

CR 86-128

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CERTIFICATE

STATE OF WISCONSIN

BOARD OF VOCATIONAL, TECHNICAL AND ADULT EDUCATION

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS

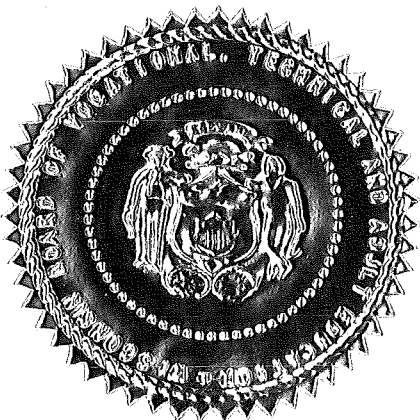
I, Robert P. Sorensen, State Director of the Wisconsin Board of Vocational, Technical and Adult Education, and custodian of the official records of said Board, do hereby certify that the annexed rules creating chapter VTAE 12, Wisconsin Administrative Code, relating to procedures for actions significantly affecting the environment (Clearinghouse Rule 86-128) were duly approved and adopted by this Board on November 11, 1986.

I further certify that said copy has been compared by me with the original on file in this board 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 Board at 310 Price Place in the city of Madison, this 23rd day of February, 1987.

Robert P. Sorensen

Robert P. Sorensen
State Director



5-1-87

ORDER OF THE
BOARD OF VOCATIONAL, TECHNICAL
AND ADULT EDUCATION ADOPTING
RULES RELATING TO CONSIDERATION
OF ENVIRONMENTAL IMPACTS

To create Chapter VTAE 12 relating to procedures for consideration of actions significantly affecting the environment.

ANALYSIS PREPARED BY THE BOARD OF VOCATIONAL, TECHNICAL AND ADULT
EDUCATION

These rules provide definitions of specific terms used therein, interprets the various terms set forth in s.1.11, Stats., and sets forth specific procedures for environmental review, including required information and documentation. These procedures are applicable to major actions significantly affecting the quality of the human environment.

Section VTAE 12.01 sets forth the purpose of these rules and notes the statutory authority for these rules.

Section VTAE 12.02 defines certain terms and phrases used in these rules.

Section VTAE 12.03 sets forth the board action lists categorizing various types of action to aid in the determination of the need for an environmental impact statement. Type I actions always require an environmental impact statement; Type II actions may or may not require an environmental impact statement depending on the significance of the

action; and Type III actions normally do not significantly affect the environment and do not require an environmental impact statement. The table following this section sets forth the board's current action list.

Section VTAE 12.04 establishes requirements for the preparation of an environmental assessment and sets forth the contents of the report on the environmental assessment. This section also sets forth procedures for a generic environmental assessment, procedures for public comment and input, and requires a finding to be made relative to the need for an EIS in Type II actions.

Section VTAE 12.05 sets forth the procedure for scoping a proposed action to determine the significant issues to be analyzed in an EIS, to identify and eliminate those issues which are not significant or which have been covered by other environmental reviews, and establishes a timetable.

Section VTAE 12.06 sets forth the content of an environmental impact statement and provides a uniform format for the development of an impact statement.

Section VTAE 12.07 sets forth the procedures for distribution and review of the draft environmental impact statement and requires that an informational hearing be held.

Section VTAE 12.08 sets forth the procedure for conversion of a draft environmental impact statement (DEIS) to a final environmental impact statement.

Section VTAE 12.09 sets forth the procedures for distribution and review of a final environmental impact statement and requires a public hearing to be held.

Section VTAE 12.10 sets forth the procedure for a contested case hearing and sets forth the time period for requesting a contested case hearing.

Section VTAE 12.11 sets forth the procedures for the preparation of a record of decision for the proposed action.

