

## Chapter NR 150

## ENVIRONMENTAL ANALYSIS AND REVIEW PROCEDURES FOR DEPARTMENT ACTIONS

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**NR 150.01 Purpose.** The purpose of this chapter is to:

(1) Establish a policy to assure governmental consideration of the short- and long-term environmental and economic effects of policies, plans and programs upon the quality of the human environment.

(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).

(3) Establish the identification of major actions significantly affecting the quality of the human environment and the need for an EIS.

(4) Provide guidance to applicants seeking permission to proceed with a proposed action, which the department may grant, in determining the applicable procedure affecting the department's review of their proposals, and to establish a mechanism for early review of an applicant's proposal to determine the need for an environmental impact report (EIR) and EIS.

(5) Provide an opportunity for public input to the decision-making process.

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1981, No. 302, eff. 3-1-81; am. (2), Register, February, 1984, No. 338, eff. 3-1-84.

**NR 150.015 Applicability.** This chapter shall apply to all department actions which may affect the quality of the human environment.

**History:** Cr. Register, February, 1981, No. 302, eff. 3-1-81.

**NR 150.02 Definitions.** (1) "Action" means any final decision by the department to commence, engage in, fund, approve, disapprove, conditionally approve or otherwise carry out any activity, pursuit or procedure, including proposals for legislation, which may affect the quality of the human environment.

(2) "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.

(3) "Appropriate participation" means 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.

(4) "Approval" means, for the purposes of categorizing actions under s. NR 150.03, the full range of affirmative final decisions of the department including approve, renew or conditionally approve.

(5) "Approve" means the affirmative authorization to other persons, by means of licenses, permits, rules, leases, variances, or other entitlements of use, to engage in activities which would otherwise be prohibited by law.

(6) "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.

(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.

(8) "Department" means the department of natural resources.

(9) "EA" or "environmental assessment" means an environmental analysis which is prepared to inform decision-makers of a proposed action's effect on the environment, and which develops, describes and evaluates alternatives, and provides sufficient evidence to determine whether the proposed action is a major action.

**Note:** An EA serves as the primary document of the department's reviewable record of its factual investigation to identify relevant areas of environmental concern, and permit a reasonably informed prediction of a proposal's effect on the environment.

(10) "EIR" or "environmental impact report" means a disclosure document, submitted under s. 23.11 (5), Stats., by a person seeking a permit or approval.

(11) "EIS" or "environmental impact statement" means an environmental analysis which is prepared to inform decision-makers and the public of a proposed action's effect on the environment, and develops, describes and evaluates alternatives in the detailed statement required by s. 1.11, Stats.

(12) "Environmental analysis" means a written comprehensive analysis prepared under s. NR 150.22 to evaluate a proposed action's effect on the environment; and to study, develop and describe alternatives. It includes EAs as well as EISs.

(13) "Human environment" means the natural or physical environment, and the relationship of people with that environment.

(14) "Informational meeting" means an optional, informal proceeding conducted by the department to receive public comments on an EA, EIS or an EIR.

(15) "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.

(16) "Major action" means an action of such magnitude and complexity that the action will have significant effects upon the quality of the human environment. It does not include actions whose significance is based only on economic or social effects.

(17) "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.

(18) "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.

(19) "NEPA" means the national environmental policy act (42 USC 4321, et seq.).

(20) "Person" means any person, firm, partnership, joint venture, joint stock company, association, public or private corporation, the state of Wisconsin and all political subdivisions, cooperative, estate, trust, receiver, executor, administrator, fiduciary, and any representative appointed by order of any court or otherwise acting on behalf of others.

(21) "Preapplication services" means those services necessary to evaluate the environmental impact of a project or proposed activity, monitor major developments, and expedite the anticipated preparation of an EIS prior to submission of formal applications, and are part of EIS preparation for the purposes of this chapter.

(22) "Preapplication services agreement" means a written understanding between the department and a person proposing a large, complex, or environmentally sensitive action.

(23) "Prepared by the department" means prepared:

(a) By department employees or consultants; or

(b) In part by the department and in part by applicants for department permission, or applicant's consultants upon review and approval under s. NR 150.22 (1) (a).

(24) "Proposal" means the full range of activities of the entire project proposed. This includes the entire project proposed whether or not the department's action relates to the entire project or to a segment or component of it.

(25) "Significant effects" means considerable and important impacts of major state actions on the quality of the human environment.

(26) "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.

(27) "WEPA" means the Wisconsin environmental policy act (ch. 274, laws of 1971, as amended by ch. 204, laws of 1973, which includes s. 1.11, Stats.).

