; or c. Any new or modified source requiring analysis under s. 144.393(2)(d), Stats. |
|-------------------------------------|--|

d. Permits or approvals for existing sources or for reconstruction or replacement of existing sources are excluded.

2. Dredging

Permits and contracts involving lakes and harbors, rivers and streams under s. 30.20, Stats., when one or more of the following criteria apply:

a. Involves the removal of 3,000 cubic yards or more of material. Restoring the original dimensions of an area legally dredged during the 10 years prior to the date of application are excluded;

b. A potential for hazardous wastes or PCBs in the sediments exists; or

c. Involves draining or filling of wetlands.

3. Enlargement
or Alterations
of Waterways

Activities defined in s. 30.19, Stats., involving connected waterways; and unconnected waterways and grading when related to extraction of minerals or mineral aggregates or involving draining or filling of wetlands. Activities involving minor boat slips for the private use of riparian property owners are excluded.

4. Channel Changes

Approvals to change the course of a navigable stream under s. 30.195, Stats., involving over 500 feet of stream length.

5. Bulkhead Line Approvals of ordinances or proposed leases for modification of existing shorelines under ss. 30.11 and 24.39, Stats.
6. Fills or Structures Below the Ordinary High Water Mark Permits issued under s. 30.12(2), Stats., for the construction of solid piers, groins, breakwaters and jetties on the beds of navigable waters except those waters listed under s. NR 326.04(3)(a).
7. Dams Permits to construct, raise or enlarge in navigable waters, approvals of additions or substantial alterations that may affect the level of the flowage or release of water downstream, plan approvals to construct in nonnavigable waters, or authority to abandon, where the dam holds maximum head of 6 feet or more and the pond holds 15 acre-feet or more at maximum water storage elevation under ch. 31, Stats. Transfers of ownership or permits are excluded.
8. Water Level Control Establishment of new levels or approval of drawdowns of controlled lakes and flowages under s. 31.02, Stats., where the dam holds a maximum head of 6 feet or more and the pond holds 15 acre-feet or more at maximum water storage elevation. Establishment of historic levels and approval of drawdowns to relieve conditions which are unsafe or dangerous to life, health or property are excluded.

9. Surface Water Diversion Permits to divert water from lakes and streams under ss. 30.18(1)(a) and 107.05, Stats. Diversions for agricultural and irrigation purposes under s. 30.18(1)(b), Stats., are excluded.
10. Obstruction of Waters Permits to enclose navigable waters under s. 30.196, Stats. Consent to the obstruction of navigable waters for the cutting of aquatic plants under s. 30.15(2), Stats.
11. Barge Fleeting Approval of barge fleeting areas under s. 30.10, Stats. and ch. NR 327.
12. Abandonment of Ways to Water Approval of resolutions or ordinances adopted by a municipality under s. 80.41, Stats.
13. Drainage Approvals of drainage board actions affecting navigable waters under s. 88.31, Stats., where those actions under chs. 30 and 31, Stats., are designated Type II.
14. Aquatic Nuisance Control Permits under s. 144.025(2)(i), Stats., for mosquito larvaciding involving application to over 160 acres.
15. Sewer Extension Plan Approval Department approval of extension of wastewater collection systems under s. 144.04, Stats., when one or more of the following criteria apply:
 - a. Pass through a wetland area greater than 5 acres;

- b. Tributary to a sewage system which experiences category 1 dry weather bypassing;
- c. Involves a community with an annual growth rate of 6% or more;
- d. Has a pipe diameter greater than 18 inches; or
- e. Extension where the department determines that a potential exists for significant primary or secondary environmental impacts.

16. WPDES Permits

Permits issued under s. 147.02, Stats., for new discharges to surface or groundwaters and substantial modifications of permits under s. 147.03, Stats., for increased levels of pollutant discharge resulting from activities to increase production capacity at existing facilities, and for relocation of an existing discharge to a new receiving water. Discharges covered by a general discharge permit, discharges from Type III dredging operations or the relocation of land spreading systems are excluded.

17. Wastewater Plan Approvals

Plan approval under s. 144.04, Stats., for municipal and industrial wastewater facilities which will result in the development of a new site and which are not for the purpose of bringing an existing discharge into compliance with applicable standards.

18. Wastewater
Sludge Disposal
- Approval of sludge storage facilities under s. 144.04, Stats., not being constructed at the wastewater treatment plant site and of high-rate land spreading of sludges, under s. 147.02(1), Stats.
19. Municipal
Wastewater
Facilities Plans
- Approval of facilities plans under s. NR 110.08(1), for new municipal sewage treatment plants and for other reviewable projects which will increase the capacity of an existing treatment facility.
20. Industrial
Pretreatment
- Plan approvals under s. 144.04, Stats., for industrial wastewater pretreatment facilities which:
- a. Result in new process wastewater contribution to a publicly owned treatment works (POTW), and are expected to discharge a toxic pollutant as defined in ch. NR 215, and are expected to have an average wastewater discharge flow greater than 1% of the current average annual flow of the POTW receiving the wastewater; or
 - b. Result in a new process wastewater contribution to a POTW, and are expected to increase the current average annual flow of the POTW receiving the wastewater by 5% or 50,000 gpd, whichever is greater.

21. Metallic Mining

Permits to prospect issued under s. 144.84, Stats.; permits to mine issued under s. 144.85, Stats., for existing mines or expansions of existing mines; and permits to mine issued under s. 144.85, Stats., for new mines where:

- a. The estimated weight of the ore body is 5 million tons or less,
- b. The land area directly committed to mining operations, including waste disposal, is 160 acres or less, and
- c. The principal ore being mined will not generate radioactive waste products.

22. Solid and Hazardous Waste Feasibility Reports

Report approvals under s. 144.44(2) and (9), Stats., chs. NR 157, 180, 181 and 182 for:

- a. New landfills or expansion of existing landfill with a new or additional design capacity of 50,000 cubic yards or more.
- b. Noncontainerized storage facilities with a design capacity greater than 50,000 cubic yards or 100 tons per day (wet weight).
- c. Any hazardous waste or PCB disposal facility except for those meeting the criteria listed under sub. (1)(b)4.
- d. Any metallic mining waste facility.

- 23. Solid Waste Plan of Operation Plan approvals under ch. NR 180 for transfer, processing or incinerator facilities with a design capacity of 100 tons per day (wet weight) or more based on at least 8 hours of operation each day.
- 24. Solid Waste Land Spreading Plan Plan approvals under s. NR 180.14.
- 25. County Forest Land Withdrawal Approvals for withdrawals of lands under s. 28.11, Stats. Withdrawal of land due to errors of title or survey are excluded.
- 26. Radioactive Waste Approval of drilling for site exploration under s. 144.833, Stats.

(c) Financial Assistance

- 1. LAWCON Grants-in-aid New individual land and water conservation fund (LAWCON) grants-in-aid to local units of government for initial acquisition or development of a new community-wide park or for additional acquisition or development in any existing park that would be a Type II action if carried out by the department.