Pursuant to authority vested in the Board of Vocational, Technical and Adult Education by sections 1.11 and 227.11(2)(a), Stats., the Board of Vocational, Technical and Adult Education hereby adopts rules interpreting section 1.11, Stats., as follows:

1 SECTION 1. Chapter VTAE 12 is created to read:

2
3 VTAE 12.01 PURPOSE. The purpose of this chapter is to:

4
5 (1) Establish procedures for board consideration of short-term
6 and long-term environmental and economic effects of board actions upon
7 the human environment.

8
9 (2) Establish definitions and criteria to be used by the board
10 for the implementation of s.1.11, Stats. Implementation includes the
11 evaluation of proposed actions; the study, development and description
12 of alternatives where proposed actions involve unresolved conflicts in
13 the use of available resources; and the preparation and review of
14 environmental impact statements (EISs).

15
16 (3) Provide guidance to districts seeking permission to proceed
17 with a proposed action, determine the applicable procedure affecting
18 the board's review of a proposal, and establish a mechanism for early
19 review of an applicant's proposal to determine the need for an EIS.

20
21 (4) Identify major actions significantly affecting the quality of
22 human environment and the need for an EIS.

23
24 (5) Provide an opportunity for public input in the decision-
25 making process.

1 VTAE 12.02 DEFINITIONS. In this chapter:

2
3 (1) "Action" means any activity initiated by the board, or any
4 activity subject to the regulation or approval of the board, which may
5 affect the quality of the human environment.

6
7 (a) "Type I action" means a major action which significantly
8 affects the quality of the human environment and requires the
9 preparation of an environmental impact statement (EIS).

10
11 (b) "Type II action" means an action which may or may not
12 significantly affect the quality of the human environment and requires
13 the preparation of an environmental assessment (EA) to determine
14 whether the action significantly affects the human environment and
15 whether an EIS must be prepared.

16
17 (c) "Type III action" means an action which normally does not
18 have the potential to cause significant environmental effects and
19 normally does not involve unresolved conflicts in the use of available
20 resources, and unless the board determines otherwise, an EA or EIS
21 will not be prepared.

22
23 (2) "Alternatives" means other actions which may reasonably be
24 available to achieve the same or altered purpose of the proposed
25 action, including the alternative of no action.

26
27 (3) "Board" means the board of vocational, technical and adult
28 education.

1
2 (4) "CEQ" means the council on environmental quality.

3
4 (5) "DEIS" means draft environmental impact statement which is a
5 preliminary format of the final environmental impact statement.

6
7 (6) "District" means a vocational, technical and adult education
8 district established under Chapter 38, Stats.

9
10 (7) "EA" or "environmental assessment" means a brief but
11 comprehensive analysis of a proposed Type II action to determine its
12 environmental impact; to study, develop and describe alternatives; and
13 to determine whether the proposed action constitutes a major action
14 significantly affecting the quality of the human environment or
15 involving unresolved conflicts in the use of available resources.

16
17 (8) "EIS" or "environmental impact statement" means a written
18 report prepared pursuant to s.1.11, Stats., in accordance with the CEQ
19 guidelines, which contains an analysis of anticipated impacts of a
20 proposed action upon the human environment, and alternatives to the
21 proposed action. The draft environmental impact statement (DEIS) is a
22 preliminary format of the final environmental impact statement (FEIS).

23
24 (9) "FEIS" means final environmental impact statement.

25
26 (10) "Finding of no significant impact" means a completed
27 environmental assessment which indicates that the proposed action is

1 not a major action which will significantly affect the quality of the
2 human environment and tht no EIS is required.

3

4 (11) "Human environment" means all conditions and influences,
5 natural and artificial, which surround and affect all organisms,
6 including people.

7

8 (12) "Major action" means an action which will significantly
9 affect the quality of the human environment.

10

11 (13) "NEPA" means the National Environmental Policy Act (42 U.S.C.
12 s.4321, et. seq.).

13

14 (14) "Resources" includes land, water, air, energy forms, plant
15 life and wildlife, aesthetic, social, economic, historical and
16 archeological factors, and labor and materials used in the proposed
17 action.

