

repeal of the rule may significantly affect the quality of the human environment.

(m) *Earthen manure storage facilities; standards.* Adoption of rules establishing standards for the construction of earthen manure storage facilities under s. 92.16, Stats.

(n) *Weather modification permits.* The issuance of any weather modification permit under s. 93.35 (6), Stats.

(o) *Rendering plant license.* The issuance of any license for the initial establishment and construction of a rendering plant or dead animal processing plant under s. 95.72, Stats.

(p) *Animal or food processing wastes; disposal directed by department.* The adoption of any rule, or the issuance of any order prescribing the ultimate disposal location or manner of ultimate disposal, into the environment, of animal carcasses, animal wastes, or dairy and food processing wastes, if the disposal may significantly affect the quality of the human environment. This does not apply to normal waste disposal through sewer or waste-pickup systems; to disposals which are specifically approved or supervised by the department of natural resources; or to disposals made in compliance with applicable rules of the department or the department of natural resources.

(q) *Toxic substances; disposal by department.* Department disposal of pesticides or other hazardous materials, including hazardous laboratory chemicals. This does not apply to disposals which are specifically approved or supervised by the department of natural resources, or made in accordance with applicable rules of the department of natural resources.

(r) *Heavy metal compounds; required use for preservation of composite milk samples.* The requirement, by rule or otherwise, that any heavy metal compound, including potassium dichromate, be used as a composite milk sample preservative.

(s) *Distribution of mobile air conditioners using ozone-depleting refrigerant; waiver.* Granting any manufacturer or distributor of mobile air conditioners a waiver, under s. 100.45 (2) (b), Stats., or s. Ag 136.03, from the application of s. 100.45 (2) (a), Stats., which restricts the distribution of mobile air conditioners using ozone-depleting refrigerant.

(2) ACTIONS NOT REQUIRING ENVIRONMENTAL ASSESSMENT. (a) *General.* Department actions not specified under sub. (1) do not normally require an environmental assessment, except as otherwise determined by the department under par. (b).

Note: A comprehensive summary of the department actions is available from the department upon request. Requests may be directed to the Wisconsin Department of Agriculture, Trade and Consumer Protection; Legal Section; 801 W. Badger Rd., P.O. Box 8911, Madison, WI 53708. Requests should specify the current version of the document entitled SUMMARY OF DEPARTMENT PROGRAMS.

(b) *Exceptions.* Notwithstanding par. (a), the department shall prepare an environmental assessment on a proposed action if the department finds that:

1. The action may be a major action significantly affecting the quality of the human environment within the meaning of s. 1.11 (2) (c), Stats., and that an environmental impact statement may be required; or

2. The action involves unresolved conflicts concerning the use of available resources within the meaning of s. 1.11 (2) (e), Stats., such that the department is required to study, develop and describe alternatives to the proposed action, and the department has not studied, developed, and described alternatives in writing by other means.

(c) *Emergency.* Where emergency action by the department is necessary to protect the public health, safety or welfare, the department shall comply with this section to the maximum extent feasible under the emergency circumstances.

(3) **FORM AND CONTENT OF ASSESSMENTS.** (a) Environmental assessments of proposed actions shall be prepared in writing, and signed by the administrator of the division proposing to take the action or the administrator's designee. Assessments shall briefly identify and describe:

1. The nature and purpose of the proposed action.
2. The foreseeable environmental effects of the proposed action, including immediate and long-term effects, direct and indirect effects, and cumulative effects when combined with other actions. The description shall include, to the extent feasible, preliminary quantitative estimates of the extent and probability of the effects.
3. The persons, groups or agencies that will be directly or significantly affected by the proposed action, and how they will be affected.
4. The significant economic or social effects which may result from the proposed action, including both positive and negative effects.
5. The controversial public issues, if any, which may be associated with the proposed action.
6. Possible alternatives to the proposed action, including the alternative of taking no action.
7. Possible measures that could be taken in connection with the proposed action to mitigate adverse environmental effects.

(b) Based on the information set forth pursuant to par. (a), the environmental assessment shall contain a written conclusion stating whether the proposed action is, or is not, a major action significantly affecting the quality of the human environment, and whether an environmental impact statement is required under s. 1.11 (2) (c), Stats., and s. Ag 170.03. In making this determination, the department shall consider the extent, probability, location, seriousness and duration of the environmental effects; the extent to which the effects are irreversible or cumulative in nature; the extent to which the proposed action may foreclose future uses of available resources; and the consistency of the proposed action with state or federal environmental laws and policies.

(c) A class of 2 or more proposed actions, including repeated similar actions, may be covered by a single environmental assessment of generalized form, provided that the actions are substantially similar in relevant respects, and have substantially similar effects on the human environment.