2. State Grants-in-Aid for Local Parks and County Conservation Aids

New individual grants-in-aid to local units of government under s. 23.09(12), Stats., for enhancing fish and wildlife habitat where activities are involved that would be Type II actions if carried out by the department; or under ss. 23.09(20) and 66.36(1), Stats., for the initial acquisition or development of a new community-wide park or for additional acquisition or development in any existing park that would be a Type II action if carried out by the department.
3. Snowmobile and Motorcycle Grants-in-aid

New individual grants-in-aid to local units of government under ss. 23.09(25)(a) and (26) and 350.12(4), Stats., for acquisition, development and maintenance of snowmobile and off-road-vehicle trails and facilities when the project involves actions that would be Type II if carried out by the department.
4. Wildlife Habitat Grants-in-aid

New individual grants-in-aid to counties under s. 23.09(17m), Stats., for land management practices benefiting wildlife which would be a Type II action if carried out by the department.
5. Inland Lake Rehabilitation Grants-in-aid

New individual grants-in-aid to inland lake rehabilitation districts when the project involves actions otherwise listed as Type II under this chapter. Grants for feasibility studies are excluded.

- 6. State Forestry
Loans

Loans issued under s. 28.11(8)(b)2., Stats., that would result in actions otherwise listed as Type II under this chapter.

(d) Policy

Recommendations

- 1. Board Policies

Policies proposed for natural resources board approval which are a basic change in existing department practice and which, upon implementation, will have material effects on the human environment.

- 2. County Forest
Ten Year Plans

Approvals of plans covering management activities on county forests where the proposed activities would be Type II actions if carried out by the department.

- 3. Long Range Plans

Plans or modifications of plans adopted or approved by the department outlining a specific long range course of action that would essentially pre-determine future individual department actions affecting the human environment.

- 4. Master Plans

Conceptual elements of all master plans; any management plans for individual department properties that involve activities otherwise listed as Type II under this chapter.

(e) Other1. Habitat
Management

Actions designed to improve fish and wildlife habitat including:

- a. Forest wildlife habitat activities involving more than 60 contiguous acres or more than a total of 160 acres within a department property during a calendar year;
- b. Prescribed burning involving more than 320 acres within a department property during a calendar year;
- c. Clearing of land involving more than 60 contiguous acres or more than a total of 160 acres within a department property during a calendar year;
- d. Spring pond dredging;
- e. All habitat management activities involving filling or draining of wetlands;
- f. Installation of fish barriers;
- g. Herbicide treatment activities in accordance with registered label instructions and uses for brush control or control of nuisance vegetation involving broadcast application to 160 acres or more within a department property during a calendar year; or

- h. Pesticide treatment of public waters for removal of rough or deleterious fish. Spot treatment to aggregations of selected species are excluded.

2. Silvicultural Practices

Actions on department properties including:

- a. All harvesting activities involving more than 60 contiguous acres or more than a total of 160 acres within a department property during a calendar year;
- b. Forest type conversion or prescribed burning involving a total of 320 acres or more within a department property during a calendar year; or
- c. All chemical pesticide treatment activities involving broadcast application to 160 acres or more within a department property during a calendar year.

3. Research Projects

The conduct of research including the use of pesticides not in accordance with label instructions and uses, involving substantial land, air, water or habitat manipulation and; laboratory research involving the potential for material environmental effects outside the laboratory or other actions otherwise listed as Type II under this chapter.

4. **Legislation** Department proposals for new programs or major changes in existing programs, the implementation of which would have material effects on the human environment.
5. **Administrative Rules** Promulgation of new rules or changes in existing rules developed for department resource management or regulatory functions when the implementation of the proposed rule will have material impacts on the human environment, and the department has substantial discretion in formulating important provisions of the rule. Editorial changes in or clarifications of existing rules and the codification of existing department practice are excluded.
6. **Environmental Restoration** Planning and carrying out comprehensive restoration of aquatic environments.
7. **Introduction of New or Exotic Species** Stocking or introduction of nonindigenous species, by the department or by permit under s. 29.535, Stats. Stocking of common hybrids from only endemic species are excluded.
8. **Sale of Land** Recommendations to declare state-owned lands as no longer necessary for the state's use for conservation purposes under s. 24.085, Stats. Recommendations to correct errors of survey are excluded.

- 9. Department
Gravel Pits

The creation of sand, gravel or borrow pits on department properties when 50% or more of the material to be excavated is intended for sale under s. 23.20, Stats.

- 10. Easements and
Leases

Conveyance of easements, land use permits, licenses and leases on department lands for activities which would be Type II actions if carried out by the department and which are otherwise unregulated by the department. Underground utility and telephone lines, recreational trail highway crossings and minor highway realignments are excluded.

(3) TYPE III ACTIONS -

These actions normally do not have the potential to cause significant environmental effects, normally do not significantly affect energy usage and normally do not involve unresolved conflicts in the use of available resources. Therefore, unless the department determines otherwise, these actions will not require an EA or EIS.

- (a) Department
Facilities Development

- 1. Land Acquisitions

Acquisition by fee title of selected parcels of land within established land acquisition project boundaries.

2. Property
Re-designation

The re-designation or exchange of all or a portion of an existing department property to a different use classification when less than 160 acres involves a basic change in existing land use.
3. Public Access

Acquisition and development of sites for public access to lakes with existing access and to rivers and streams where there is an existing developed access serving the same reach except those meeting the criteria of sub. (2)(a)4.
4. Facilities and
Small Buildings

Construction of facilities and buildings costing less than \$30,000 on department lands; minor construction activities such as picnic tables, grills, project signs, pit toilets and fences; replacement in kind of existing facilities, leasing of facilities and buildings; and remodeling or renovation activities inside existing buildings.
5. Property
Boundary
Adjustments

Boundary adjustments to approved land acquisition projects which result in an increase or decrease of less than 160 acres.
6. Acquisition of
Undelineated
Parcels

Acquisition by fee title of parcels located outside of established land acquisition project boundaries where the total area planned or expected to be acquired does not exceed 160 acres in the same township.

- 7. Easements and Leases Acquisition of certain land rights for department projects.
- (b) Regulation
 - 1. Air Pollution Control Permits Permits issued under ss. 144.391, 144.392(8) and 144.3925(6), Stats., and permit alterations under s. 144.395(1)(e), Stats., for:
 - a. Existing sources of air contaminants;
 - b. Reconstruction or replacement of existing sources of air contaminants; or
 - c. New source or modifications or relocations of existing sources resulting in a potential for increased emissions of less than 100 tons per year, before controls, of particulate matter, sulfur dioxide, carbon monoxide, oxides of nitrogen, volatile organic compounds, lead or lead compounds unless an analysis is required under s. 144.393(2)(d), Stats.
 - 2. Dredging Permits and contracts except for those meeting one or more of the criteria listed under sub. (2)(b)3.