18

19 (15) "Scoping" means an early process for identifying the
20 anticipated range of issues to be addressed by an EIS, the extent to
21 which the identified issues will be addressed, and the significant
22 issues as seen by the public.

23

24 (16) "Significant effects" means the considerable and important
25 impacts, beneficial or adverse, of actions on the quality of the human
26 environment.

1 (17) "WEPA" means the Wisconsin Environment Policy Act, s.1.11,
2 Stats.

3
4
5 VTAE 12.03 BOARD ACTION TYPE LIST. The board shall review its
6 proposed action and determine what impact the proposed action will
7 have on the quality of the human environment. The board has reviewed
8 its actions and has categorized these actions into 3 types as
9 specified in Table VTAE 12.03. Table VTAE 12.03 shall be used to
10 determine the category of the proposed action and the type of
11 environmental analysis that is required.

12
13 (1) TYPE I ACTION. If it is determined from Table VTAE 12.03
14 that the proposed action is a type I action, an EIS shall be
15 prepared. These are major board actions which would significantly
16 affect the quality of the human environment.

17
18 (2) TYPE II ACTION. If it is determined from Table VTAE 12.03
19 that the proposed action is a type II action, an EA will be
20 prepared. These actions have the potential to cause significant
21 environmental effects and may involve unresolved conflicts in the use
22 of available resources.

23
24 (a) If the EA discloses that the proposed action is a major
25 action that will significantly affect the quality of the human
26 environment, an EIS shall be prepared.

1 (b) If the board finds in the EA that the proposed action is not
2 a major action that will significantly affect the quality of the human
3 environment, the EA shall be filed in the office of the WEPA
4 coordinator as a finding of no significant impact and shall be
5 provided to interested parties upon request.

6
7 (3) TYPE III ACTION. A type III action normally does not have
8 the potential to cause significant environmental effects and normally
9 does not involve unresolved conflicts in the use of available
10 resources, and, unless the board determines otherwise, these actions
11 will not require an EA or EIS.

12
13 (4) OTHER ACTIONS. Every action other than those specified in
14 subs. (1) to (3) shall be evaluated for determination of the type of
15 action.

Table VTAE 12.03
BOARD ACTION TYPE LIST

Action Identification	Example	Type of Action		
		I	II	III
A. Facility Development				
1. Construction of a new campus	New construction on a site previously undeveloped resulting in a significantly altered site	X		
2. Construction of buildings on an existing campus that has had no prior impact statement	New construction on a campus developed prior to April 1972	X		
3. Additions to existing campus buildings not considered under a prior impact statement	Additions on a campus constructed prior to April 1972 or not considered under a prior EIS		X	
4. Demolition of buildings			X	
5. Vehicle training track			X	
6. Land acquisitions	Acquisition by fee title of parcels of land		X	
7. Remodeling for purposes requiring more energy than prior use	Remodel a classroom into a welding shop		X	
8. Purchase or lease of relocatable structures	Temporary classrooms, shop, laboratory or storage buildings		X	
9. Emergency replacement	Immediate replacement of facilities to a condition similar to that which existed prior to damage from flood, fire or tornado, or other forces of nature			X

Action Identification	Example	Type of Action		
		I	II	III
10. Parking lot construction that exceeds 1,000 cars or incremental increases in a parking lot that require a permit from the department of natural resources	Self explanatory (see s. NR 406.04)		X	
11. Pedestrian elevated walkways or bridges			X	
B. Regulation				
1. Assuring compliance with federal, state and safety codes				X
2. Legislation	Board proposals for new programs or major changes in existing programs, the implementation of which would have significant material effects on the human environment		X	
3. Program approval	Proposals for new programs or major changes in existing programs, the implementation of which will not have a significant effect on the human environment			X

1 VTAE 12.04 PREPARATION OF AN ENVIRONMENTAL ASSESSMENT. (1)
2 CONTENT. To determine whether a Type II action is major and
3 significantly affects the quality of the natural and physical
4 environment of human beings, and to describe the alternatives to the
5 action, the board shall conduct an EA and shall prepare a reviewable

1 record in the form of a concise report. The preparation shall be done
2 as early as possible in the planning process, but, in any event,
3 before contracts are let if the action involves construction by a
4 district. The report shall include:

5

6 (a) A brief description of the proposed action, the purpose of
7 the action, the need for the action, and maps, graphs and other
8 materials where appropriate.