(4) **NOTICE OF ASSESSMENT.** Before undertaking an action to which an environmental assessment pertains, the department shall make reasonable efforts to give notice of the completed assessment to persons who are
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directly interested in or affected by the proposed action. Notice shall be given to news media serving the area affected by the proposed action, and may also be published in the administrative register. Notice shall include a description of the proposed action; the results of the completed assessment; the name of a person in the department who may be contacted concerning the assessment; and, to the extent that a comment period is practicable, a time period for comment on the assessment.

History: Cr. Register, November, 1986, No. 371, eff. 12-1-86; cr. (1) (s), Register, March, 1991, No. 423, eff. 4-1-91.

Ag 170.03 Environmental impact statements. (1) **ACTIONS REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT.** (a) *General requirement.* An environmental impact statement shall be prepared in connection with a proposed action if the department determines, on the basis of an environmental assessment or otherwise, that the proposed action is a major action significantly affecting the quality of the human environment, and that an environmental impact statement is required under s. 1.11 (2) (c), Stats. If an environmental impact statement is required, the department shall make no final decision to proceed with the proposed action until the environmental impact statement has been completed.

(b) *Emergency exception.* If an action is necessary in an emergency, the department is not required to complete an environmental impact statement before initiating the emergency action. However, if an environmental impact statement would be required except for the emergency, the department shall complete the environmental impact statement as soon as possible after the action is initiated, and shall reconsider its action in light of the information disclosed in the environmental impact statement. Under this paragraph, an emergency exists if the department determines that the proposed action is necessary in an emergency to protect public health, safety or welfare; that the purposes of the proposed action cannot reasonably be achieved by other available means; and that time does not allow for the preparation of an environmental impact statement on the proposed action. A finding of emergency shall be made in writing and signed by the secretary, and shall set forth the basis for the emergency finding.

(2) **STATEMENT FORM AND CONTENT.** (a) *General.* Environmental impact statements shall be prepared in writing and signed by the individual preparers. Statements shall identify and describe, in specific detail:

1. The nature and purpose of the proposed action.

2. The environment affected by the proposed action.

3. The foreseeable environmental effects of the proposed action, including immediate and long-term effects, direct and indirect effects, cumulative effects when combined with other actions, and any unavoidable adverse effects of the proposed action. The description shall include, to the extent feasible, quantitative estimates of the extent and probability of the effects. If environmental effects cannot be reasonably estimated, because necessary information is not available, the nature of the information needs shall be described. Foreseeable environmental effects include catastrophic effects, even if the probability of their occurrence is low, provided that the potential for the catastrophic effects is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

4. The cost of the proposed action, and any irretrievable commitments of natural or human resources which would be involved in the proposed action.

5. Significant economic and social effects of the proposed action, including both positive and negative effects.

6. Potential trade-offs between short-term and long-term uses of environmental resources which may be involved in the proposed action, including a discussion of the relationship between short-term uses and the maintenance and enhancement of long-term resource productivity.

7. The persons, groups, or agencies who will be directly or significantly affected by the proposed action, and the nature of the effects.

8. Possible measures that could be taken in connection with the proposed action to minimize adverse environmental effects.

9. Possible alternatives to the proposed action, including the alternative of taking no action. The statement shall include a detailed comparative analysis of the proposed action and the described alternatives. The analysis shall discuss and compare the relative environmental effects, costs, and benefits of each alternative, including economic and social costs and benefits where applicable.

(b) *Summary and conclusions.* Every environmental impact statement shall contain a brief written summary and conclusion, signed by the division administrator or the administrator's designee. Based on the information set forth in the environmental impact statement pursuant to par. (a), the summary and conclusion shall review the environmental impact of the proposed action, discuss the relative benefits and costs of the available alternatives, and set forth the department's conclusions.

(c) *Generic statement; repeated or similar actions.* A class of two or more actions, including repeated similar actions, may be covered by a single environmental impact statement of generalized form, provided that the actions are substantially similar in relevant respects, and have substantially similar effects on the human environment.

(3) **DRAFT STATEMENT; PREPARATION, DISTRIBUTION, NOTICE AND COMMENT.** (a) *Preparation of draft statement.* Before issuing an environmental impact statement on a proposed action, the department shall prepare a draft statement for review and comment by interested persons and agencies. Before preparing the draft statement, the department shall consult with other agencies having jurisdiction or expertise in the subject matter, and with other affected persons as appropriate, to help determine:

1. The proposed scope of the draft statement, and the matters and issues to be addressed;

2. The maximum length of the draft statement, and the amount of discussion to be devoted to each issue;

3. Possibilities for the elimination of unnecessary, repetitious or irrelevant material;

4. The respective responsibilities of cooperating agencies in the preparation of any joint draft statement; and

5. A proposed timetable for completing the draft statement.

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(b) *Distribution of draft statement.* Copies of draft environmental impact statements shall be distributed, upon completion, to:

1. The governor.

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