3. Enlargement or Alteration of Waterways Permits for activities involving boat slips for the private use of riparian property owners; and unconnected waterways and grading, under s. 30.19, Stats., unless related to extraction of minerals aggregates or involving filling or draining of wetlands.
4. Channel Changes Issuance of permits to change the course of a navigable stream under s. 30.195, Stats., involving 500 feet or less of stream length.
5. Pierhead Lines Approvals of pierhead line ordinances and maps adopted under s. 30.13, Stats.
6. Fills or Structures Below the Ordinary High Water Mark Permits for sand blankets, fish cribs, riprap and fords pursuant to s. 30.12(3)(a)1, 2, 3, and 4, Stats., and permits for structures on the beds of navigable waters issued under s. 30.12(2), Stats., except those listed under sub. (2)(b)6.
7. Dams Permits to construct, raise or enlarge in navigable waters, approvals of additions or alterations that do not substantially affect the level of the flowage or release of water downstream and approval of plans to construct in nonnavigable waters where the dam holds less than 6 feet or the pond holds less than 15 acre-feet at maximum water storage elevation; plan approvals of dams permitted in navigable waters; and transfers of ownership or permits for existing dams; under ch. 31, Stats.

8. Water Level Control Establishment of new levels and approval of temporary drawdowns of controlled lakes and flowages where the dam holds a maximum head of less than 6 feet and the pond holds less than 15 acre-feet at maximum water storage elevation; establishment of historic levels for controlled lakes and flowages; and approvals of temporary drawdowns to relieve conditions which are unsafe or dangerous to life, health or property; under ss. 31.02 and 31.19, Stats.
9. Surface Water Diversion Permits to divert water under s. 30.18(1)(b), Stats., for agricultural and irrigation purposes.
10. Bridges and Culverts Authority to construct bridges and roadway culverts across navigable waters under ss. 30.10, 30.12, 30.123 and 31.23, Stats.
11. Floodplain Zoning Approvals of ordinances and amendments under s. 87.30, Stats.
12. Shoreland Zoning and Wetland Mapping Approval of ordinances, wetland inventory maps and amendments under ss. 59.971, 61.351, 62.231 and 144.26, Stats.
13. Floodplain Studies Approvals of hydraulic and hydrologic data and studies related to delineation of the floodplain or floodway or to determine the effects of proposed developments under s. 87.30, Stats.
14. Aquatic Nuisance Control Permits under s. 144.025(2)(i), Stats., except for mosquito larvaciding involving over 160 acres.

15. Sewer Extension
Plan Approval Department approval under s. 144.04, Stats., for extensions of wastewater collection systems except for those meeting one or more of the criteria listed under sub. (2)(b)15.
16. WPDES Permits Permits for existing discharges under s. 147.02, Stats.; modifications of permits under s. 147.03, Stats., for existing discharges not resulting from activities to increase production capacity at existing facilities and which do not involve a change in receiving water; discharges covered by a general discharge permit; discharges from the relocation of land spreading systems and discharges from Type III dredging operations.
17. Wastewater Plan
Approvals Plan approval under s. 144.04, Stats., for the relocation of land spreading sites and for new municipal and industrial wastewater facilities which will not result in development of a new site or which are for the purpose of bringing an existing discharge into compliance with applicable standards.
18. Wastewater
Sludge Disposal Approval of sludge storage facilities, under s. 144.04, Stats., being constructed at the wastewater treatment plant site and approval of land spreading of sludge, under s. 147.02(1), Stats., except for high rate disposal.

- 19. Municipal Wastewater Facilities Plans

Approval of facilities plans, under s. NR 110.08(1), for reviewable projects which will not increase the capacity of an existing treatment facility.
- 20. Industrial Pretreatment

Approval of plans for pretreatment of industrial wastes under s. 144.04, Stats., except for those meeting the criteria in sub. (2)(b)20.
- 21. Metallic Mining

Certification of completion or partial completion of the reclamation plan and the release of reclamation bonds under s. 144.90, Stats.
- 22. Solid Waste Feasibility Reports

Report approvals under s. 144.44(2), Stats., and ch. NR 180, for:

 - a. New landfills or expansion of existing landfills with a new or additional design capacity of less than 50,000 cubic yards.
 - b. Noncontainerized storage facilities with a design capacity of less than 50,000 cubic yards or 100 tons per day (wet weight).
 - c. Processing facilities and incinerators.
- 23. Solid Waste Plan of Operation

Plan approvals under ch. NR 180, for:

 - a. Transfer, processing or incinerator facilities with a design capacity of less than 100 tons per day (wet weight) based on at least 8 hours of operation each day.
 - b. Noncontainerized storage facilities and air curtain destructors.

24. Metallic Minerals Exploration License Issuance of licenses, certificates of completion, and bond releases to individual explorers under 144.832, Stats.
25. Construction Observation Reports Approval of reports for solid or hazardous waste facility under ch. NR 180 or 181.
26. One-Time Disposal Approval of facilities for one-time disposal of solid waste under s. NR 180.13.
27. Closure Plans Approval of plans for the closure of a solid or hazardous waste facility under s. NR 180.13 or 181.42(8).
28. Solid Waste Open Burning Licenses issued under s. 144.436, Stats., and approvals of wood burning facilities under ch. NR 180.
29. Solid Waste Exemptions Exemptions from licensing granted under s. 144.44(7), Stats., or ch. NR 180.
30. Hazardous Waste Variances Variances and waivers from licensing requirements under s.144.64(3), Stats.
31. Solid Waste Management Plan Final plan approvals under s. NR 185.07.
32. Engine Waste Oil Plans Approval of informal plans of operation for collection and storage facilities under s. NR 183.07.
33. Waste Management Fund and Financial Responsibility Actions under s. 144.441, Stats., for solid or hazardous waste disposal facilities.

34. Permit Alterations Exemptions and Variances Permit extensions, alterations, variances, approvals and exemptions from emission limits under s. 144.396(1) or 144.402, Stats., or ss. NR 154.02(3) or (4), 154.06(8)(a), 154.09(1), 154.11(6)(a)1.b., 154.13(4)(a)5, (6)(a)1.c. or (13)(d).
35. Local Air Pollution Control Programs Actions under s. 144.401 or 144.41, Stats., for county air pollution control programs.
36. Emission Plans and Programs Actions under s. NR 154.09(1), 154.11, 154.12, 154.13 or 154.20(2)(d) on RACT compliance plans, emission control action programs and maintenance, startup or shutdown emission plans or schedules.
37. Open Burning Methods; Habitat Management Burns Approvals of methods under s. NR 154.10(1)(i) or (k) or approval of prescribed burns for forest or wildlife habitat management under s. NR 154.10(1)(c) for projects involving less than 320 acres.
38. Nonattainment Area Documents; Sources Affected Issuance of documents defining, listing, describing or identifying nonattainment areas or air contaminant sources under s. NR 154.03 and s. 144.371, Stats.
39. Portable Source Relocation Approval under s. NR 154.055(2) and s. 144.391(5), Stats., for portable sources of air contaminants.
40. Auto Emission Inspections Certification or withdrawal of certification under s. 144.42, Stats., of counties where inspections are required.