9

10 (b) A brief description of those factors in the human environment
11 affected by the proposed action.

12

13 (c) A brief evaluation of the most significant primary and
14 secondary environmental effects that would result if the proposal is
15 implemented.

16

17 (d) A brief study developing and describing reasonable
18 alternatives to the proposed action, including the alternative of no
19 action, and a brief evaluation of the significant environmental
20 effects that are different from the anticipated impacts of the
21 proposed action.

22

23 (e) A listing of other agencies or groups contacted and the
24 comments of, and other pertinent information from, the agencies and
25 groups.

26

27 (f) An evaluation section which contains brief discussions of the
28 specific factors in this paragraph. If the proposed action will lead
29 to any of these results, the need to prepare an EIS is increased.

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1. Irreversible environmental effects.
2. Stimulation of secondary (indirect) effects.
3. Creation of a new environmental effect.
4. Impacts on geographically scarce environmental features.
5. Precedent-setting nature of the action.
6. Significant controversy associated with the action.
7. Conflicts with official agency plans or local, regional, state or national policy.
8. Cummulative impacts of repeated actions of this type.
9. Irrevocable foreclosure of future options.

(g) A preliminary recommendation on the need for an EIS.

(2) GENERIC EA. 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 board shall, when addressing a single action already covered by a generic EA, consider the relevance of the generic EA to the specific action.

(3) NOTICE. (a) Content. The board shall develop a notice for EA as prepared under this section. The notice shall state that the EA has been prepared and is available for review and shall include the following information:

1. The name of the proposed action and an identification of the district where the proposed action will occur.

1 2. A brief description of the proposed action, including
2 location.

3
4 3. The board's preliminary determination of the need for an EIS.

5
6 4. The name of a contact person within the board who can supply
7 copies of the EA and can answer questions about it.

8
9 5. The latest date on which the board will accept and consider
10 comments before making a final decision on the need for an EIS.

11
12 (b) Distribution. The board shall send copies of the notice to
13 all individuals, agencies, and organizations that have requested
14 notification of the EA or of all EA's and, in the case of a project in
15 a particular area of the state, to the news media in the vicinity of
16 the project.

17
18 (4) PUBLIC COMMENT AND INPUT. Following the deadline for receipt
19 of public comment on the EA, appropriate board staff shall review the
20 EA, consider all public comments, make modifications as judged
21 necessary, and approve the EA which shall include a finding either of
22 no significant impact or of the need for an EIS.

23
24 (5) FINDINGS. (a) If a finding is made in the EA of no
25 significant impact, no EIS shall be required, the environmental review
26 is complete and the original EA shall then be filed in the office of
27 the WEPA coordinator as a finding of no significant impact.

1 (b) If a finding is made in the EA that an EIS is required for a
2 proposed Type II action, the board shall proceed with the preparation
3 of an EIS under ss.VTAE 12.05 to 12.11.

4
5 (c) The board's finding on the need for an EIS becomes final upon
6 signing by the state director or designee.

7
8 (6) DELEGATION. Except for the EIS evaluation section as
9 described in sub. (1)(g), any part of an EA may be prepared by a
10 district proposing an action.

11
12 VTAE 12.05 SCOPING. (1) As soon as possible after the decision to
13 prepare an EIS, the district, in actions where the district is the
14 proponent of an action, or the board, in all other actions, shall
15 notify and inform the public and affected agencies that an EIS will be
16 prepared and that scoping is beginning.