41. Boathouse Repair Certification of required maintenance and
Cost Certification and repair costs under ch. NR 325.
42. Water Quality Certification Certification or waiver of the right to
certify under s. 401(a), 33 USC 1341.
Exceptional cases such as those involving filling
of wetlands may require further analysis.
43. Reports and Fees Actions under s. 144.96, Stats., for effluent
For Environmental discharges and air emissions.
Discharges.
44. Air and Water Department acceptance of air and water
Quality Testing quality monitoring by private applicants
and Monitoring under ss. 144.09 and 144.31(2)(f), Stats.,
actions relating to air pollution source
reporting, record-keeping, testing, compliance
determination methods and instrumentation under
s. NR 154.06(2), (3), (5) and (6) and approval of
reference and equivalent procedures for measuring
air quality under s. NR 155.04.
45. Operator Certification of operators of waterworks and
Certification: wastewater treatment plants under
Waterworks, s. 144.025(2)(1), Stats., and ch. NR 114.
Wastewater Treatment
Plants and Industrial
Wastewater Treatment
Facilities

46. High Capacity Well Permits Permits and approvals issued under s. 144.025(2)(e), Stats.
47. Well Drillers Permits Issuance of permits under s. 162.04, Stats.
48. Private Wells Determinations of compliance with ch. NR 112.
49. Water Supply Systems Plan Approvals Plan approvals under s. 144.04, Stats., for public water main extensions and waterworks.
50. Forest Crop Law Entries and Withdrawals Entry or withdrawal of lands from the program under ss. 77.02 and 77.10, Stats.
51. Woodland Tax Law Entries and Withdrawals Entry or withdrawal of lands from the program under s. 77.16, Stats.
52. County Forest Mineral Prospecting Agreements Approvals of agreements entered into by counties under s. 28.11(3)(i), Stats., to prospect for ore or minerals on county forest lands.
53. Bait Dealers Permit Issuance of permits under s. 29.137, Stats.
54. Birds or Animals Causing Damage Permits to eradicate or control issued under ss. 29.594 to 29.596, and 94.67 to 94.71, Stats.
55. Boat Registration Registration under ss. 30.50 to 30.80, Stats.
56. Burning Permits Issuance of permits in intensive and extensive fire control districts under s. 26.12, Stats.

57. Children's Fish Pond License Issuance of licenses under ss. 23.09 and 23.11, Stats.
58. Scientific Collectors Permits Issuance of permits under s. 29.17, Stats.
59. Commercial Fishing License Issuance of licenses under ss. 29.30 to 29.37, Stats.
60. Special Deer Dealer License Issuance of licenses under s. 29.578, Stats.
61. Hunter's Choice Permits Issuance of permits under s. 29.108, Stats.
62. Competitive Events on Department Lands Issuance of permits under ss. 23.09 to 23.11 and 29.255, Stats.
63. Wholesale Fish Dealers License Issuance of licenses under s. 29.135, Stats.
64. Rough Fish Transport Permits Issuance of permits under s. 29.47, Stats.
65. Sport Fishing Licenses Issuance of licenses under ss. 29.14 to 29.147, Stats.
66. Fur Dealers License Issuance of licenses under s. 29.134, Stats.
67. Guide Licenses Issuance of licenses under ss. 29.165 and 29.166, Stats.
68. Hunting Permits and Licenses Issuance of permits and licenses under ss. 29.085, 29.10 to 29.12 and 29.174, Stats.

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| 69. Falconry Permits | Issuance of permits under ch. NR 18. |
| 70. Private Game and
Fur Farm and
Shooting Preserve
Licenses | Issuance of licenses under ss. 29.572 to 29.578,
Stats. |
| 71. Trapping Licenses | Issuance of licenses under s. 29.13, Stats. |
| 72. State Park, Forest
and Trail Admission | Issuance of admission stickers and tags under s.
27.01(2r), Stats. |
| 73. Snowmobile
Registration | Registration under s. 350.12, Stats. |
| 74. Wildlife Exhibit
Licenses | Issuance of licenses under s. 29.585, Stats. |
| 75. Concession
Agreements | Agreements allowing operation of concessions
within state parks under s. 27.01, Stats. |
| 76. Private Fish
Management Permits | Issuance of permits under s. 29.513, Stats. |
| 77. Private Fish
Hatchery Permits | Issuance of permits under s. 29.52, Stats. |
| 78. Wild Rice and
Ginseng Licenses | Issuance of licenses under ss. 29.544 and 29.547,
Stats. |
| 79. Permits to Take
Rough Fish | Issuance of permits under s. 29.625, Stats. |
| 80. Serving Game to
Guests | Issuance of permits under ss. 29.578 and 29.49,
Stats. |

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| 81. Sturgeon Spearing
Licenses | Issuance of licenses under s. 29.148, Stats. |
| 82. Net and Set Line
Licenses for
Inland Waters | Issuance of licenses under ss. 29.30 and 29.37,
Stats. |
| 83. Net and Set Hook
Licenses for
Outlying Waters | Issuance of licenses under s. 29.33, Stats. |
| 84. Net Licenses for
Mississippi and
St. Croix Rivers | Issuance of licenses under s. 29.34, Stats. |
| 85. Slat and Trammel
Net Licenses for
the Mississippi
River | Issuance of licenses under s. 29.343, Stats. |
| 86. Set or Bank Pole
Licenses | Issuance of licenses under s. 29.36, Stats. |
| 87. Permits to Take,
Export, Transport
Possess or Propagate
Endangered Species | Issuance of permits under s. 29.415(6), Stats. |
| 88. Permits to Introduce
Fish and Game | Issuance of permits under s. 29.535, Stats.,
except the introduction of nonindigenous species. |
| 89. Certification of
Municipal Fish
Hatcheries | Certification under s. 29.536, Stats. |

90. Confidential Status Actions on requests for confidential status under s. NR 2.19.
91. Administrative Actions under ss. 227.014(2)(a) and 227.09(1),
Procedural Stats.
Regulations
92. Rehabilitation Issuance of permits under s. 29.174, Stats., for
Permits the temporary possession of wild animals to
provide first aid and temporary care administered
to orphaned, injured or confiscated wildlife.

(c) Financial Assistance

1. LAWCON New individual land and water conservation fund
Grants-in-Aid (LAWCON) grants-in-aid to local units of
government for initial acquisition, expansion or
initial development of a new neighborhood park;
or for additional acquisition or development in
any park that would be a Type III action if
carried out by the department.
2. State Grants-in- New individual grants-in-aid to local units of
Aid for Local government under s. 23.09(12), Stats., for
Parks and County enhancing fish and wildlife habitat, where
Conservation Aids activities are involved that would be Type III
actions if carried out by the department; or
under ss. 23.09(20) and 66.36(1), Stats., for the
initial acquisition, expansion or initial
development of neighborhood parks or for
additional acquisition or development in any park
that would be a Type III action if carried out by
the department.

3. Snowmobile and Motorcycle Grants-in-Aid New individual grants-in-aid to local units government under ss. 23.09(25)(a) and (26) and 350.12(4), Stats., for acquisition, development and maintenance of snowmobile and off-road-vehicle trails and facilities when the project involves actions that would be Type III if carried out by the department.
4. Wildlife Habitat Grants-in-Aid New individual grants-in-aid to counties under s. 23.09(17m), Stats., for land management practices benefiting wildlife that would be a Type III action if carried out by the department.
5. Inland Lake Rehabilitation Grants-in-Aid New individual grants-in-aid to inland lake rehabilitation districts when the project involves actions that would be Type III under this chapter, and grants for feasibility studies.
6. Forestry Loans Loans issued under s. 28.11(8)(b)2., Stats., that would result in activities otherwise listed as Type III under this chapter.
7. Wastewater Facility Grants New individual grants-in-aid under the Wisconsin fund point source program, or department recommendations for new individual grants-in-aid or advance of allowance under the federal construction grants program, to municipalities for facilities planning (step one), development of plans and specifications (step two), or construction (step three).