17
18 (2) The scoping process shall include, to the extent possible,
19 affected federal, state and local agencies, the board, the proponent
20 of the action, and other interested persons. The process may consist
21 of meetings, hearings, workshops, surveys, questionnaires, or other
22 appropriate methods or activities, and may be integrated with other
23 public participation requirements.

24
25 (3) The scoping process shall be used to accomplish all of the
26 following:

1 (a) Determine the scope and the significant issues to be analyzed
2 in depth in the EIS.

3
4 (b) Identify and eliminate from detailed study the issues which
5 are not significant or which have been covered by prior environmental
6 review. This will narrow the discussion of these issues in the EIS to
7 a brief presentation of why they will not have a significant effect on
8 the human environment or a reference to their coverage elsewhere.

9
10 (c) Set a time schedule for document preparation and opportunities
11 for public involvement.

12
13
14 VTAE 12.06 CONTENTS OF AN EIS. (1) When an EIS is required, a
15 DEIS and an FEIS shall be prepared by the board, by the district or by
16 a consultant under contract with the board or a district. The board
17 shall supervise and exercise final review of any EIS prepared by a
18 district or a consultant. The DEIS shall emphasize significant
19 environmental issues identified during the scoping process. The FEIS
20 shall be based in part upon comments received on the DEIS and on
21 information received from other sources. An EIS shall provide
22 analysis of the environmental and economic implications of a proposed
23 action contemplated by a district that need board approval. An EIS
24 shall include the following:

25
26 (a) A summary of the scoping process used and the major issues
27 identified for detailed analysis in the EIS.

1 (b) A description of the proposed action and of the affected
2 environment including the history and background of the proposed
3 action, location, type of facility, major dimensions, engineering
4 design criteria, general types of materials be used, time schedules,
5 maps and diagrams deemed relevant, sources of funding, permits and
6 approvals required, and other pertinent information which will
7 adequately allow an assessment of the potential environmental impact
8 by persons who want to make comments.

9
10 (c) An evaluation shall be made of the probable environmental
11 consequences, both positive and negative, of the proposed action as it
12 relates to the physical and chemical, biological, social and cultural,
13 and economic environments. Secondary as well as primary consequences
14 to the environment shall be included whenever possible. The
15 discussion shall include adverse environmental effects which cannot be
16 avoided should the proposal be implemented. The EIS shall include
17 impacts which have catastrophic consequences, even if their
18 probability of occurrence is low, provided that the analysis of the
19 impacts is supported by credible scientific evidence, is not based on
20 pure conjecture, and is within the rule of reason.

21
22 1. The evaluation of the physical and chemical environment shall
23 include consideration of the action's effects upon air quality and
24 climate, surface and ground water quality and quantity, noise,
25 geological structure, topography, minerals and soils, thermal effects,
26 unique land forms and water bodies, and flood and erosion hazards.

1 2. The evaluation of the biological environment shall include
2 consideration of the action's effect upon plant life, animal life,
3 fish and wildlife habitat, ecological relationships, endangered
4 species, migrations, unique plant and animal associations, human
5 health, and hazardous and toxic materials.

6
7 3. The evaluation of the social and cultural environment shall
8 include consideration of the action's effect upon historic and
9 archeological sites, parks and recreation areas, local institutions
10 and community service, existing and future land uses, community
11 description, housing patterns, neighborhood compatibility,
12 displacement of families, businesses and farms, aesthetics, potential
13 for shared use of facilities or programs, ethnic, religious or other
14 groups, change in population patterns, emergency services, educational
15 facilities and local ordinances.

16
17 4. An evaluation of the economic environment which shall include
18 consideration of the action's effect upon tax base, property values,
19 employment, community and personal income, business activities and
20 climate, manufacturing, mining and industry, agriculture,
21 transportation, public utilities, energy resources, and government
22 services and costs.

23
24 (d) An evaluation of significant irreversable and irretrievable
25 commitments of resources that would be involved in the proposed action
26 if implemented, including a statement identifying the extent to which
27 the proposed action irreversibly curtails the range of potential uses
28 of the environment.

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(e) 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. The option of doing nothing shall be included as an alternative.

(f) The relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity. The EIS shall 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.

(g) The FEIS shall discuss at appropriate points any responsible opposing view not adequately discussed in the DEIS.

(h) An analysis shall also be made of significant direct and indirect energy impacts of the proposed action.

(2) The FEIS shall be an analysis document that enables environmental and economic factors to be considered in the development of a proposed action. It shall be considered by the board in the decision-making process.

(3) The EIS shall be written in plain language and shall use appropriate graphics to aid decision-makers and the public. Where appropriate, an EIS may be combined with other required environmental

1 or planning documents. The text of the FEIS shall normally be less
2 than 150 pages and in proposed actions of unusual magnitude or
3 complexity shall normally be less than 300 pages.

4
5 (4) If the board makes substantial changes in the proposed action
6 that are relevant to environmental concerns, or if there are
7 significant new circumstances or information relevant to environmental
8 concerns that have bearing on the proposed action or its impacts, that
9 arise after preparation of the FEIS, but before substantial
10 implementation of the action, the board shall prepare supplements to
11 the FEIS. If a supplement is prepared it shall be distributed and
12 reviewed in the same manner as a DEIS or a FEIS as provided in s.VTAE
13 12.07.

14
15
16 VTAE 12.07 DISTRIBUTION AND REVIEW OF THE DEIS. (1) DISTRIBUTION
17 OF THE DEIS. Copies of the DEIS shall be distributed as follows:

18
19 a. The governor's office.

20
21 b. State, federal, and local governmental agencies having
22 special expertise, interest or jurisdiction.

23
24 c. Regional and county planning agencies located within the
25 proposed action area.

26
27 d. Libraries in the area of the proposed action.

1 e. Department of transportation - bureau of environmental data
2 analysis.

3
4 f. Department of natural resources - bureau of environmental
5 analysis and review.

6
7 (2) REQUESTED COPIES. Copies of the DEIS shall also be provided
8 to any individual or group requesting a copy. A charge may be
9 assessed to cover reproduction and handling costs.

10
11 (3) NOTICE OF AVAILABILITY OF THE DEIS. (A) An announcement
12 sheet giving a brief description of the proposed action, description
13 of the administrative procedures to be followed, the date by which
14 comments on the DEIS are to be submitted to the district, and the
15 locations where copies of the DEIS are available for review will be
16 circulated as follows:

17
18 1. All local and regional units of government which have
19 jurisdiction over the area that may be affected by the proposed action
20 or reasonable alternatives to the proposed action. A request will be
21 made for posting the announcement sheet at the places normally used
22 for public notice.

23
24 2. Local and regional news media in the area affected.

25
26 3. Groups, clubs, committees, or individuals which have
27 demonstrated an interest and have requested receipt of this type of
28 information.

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4. All participants in the scoping process not covered in subpar. a. through c.

(b) The announcement under subd.1 shall be published as a class I notice, under ch. 985, Stats., in a newspaper published in the district where the proposed action is to occur.

(4) PERIOD OF TIME FOR COMMENT ON THE DEIS. A minimum of 45 days from the date the DEIS is mailed shall be allowed for the receipt of comments from state, federal and local agencies and the public.

(5) INFORMATIONAL HEARING. (a) The board shall hold a public hearing on the DEIS. The hearing shall be noticed as follows:

1. At least 30 days prior to the hearing, notice shall be mailed to all known agencies and offices required to grant any permit or license of approval necessary for the proposal; to any regional planning commission within which the affected area lies; to the governing bodies of all towns, villages, cities and counties within which any part of the proposed action lies; to the governing bodies of any towns, villages or cities contiguous to any town, village or city within which any part of the proposed action lies; and to interested persons who have requested such notification.