8. Revenue Sharing Bond Certification of pollution abatement facilities.
9. Pollution Tax Exemptions Certification or approval for water pollution control facilities tax exemptions.
10. Feasibility Study Grants State grants to local units of government to conduct feasibility studies.
11. Floodplain and Shoreland Mapping Grants Grants-in-aid to municipalities under s. 87.31, Stats., to undertake mapping of floodplain and shoreland areas.
12. Solid Waste Management Grants Grants under ss. 144.781 to 144.784, Stats., to develop areawide solid waste management plans and to conduct feasibility studies.
13. Nonpoint Source Pollution Abatement Grants Grants to designated management agencies under s. 144.25, Stats., to implement priority watershed plans and local priority projects.
14. Park and Forest Road Aids Grants-in-aid to towns and counties under s. 23.09(27), Stats., for repair maintenance or renovation of existing roads within or bordering department parks and forests.
15. Individual Septic Tank Replacement or Rehabilitation Grants to counties under s. 144.245, Stats., for failing private sewage systems.
16. Wildlife Damage Aids Grants to counties under s. 29.598, Stats., for wildlife damage claims and prevention measures.

(d) PolicyRecommendations

1. Board Policies Policies proposed for natural resources board approval affecting personnel, administrative operating procedures, etc., and policies affecting department resource management and regulatory activities which are not a basic change in existing department practice or which, upon implementation, will not have material effects on the human environment.
2. County Forest Ten Year Plans Approvals of plans covering management activities on county forests where the activities would be Type III actions if carried out by the department.
3. Long Range Plans Plans or modifications of plans adopted or approved by the department that would not essentially pre-determine future individual department actions affecting the physical or biological environment.
4. Master Plans and Management Plans Implementation elements of master plans and management plans, and conceptual elements of management plans for individual department properties unless it involves activities otherwise listed as Type II under this section.
5. Priority Watershed Plans Approval of plans under ch. NR 120.

(e) Other

1. Habitat Management

Actions designed to improve fish and wildlife habitat including:

- a. Forest wildlife habitat activities involving less than 60 contiguous acres or less than a total of 160 acres within a department property during a calendar year;
- b. Prescribed burning involving less than 320 acres within a department property during a calendar year;
- c. Clearing of land involving less than 60 contiguous acres, or less than a total of 160 acres within a department property during a calendar year;
- d. Pothole development;
- e. Level ditching in wetlands;
- f. Stream habitat improvement;
- g. Herbicide treatment activities in accordance with registered label instructions and uses for brush control or control of nuisance vegetation involving spot applications or less than 160 acres within a department property during a calendar year;

- h. Mechanical removal of rough or deleterious fish, or the use of pesticides in accordance with label instructions and uses for spot removal of aggregations of rough or deleterious fish in public waters;
- i. "Trail" construction (wildlife management);
or
- j. Water level control.

2. Silvicultural Practices

Actions on department properties including:

- a. All harvesting activities involving less than 60 contiguous acres or less than 160 acres in total within a department property during a calendar year;
- b. Forest type conversion or prescribed burning involving less than 320 acres in total within a department property during a calendar year;
- c. All pesticide treatment activities in accordance with registered label instructions and uses when applied to less than 160 acres within a department property during a calendar year;

- d. All nonbroadcast applications of pesticides in accordance with registered label instructions and uses including spot applications and row applications at time of planting; or
- e. Tree planting; plantation thinning; timber stand improvement activities (except pesticide treatments), or noncommercial cutting for aesthetic management.

- 3. **Research Projects** Projects conducted by the department which do not involve substantial land, air, water or habitat manipulation and research conducted in an office, library, computer facility and in the laboratory when there is no potential for material environmental effect outside the laboratory as a result of the conduct of the research or other actions otherwise listed as Type III under this section.
- 4. **Legislation** Proposals for new programs that would not result in material effects on the human environment and for minor changes in existing programs.
- 5. **Administrative Rules** Promulgation of new rules, emergency rules or changes in existing rules developed for department resource management or regulatory functions when:

- a. The implementation will not have material impacts on the human environment, or
- b. The department has limited discretion in formulating important provisions of the rule.
- c. An emergency rule would relieve conditions that are hazardous to life, health, property or the environment.

6. Inventories Includes all surveys conducted by department personnel in the field for wildlife management, fish management, forestry, fire control, environmental protection, scientific and natural areas, rare, threatened or endangered plant and animal species, and lake mapping.
7. Routine Wildlife and Fish Stocking Routine stocking of fish and wildlife game species, and reintroduction of game or nongame species into habitats formerly containing the species.
8. Sale of Land Sale of department lands and recommendations to declare department lands as no longer needed for conservation purposes which involve corrections to errors of survey.
9. Department Gravel Pits The sale of materials under s. 23.20, Stats., and the creation of sand, gravel or borrow pits on department properties except as provided in sub. (2)(e)9.

10. Easements and Leases Conveyance of easements, land use permits, licenses and leases on department lands for activities which would be Type III actions if carried out by the department including the installation of underground utilities.
11. Refuges and Closed Areas Established by the department for fish management, wildlife management or human safety.
12. Trout Stream Designation Classification or reclassification of a trout stream under s. NR 1.02(7) and recommendations for addition of new trout streams to or deletion of existing trout streams from the department publication "Wisconsin Trout Streams".
13. Fish Hatchery Operations Procedures including spawning, hatching, disease control and rearing of both warmwater and coldwater fish species at department hatcheries and rearing ponds. Includes the use of chemicals or pesticides unless public waters may be adversely affected.
14. Forest Nursery Operations Procedures including seed procurement, lifting and disbursing plants, and disease and pest control. Includes the use of pesticides.
15. State Game Farm Operations Procedures including hatching and rearing wildlife species. Includes the use of pesticides.
16. Fire Control Operations Operations including training, educational programs and fire suppression.

17. Farming Operations Activities on department lands, including sharecropping and the use of pesticides in accordance with label instructions and uses, for cropping corn, hay and small grains.
18. Road and Parking Projects which do not entail a major change
 Lot Resurfacing or extension.
19. Repair and Maintenance of existing department
 Maintenance facilities to prevent or reduce deterioration or damage.
20. Aeronautic Operations Aircraft activities for fire detection and suppression, transport of personnel, resource monitoring, surveys, census, aerial photography, and radio telemetry tracking of fish and wildlife.
21. Park and Forest Activities and programs routinely conducted at
 Operations department parks such as nature programs, campground operations, day use and entertainment programs, use of pesticides for poison ivy control, aquatic nuisance control at beaches, and other uses classified as Type III.
22. Operations of the All education and maintenance activities.
 MacKenzie Environmental
 Center
23. Information and Conducted by department personnel in schools,
 Education Programs with clubs, civic groups, other similar groups and at organized exhibitions.