2. At least 25 days prior to the hearing, a notice shall be published as a class I notice, under ch. 985 Stats., in a newspaper

1 circulated in the affected area or, for actions of statewide
2 significance, in the official state newspaper.

3
4 (b) The hearing shall be held in the affected area. On actions
5 of statewide significance, the hearing may be held in Madison.

6
7 (c) The hearing shall be recorded either stenographically or
8 electronically.

9
10 VTAE 12.08 CONVERSION OF DEIS TO FEIS. After considering the
11 testimony received at the public hearing on the DEIS, and undertaking
12 whatever further investigation in response to that testimony deemed
13 necessary, the board may convert a DEIS to an FEIS. The conversion
14 may be accomplished by replacing the cover sheet, modifying the
15 statement as judged appropriate to reflect information received at
16 public hearing or while the hearing record was kept open, and by
17 adding an appendix which records and responds to information,
18 concerns, views, arguments, and suggestions received at the hearing
19 and while the hearing record was kept open.

20
21 VTAE 12.09 DISTRIBUTION AND REVIEW OF THE FEIS. (1)
22 DISTRIBUTION. The FEIS shall be distributed in the same manner as the
23 DEIS under s. VTAE 12.07, and shall also be distributed to any person,
24 organization or agency that submitted comments on the DEIS.

25
26 (2) NOTICE OF AVAILABILITY. The availability of the FEIS will be
27 announced through a notice similar to the notice of availability of
28 the DEIS under s.12.07(3).

1
2 (3) REQUESTED COPIES. A charge may be assessed to individuals or
3 groups requesting the FEIS to cover reproduction and handling costs.
4

5 (4) PERIOD OF TIME FOR COMMENT ON THE FEIS. A period of not less
6 than 30 days from the date the FEIS is mailed shall be allowed for
7 receipt of comments from state and federal agencies and the public.
8

9 (5) PUBLIC HEARING. The board shall hold a public hearing on the
10 FEIS. The hearing shall be announced through the notice of
11 availability of the FEIS which shall be published as a class I notice,
12 under ch. 985 Stats., at least 25 days prior to the hearing in a
13 newspaper circulated in the affected area or, for actions of statewide
14 significance, in the official state newspaper.
15

16 VTAE 12.10 CONTESTED CASE HEARING. (1) PETITION FOR CONTESTED
17 CASE HEARING. The board shall grant a petition for a contested case
18 hearing on the FEIS when the petition contains a statement of the
19 specific reasons why the petitioner believes a contested case hearing
20 should be held and the petition contains sufficient facts for the
21 board to determine that:
22

23 (a) The petitioner satisfies the criteria of s.227.42, Stats.; or
24

25 (b) The petitioner has an individual interest in the outcome of
26 the proceeding and a public interest will be served by holding a
27 contested case hearing.

1 (2) TIME LIMIT FOR PETITION. Any petition received by the board
2 requesting a contested case hearing more than 20 days after the date
3 of publication of the notice of availability shall be denied.
4

5 (3) HEARING. (a) If the board grants a request for a contested
6 case hearing, the board shall inform the person making the request
7 about the date, time and place of the hearing.
8

9 (b) In the event that more than one request for a contested case
10 hearing on the FEIS is granted, the board shall consolidate the
11 requests and hold one hearing.
12

13 (c) The only issue at the hearing shall be whether the FEIS
14 complies with the requirements of s.1.11, Stats. The persons who
15 requested the hearing shall have the burden of proving to a reasonable
16 certainty by the greater weight of the credible evidence that the FEIS
17 does not comply with the requirements of s.1.11, Stats.
18

19 (d) The hearing shall be held in accordance with the board's
20 general procedural rules for hearings or, in the absence of those
21 rules, the conditions and procedures set out in ss.227.44 to 227.50,
22 Stats., except as otherwise provided in this subsection. Rescheduling
23 of hearings shall be at the board's discretion and shall be granted
24 only for good cause.
25

26 (4) EVIDENCE, DISCOVERY AND DISCLOSURE. (a) The FEIS shall be
27 received into the hearing record as an exception to the hearsay rule

1 and shall be considered by the board in making its decision for
2 whatever probative value the FEIS has.