24. Extension Services Services performed by department personnel including technical advice in forestry, wildlife, land and water management.
25. Gifts and Bequests Money, land, equipment, services, etc., given to the department to promote activities to benefit natural resource programs.

(4) The following are not major actions significantly affecting the quality of the human environment and are exempt from the provisions of s. 1.11, Stats.:

(a) Issuance of special water pollution abatement orders under s. 144.025(2)(d)1., Stats.

(b) Issuance of temporary emergency orders under s. 144.025(2)(d)2., Stats.

(c) Issuance of orders to enforce agreements to control pollution of interstate waters under s. 144.025(2)(j), Stats.

(d) Issuance of orders to abate or department abatement of nuisances under ss. 146.13 and 146.14, Stats., under s. 144.025(2)(k), Stats.

(e) Issuance of orders to obtain specific operating results from or to require modifications to, extensions of or replacements of systems or plants which tend to create a nuisance or menace to health or comfort, under s. 144.025(2)(r), Stats.

(f) Prohibition of the installation or use of septic tanks in areas where they would impair water quality, under s. 144.025(2)(q), Stats.

(g) Department performance of actions ordered under ss. 144.025(2)(d) and (r), Stats., in cases of noncompliance and collection of the costs from the noncomplying owner, under s. 144.025(2)(s), Stats.

(h) Issuance of orders to discontinue the manner or site of refuse disposal in areas subject to flooding, under s. 144.045, Stats.

(i) Issuance of orders under s. 144.05, Stats., to owners of treatment plants to file plans for construction necessary to comply with the limitations imposed upon discharges of effluent, in counties exceeding 240,000 inhabitants, into specified lakes.

(j) Issuance of orders to connect a sewerage system to that of an adjoining town, village or city, under s. 144.07, Stats.

(k) Issuance of orders under s. 144.31(2)(b), Stats., to effectuate the purposes of ss. 144.30 to 144.426 and 144.96, Stats., pertaining to air quality.

(l) Activities under s. 144.423, Stats., to correct violations of ss. 144.30 to 144.426 and 144.96, Stats., pertaining to air quality.

(m) Issuance of orders to reduce or discontinue air contaminant emissions in the event of an emergency, under s. 144.424, Stats.

(n) Requiring corrective measures upon determination that a local air pollution control program is inadequate, under s. 144.41(4), Stats.

(o) Issuance of orders under s. 144.83(4)(c), Stats., directing particular prospectors or operators to comply with ss. 144.80 to 144.94, Stats.

(p) Issuance of orders to mine operators to comply with mining and reclamation plans, under s. 144.91(1), Stats.

(q) Performance of actions ordered under s. 144.91(1), Stats., in the event of noncompliance, under s. 144.91(2), Stats.

(r) Issuance of orders to abate or remove a nuisance, and upon noncompliance to abate or remove the nuisance, under s. 146.14(1), Stats.

(s) Issuance of orders, under s. 162.03(1)(c), Stats., to modify or discontinue the use of any well if found to be contaminated.

(t) Adoption of a shoreland zoning ordinance, under s. 59.971, Stats., for counties that fail to adopt an adequate ordinance.

(u) Adoption of a floodplain zoning ordinance, under s. 87.30, Stats., for municipalities that fail to adopt an adequate ordinance.

(v) Issuance of orders, under s. 60.315, Stats., establishing a town sanitary district when a town fails to do so and private sewage disposal systems or private water supply systems are located as to tend to cause a menace to health or comfort or pollution of surface waters.

(w) Issuance of orders, under ss. 30.03, 30.121, 30.195(5) and (6), 31.02, 31.18 and 31.19, Stats., and ch. NR 330, directing performance or discontinuance of acts necessary to protect public rights or interest in navigable waters.

(x) All enforcement and rescue procedures and actions by the department including conservation wardens, special wardens, and pilots

(y) Issuance of orders under ss. 144.965 and 144.975, Stats.

(z) Adoption or approval of enforcement plans to meet established standards or policies.

(za) Appropriation requests initiated by the department or developed on request by the department.

(zb) Adoption of emergency rules by the natural resources board under ss. 227.014 and 227.027, Stats.

(zc) Approval of plans of operation for solid waste landfills or hazardous waste facilities under ss. 144.44 or 144.64, Stats.

(zd) Issuance of operating licenses for solid waste facilities or hazardous waste facilities under ss. 144.44 or 144.64, Stats.

(ze) Issuance of enforcement orders under ss. 144.44(8), 144.47, 144.72 and 144.73, Stats.

(zf) Issuance of orders or department actions under ss. 144.76(4)(a) and (b) and 144.76(7), Stats.

(zg) Waivers of compliance issued to prevent emergency conditions under ss. 144.44(7) and 144.64(1)(c), Stats.

(zh) Alteration, suspension, or revocation of permits under s. 144.395, Stats., except as provided in s. 144.395(1)(e), Stats.

SECTION 8. NR 150.03(6) and (7) are amended to read:

(6) All actions not listed under ~~s. NR 150.03~~ sub. (1), (2), (3) or (4) shall be evaluated on a case-by-case basis for determination of type.

(7) Where a proposed department action has been included in a previous EIS or EA ~~complying with s. 144.395, Stats., and this chapter~~ prepared by the department or in accordance with s. NR 150.10, the department shall consider the relevance of the previous EIS or EA to the proposed action in determining the need for an EIS, supplemental FEIS or EA.

SECTION 9. NR 150.04(2), (3), (5), (6) (intro.) and (a) are amended to read:

~~(2) If the department determines that an EIR is needed to assist in making an environmental analysis of a proposed regulatory action, the person seeking permission shall be notified of this determination by letter from the department within 30 days after the department has received the request for~~

~~permission-~~ The department will determine the need for an EIR to assist in making an environmental analysis of a proposed regulatory action and notify the person seeking permission within 30 days after the department has received the request for permission. The person seeking permission shall provide ~~such a report~~ the EIR within an agreed time after consultation with the department.

(3) Prior to making formal application, any person considering a project that will require department permission may provide the department with a preliminary description of the proposed project. The preliminary project description shall include: the concept of development, a description of major facilities and anticipated pollutant discharges, the specific location or locations being considered for the project, and a request that the department make a preliminary determination on the need for an environmental impact report. Upon receipt of such a request, the department shall, based on the information provided, within ~~30~~ 45 days provide the person with a list of department authority, permits and approvals that may be required, other available information that may affect the feasibility of the proposed project, and a preliminary determination on the need for an EIR. A final determination will not be made until formal applications are submitted to the department in accordance with sub. (2).

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

(6) ~~In~~ Unless the department otherwise determines to prepare an EIS, in determining whether a Type II action is major and whether or not the action will significantly affect the quality of the human environment, the department shall base its decision on an EA which shall contain the following information:

(a) A brief description of the proposed action including a description of proposed prevention and mitigating measures, maps, and graphs and other material where appropriate.

SECTION 10. NR 150.04(6)(d), (e) and (f) are renumbered NR 150.04(6)(e), (f) and (g).

SECTION 11. NR 150.04(6)(d) is created to read:

(d) A brief evaluation of the project's impact on endangered and threatened species, fish and wildlife habitat, wetlands, scenic values, scientific and natural areas, energy use, and air and water quality when affected.

SECTION 12. NR 150.04(7), (8)(a) (intro.) and (c), (10) and (13) are amended to read:

(7) Where proposed actions are likely to be repeated on a recurring basis or where they have relevant similarities such as common timing, impacts, alternatives, methods of implementation, or subject matter, a generic EA may be prepared. The generic EA shall contain the information required in sub. (6) and shall identify any conditions which indicate the need for a specific EA or EIS. The department shall, when addressing a single action already covered by a generic EA, consider the relevance of the generic EA to the specific action in determining the need for a specific EA or EIS.

(8)(a) The EA shall be prepared by the department, or shall be prepared jointly with another agency, and shall include a preliminary recommendation on the need for an EIS. Except for EA's for proposed administrative codes and legislation and on projects where statutory review deadlines preclude, the department shall develop a news release for each EA to include the information in subds. 1. through 5. When deemed appropriate by the department, a legal notice required under another statute and containing the information in subds. 1. through 5. may be used in lieu of a news release.

(c) Following the deadline for receipt of public comment on the EA, the appropriate district director, bureau director or designee shall review the EA, consider all public comments, make modifications as required and approve the EA. ~~A public hearing~~ An informational meeting may be held to receive further public input and aid in the review of and decision on the need for a EIS. The director, bureau of environmental impact or designee shall review and sign the document indicating the department's compliance with s. 1.11, Stats.

(10) If a finding is made in the EA that no EIS is required for a proposed Type II action, the environmental review is complete and ~~the original~~ a reproducible copy of the EA shall then be filed in the Madison, Wisconsin, office of the department as a finding of no significant impact. A copy of the EA shall also be filed in the appropriate area, district or bureau office. The EA is a public record which is available for review upon request.

(13) When the department determines that a proposed action will require an EIS and that the proposed action will involve one or more state or federal agencies, the lead agency will be determined through interagency consultation. A joint environmental assessment may be used by the department to aid in reaching its independent decision on the need for a EIS in accord with s. NR 150.10. A written agreement may be developed with those agencies which have a major responsibility in or are significantly affected by the proposed action. The written agreement will define the responsibility of each agency in the development of a single EIS on the proposed action and will outline the procedures to be used in the regulatory process.

SECTION 13. NR 150.04(15) is repealed.

SECTION 14. NR 150.045 is created to read:

NR 150.045 COMPLIANCE WITH SECTION 1.11(2)(e), STATS. (1) For any department action which involves unresolved conflicts concerning alternative uses of available resources, the department shall study, develop and describe appropriate alternatives to recommend courses of action through one or more of the following mechanisms:

(a) For Type I actions, preparation of an EIS in accord with s. NR 150.07.

(b) For Type II actions, preparation of an EA in accord with s.

NR 150.04(6) or an EIS if the department determines an EIS is necessary.

(c) For all department actions, holding an informational meeting or hearing under another statute or rule in which conflicting uses of resources are aired and in which participants have the opportunity to discuss alternative courses of action and where the department considers the hearing testimony or meeting results in its decision.

(2) Unless the department determines otherwise, department actions listed in s. NR 150.03(3) are not of sufficient magnitude to require compliance with s. 1.11(2)(e), Stats.

SECTION 15. NR 150.05 is amended to read:

NR 150.05 CONTENTS AND DEPARTMENTAL ACCEPTANCE OF AN EIR. (1) When the department requests an EIR from a person seeking permission for a proposed action, it shall ~~notify the person in writing and~~ provide a letter of instruction which will include instructions on format, required content, level of detail and number of copies to be submitted. As a person seeking permission provides more information about the proposal or make modifications in the proposal, the letter of instruction is revised to insure the potential environmental effects can be identified in the department's EA or EIS.

(2) The primary purpose of an EIR is to provide a detailed, comprehensive description of the proposed action, the present environmental conditions in the area which would be impacted by the proposed action and the alternatives to the proposed action which the person seeking permission has considered throughout the proposal formulation process. Predictive models, bioassays and other analysis that can be subject to reasonable scientific verification may be also required. The department's instructions to the applicant on EIR content and detail will emphasize these elements of disclosure rather than the applicant's judgments and conclusions concerning the significance of the probable impacts associated with the proposed action.

~~(2)~~(3) Upon submission of the EIR by the person seeking permission, the department shall review the report to determine if it complies with the request in the letter of instruction. The department shall make this determination and shall notify the person seeking permission in writing within 60 days after receipt of the report EIR. The department shall make this determination and notify the person seeking permission within 120 days after receipt if the EIR exceeds 1000 pages in length including appendices or, in the department's judgment, will require a substantial commitment of staff time to determine if it complies with the letter of instruction due to complexity, detail, organization or scope. If the department finds that the EIR does not contain reasonable information to form a definitive picture of the proposed action and its environmental effects, additional information will be requested from the person seeking permission.

(4) If original data concerning existing environmental conditions collected or processed by a person or their agents seeking permission is to be used by the department in its EA or EIS, and that data relates to impacts essential to a reasoned choice among significant alternatives to the proposed action, the data shall be accepted if it meets the requirements outlined in the department's letter of instruction and one or more of the following conditions:

(a) The department, its consultant or cooperating state and federal agencies collects sufficient data to perform a limited statistical comparison with EIR data and can demonstrate that the data sets are statistically similar within a reasonable confidence limit, or;

(b) The data are determined to be within the range of expected results in the professional judgment of a department expert, an expert consultant to the department or expert within a cooperating state or federal agency based on general knowledge and experience in the subject area, relevant literature and published scientific data, or familiarity with the environmental feature being described by the data, or;

(c) The department or its consultant or other cooperating state or federal agencies witness actual collection and analysis to a sufficient extent to verify the methodology as scientifically and technically adequate for the tests being performed. Analysis performed by a laboratory certified for that purpose by a state or federal agency shall be accepted by the department as verified.

1. The department need not verify all original data provided by a person seeking permission in order to accept all data as accurate. If random data sets or data points are independently verified by the department in accord with this subsection, the remainder of the data may be accepted as accurate by the department and utilized in the department's analysis for inclusion in the EA or DEIS and FEIS. The degree of inaccuracy observed by the department in its verification efforts will determine, in part, the extent of verification to be performed. If the data collected by a person seeking permission are determined to be generally inaccurate or to have been derived through the use of questionable methods, the EIR shall be deemed inadequate until adequately verified data are provided by the person seeking permission.

2. The department will, when it has sufficient knowledge of the applicants proposal and when the state of the applicant's planning permits, generally identify for the applicant the verification procedures it intends to utilize and request the applicants cooperation when such cooperation is necessary for department verification of the applicants data.

SECTION 16. NR 150.07(1) is amended to read:

(1) When an EIS is required, a DEIS and FEIS shall be prepared by the department or prepared for the department under contract by a consultant with supervision and final editorial review by the department. The DEIS shall emphasize significant environmental issues identified during the scoping process. The FEIS shall be based in part upon comments received on the DEIS or EIR and on information received from other sources. An EIS shall substantially follow the regulations issued by the president's council on environmental quality, 40 CFR 1500-1508, and shall provide analysis of the environmental and economic implications of a proposed action contemplated by the department. ~~An EIS shall include:~~ While the format may vary, the EIS shall include:

(a) A summary of the scoping process used and the major issues identified for detailed analysis in the EIS.