3
4 (b) Notwithstanding any other rule of the board, the parties in
5 proceedings under this action shall have the means of discovery,
6 except written interrogatories and depositions on written questions,
7 available to parties through judicial proceedings set forth in ch.
8 804, Stats.

9
10 (c) Not less than 10 days before the hearing the parties shall
11 file with the board:

12
13 1. The names and addresses of all witnesses, including adverse
14 witnesses, that the party may call to testify at the hearing;

15
16 2. A detailed written summary of the testimony to be elicited
17 from each witness identified in subd. 1, including any opinion or
18 conclusion of the witness on any matter relevant to the proceedings
19 and the facts and data underlying that opinion or conclusion. The
20 summary shall be an oath or affirmation; and

21
22 3. A copy of any document or other writing, except the FEIS, and
23 a copy or detailed description of any demonstrative evidence the party
24 may offer into evidence as exhibits.

25
26 (d) 1. Any witness whose name, address and summary of testimony
27 is not provided as required in par. (c) 1. and 2. shall not be

1 permitted to testify at the hearing. No witness may testify on any
2 matter not included in the summary of testimony.

3
4 2. No document or other writing or a copy of detailed
5 description of any demonstrative evidence not filed as provided in
6 par. (c) 3. may be made part of the record.

7
8 (e) Unless objected to by the board, any summary of testimony of
9 a witness for the person who requested the hearing shall be made part
10 of the record in lieu of the testimony of that witness as an exception
11 to the hearsay rule and shall be considered by the board for whatever
12 probative value that testimony has in making its decision. Unless
13 objected to by the person who requests the hearing, any summary of the
14 testimony of a witness for the board shall be made part of the record
15 in lieu of the testimony of such witness as an exception to the
16 hearsay rule and shall be considered by the board for whatever
17 probative value that testimony has in making its decision.


18
19
20 VTAE 12.11 RECORD OF DECISION. Where an EIS is prepared, the
21 board shall also, at the time of its final decision, prepare a record
22 of decision. The record of decision shall identify all alternatives
23 considered in the order of their environmental preference. The record
24 of decision for the alternative selected shall state whether all
25 practicable means to avoid or minimize environmental harm have been
26 adopted, and if not, why they were not.

1 Note: The final draft of the EIS issued by the board, and the
2 record of decision provided in s.VTAE 12.09, are intended to satisfy
3 the decision requirement of s.227.47, Stats.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s.227.22(2)(intro.), Stats.

Dated: February 23, 1987

Wisconsin Board of Vocational,
Technical and Adult Education



Robert P. Sorensen, State Director

Wisconsin Board of Vocational, Technical and Adult Education

310 Price Place

P.O. Box 7874

Madison, WI 53707

608-266-1207



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FEB 25 1987

Revisor of Statutes
Bureau

Robert P. Sorensen, Ph. D.
State Director

February 23, 1987

Mr. Orlan L. Prestegard
Revisor of Statutes
Suite 904
30 West Mifflin Street
Madison, Wisconsin 53703

Dear Mr. Prestegard:

Enclosed for filing is a certified copy of the Order of the Board of Vocational, Technical and Adult Education creating chapter VTAE 12, relating to procedures for actions significantly affecting the environment (Clearinghouse Rule 86-128). Also enclosed is an additional copy of the Order for use as printer's copy.

An appropriate title for this chapter would be "Wisconsin Environmental Policy Act Procedures."

Should you have any questions please do not hesitate to contact me at 266-8171.

Sincerely,

Edward S. Alschuler
Legal Counsel

ESA:jmk(A2)
Prestegard

Enclosure

cc: Robert P. Sorensen, Ph.D.
John R. Kroll
Edward Chin
Glenn Davison