~~(a)~~(b) A description of the proposed action and of the affected environment, including the project location, type of facility, time schedules, maps and diagrams deemed relevant, and other pertinent information which will adequately allow an assessment of the potential environmental impact by commenting agencies and the public. The EIS should describe, where appropriate, proposed preventative and mitigating measures.

~~(b)~~(c) The probable ~~impact~~ environmental consequences of the proposed action ~~on-the-natural-and-socioeconomic-environment~~. An evaluation will be made of the positive and negative effects of the proposed action as it relates to the ~~local~~ physical, biological and socioeconomic environment. The discussion shall include adverse environmental effects which cannot be avoided should the proposal be implemented, the economic advantages and disadvantages, the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved. Where condemnation authority will be sought by the department or project sponsor under s. 32.095, Stats., the evaluation shall conform to rules, or guidelines of the department of agriculture, trade, and consumer protection for the evaluation of agricultural impacts. Secondary as well as primary consequences to the environment will be included wherever possible. This section shall also include an evaluation of the archeological, architectural and historical significance of the site and structures ~~therein~~ and of the visual impacts of the proposed action. An analysis shall also be made of the energy impacts of the proposed action.

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

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

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

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

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

(h) An evaluation of the impacts of the proposed action on agricultural land. Where condemnation authority will be sought by the department or project sponsor pursuant to s. 32.095, Stats., the evaluation shall conform to rules or guidelines of the department of agriculture, trade, and consumer protection.

(i) A summary of the scoping process used and the major issues identified for detailed analysis in the EIS.

(j)(d) Any other related analysis required under another rule, statute or federal regulation or law which does not conflict with the purpose of the EIS.

(e) A summary of comments submitted by the public or any other state, federal or local agency or tribal government on the proposed action or the department's environmental analysis.

SECTION 17. NR 150.07(6) and (7) are created to read:

(6) The department shall prepare a supplemental FEIS if substantial changes are made in the proposed action relevant to environmental concerns; or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, or if the FEIS is determined to be inadequate by the department or a court. If a supplemental FEIS is prepared, it shall be circulated and a hearing held in accord with the provisions of this chapter.

(7) When the department determines there are gaps in relevant information or that scientific uncertainty exists in its evaluation of significant adverse effects on the human environment, it shall clearly indicate in the DEIS and FEIS that such information is lacking or that uncertainty exists. If information relevant to adverse impacts is essential to a reasoned choice among alternatives but is unavailable and the overall costs of obtaining it are not exorbitant, the department shall obtain the information or require the person seeking permission to obtain the information and include the information in the DEIS and FEIS. If, in the department's judgment, the overall cost of obtaining the relevant information is determined to be exorbitant or the means to obtain it are not known (e.g., the means for

obtaining it are beyond the state of the art) the department shall include in the DEIS and FEIS a worst case analysis and an indication of the probability of its occurrence.

SECTION 18. NR 150.08(1)(c)1.a. and (2)(c) and (d)1. are amended to read:

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

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

(d) Period of time for comment on the FEIS. 1. A period of not less than 30 days and not more than 90 days from the date the FEIS is mailed, depending on the length and complexity of the FEIS, shall be allowed for receipt of comments from state and federal agencies and the public except as provided in s. 144.836(3)(c), Stats.

SECTION 19. NR 150.10(2) is amended to read:

(2) Where a proposed action involves a federal or other state agency approval or decision and it has been determined that an EA or EIS must be prepared in accordance with NEPA or WEPA, ~~the WEPA requirement for~~ a separate department EA or EIS shall not be ~~waived~~ required if:

(a) A joint EA or EIS is prepared;

(b) After review of the other state or federal EIS by the department, it appears that the requirements as to content of the EIS prescribed in s. 1.11, Stats., and this chapter have been met; and the EIS was developed and prepared through appropriate participation by the department with the other agencies in a coordinated effort to satisfy the requirements of NEPA or WEPA. ~~The following shall aid in determining the appropriate participation required for waiver of a separate WEPA EIS:~~ The level of department participation shall be commensurate with the department's authority and the significance of the proposed project's impact on the department's areas of responsibility; or

(c) After review of the other state or federal EA, the department determines that the requirements as to content of the EA prescribed in this chapter have been met, and the department has made an independent determination on the need for an EIS.

~~1. Where the department action is immediately related to a major purpose or function of a proposed project with major and significant environmental impacts, substantial participation in the EIS is required.~~

~~2. Where the department action is not immediately related to a major purpose or function of the proposed project or where the proposed project does not have major and significant environment impacts, the degree of department participation shall be commensurate with the relationship of its action to the proposed project and the significance of the proposed project's impacts on department areas of responsibility.~~

SECTION 20. NR 150.10(3) is repealed and recreated to read:

(3) Where an EIS is prepared in accord with sub.(2), the department shall hold public hearings in accordance with this chapter unless the lead agency held public hearings or meetings in Wisconsin and the department appropriately participated in them.

SECTION 21. NR 150.10(4) is created to read:

(4) The department may use an EA prepared by another agency or a jointly prepared EA as the record on which its independent judgment on the need for an EIS is based, if the EA meets the requirements of ss. NR 150.03 and 150.04. The department shall develop a news release in accordance with s. NR 150.04(8) unless the lead agency conducted a similar notification process in Wisconsin.

SECTION 22. NR 150.105(2)(e) and (3)(b) (intro.) are amended to read:

(e) Provide a mechanism to insure appropriate preventative and mitigating measures are included in the proposal and for the resolution of environmental conflicts where appropriate; and

(b) Comments should stress fundamental environmental issues and should be of a constructive nature, suggesting, where possible, not only what should be improved, but also discussing alternatives warranting consideration and possible preventative and mitigating measures.

SECTION 23. NR 150.11(1) (intro.) and (e) and (f)2. are amended to read:

(1) In accordance with s. 23.40, Stats., the department will charge a fee for the preparation of an EIS on actions requiring permission from the department including, upon agreement with the person proposing the action, a charge for preapplication services. This section shall not apply, however, to applications of municipalities, as defined under s. ~~345.04~~ 345.05(1)(a), Stats., or to related environmental impact statements.

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

Department of Natural Resources

Date _____

Bureau of Environmental Impact

Box 7921

Madison, Wisconsin 53707

Gentlemen: Dear _____:

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

(signature of responsible official)

(name and address of applicant/company)

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

SECTION 24. NR 150.11(1)(f)3. is created to read:

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

SECTION 25. NR 150.11(1)(g)4. (j) and (L) are amended to read:

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

(j) Following the department's determination that an EIS is required or subsequent to execution of a preapplication services agreement, the department may bill the applicant or person proposing the action as often as every 3 ~~months~~ month for actual department costs incurred up to that time. The applicant shall remit to the department the full amount of any EIS fee invoice

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

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

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on October 26, 1983.

The rules contained herein shall take effect as provided in s. 227.026(1) (intro.), Stats.

Dated at Madison, Wisconsin

January 3, 1984

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)