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am., Register, February, 1981, No. 302, eff. 3-1-81; renum. (2) to (27) to be (3), (6) to (15), (17) to (19), (21), (24) to (32), (4) and (36) and am. (3), (4), (7), (17) to (19) and (28), cr. (2), (5), (16), (20), (22), (23), (33) to (35), Register, February, 1984, No. 338, eff. 3-1-84; cr. (28m), Register, March, 1986, No. 363, eff. 4-1-86; r. and recr. (1), r. (2), (6), (10) to (15), (17), (18), (20), (25), (29) to (31), (33) and (35), renum. (3) to (5), (9), (16), (19), (21), (22) to (24), (26) to (28), (28m), (32), (34) and (36) to be (2), (3), (6), (10), (14), (15), (16), (17) to (19), (20) to (22), (23), (25) to (27) and am. (10), (14), (16) and (23), cr. (4), (5), (9), (11) to (13), and (24), Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.025 Policy.** (1) (a) In accordance with the Wisconsin and national environmental policy acts and regulations issued by the president's council on environmental quality, it is the intention of the natural resources board to declare a policy that will encourage productive and enjoyable harmony among people and their environment; to promote efforts which will prevent or eliminate damage to the environment; and to enrich the understanding of the important ecological systems and natural resources of the state.

(b) The board recognizes the potential for impact of many state and federal actions on all components of the human environment. Therefore, the board declares that it is the continuing policy of the department of natural resources, as the primary environmental agency in state government, to develop an understanding of the environmental consequences of its actions and to use all practicable means and measures to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the requirements of present and future generations.

(2) In order to carry out the policy set forth above, the department shall:

(a) Acknowledge WEPA as an obligation shared by all units of the department to the extent that any unit con-

templating regulatory, management or administrative actions subject to WEPA review under this chapter must evaluate and be aware of the environmental consequences of such actions.

(b) Recognize its role as an environmental agency in state government and that it shall set an example in meeting the spirit and intent of WEPA.

(c) Develop, where possible, agreements and understandings with other state, federal and local agencies to provide for early environmental reviews of their major actions, minimize duplication in meeting environmental impact requirements and establish a mechanism for resolution of interagency conflict.

(d) Develop appropriate environmental impact information and analysis along with a discussion of meaningful alternatives and make this available to the decision-maker in a timely manner for all actions where such an evaluation is required by this chapter; and recognize that decisions subject to WEPA requirements cannot be made until the appropriate environmental impact review process is completed.

(e) Implement the environmental review procedure as an integrated process, not a separate sequence of activities, that must be part of the initial planning process for department projects and initiated at an early stage of the regulatory review process.

(f) Consider the findings of EIS's, EA's and comments received from the public in making decisions on proposed actions.

(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.

(h) Recognize that where an EIS is required for a major state action, it serves as a coordinating mechanism for a comprehensive department analysis of the entire project and for informing the public and/or obtaining comments on the proposed action.

(i) Recognize that the department has an affirmative duty within its resources to comment on the EIS's of other

agencies by virtue of its jurisdiction by law, special expertise or authority.

**History:** Register, February, 1981, No. 302, eff. 3-1-81; renum. (2) (g) and (h) to be (2) (h) and (i), cr. (2) (g), Register, February, 1984, No. 338, eff. 3-1-84; am. (2) (e), Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.03 Action type list.** The action type list established in subs. (5) to (8) shall be used to determine the category of the proposed action and the minimum procedural requirements of this chapter as described in s. NR 150.20.

(1) **TYPE I ACTIONS** Type I actions are major actions which would significantly affect the quality of the human environment.

(2) **TYPE II ACTIONS** Type II actions have the potential to cause significant environmental effects and may involve unresolved conflicts in the use of available resources.

(3) **TYPE III ACTIONS** Type III 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.

(4) **TYPE IV ACTIONS** Type IV actions include:

(a) Activities exempt by statute;

(b) Enforcement activities;

(c) Emergency activities to protect public health, safety, the human environment;

(d) Ancillary activities which are part of a routine series of related department actions; or

(e) Actions which individually or cumulatively do not significantly affect the quality of the human environment, do not significantly affect energy usage and do not involve unresolved conflicts in the use of available resources.

(5) **DEPARTMENT FACILITIES DEVELOPMENT, OPERATIONS, AND OTHER RESOURCE MANAGEMENT** (a) *Education, Endangered Resources, Fish, Forestry, Parks and Recreation, Research, and Wildlife Programs.*

| Action Identification                   | Description of Action   | Type of Action        |
|---|---|-----------------------|
| 1. New Properties                       | a. Establishment 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).<br>b. 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.<br>c. Acquisition by fee title of selected parcels of land within established land acquisition project boundaries. | I<br><br>II<br><br>IV |
| 2. Property Re-designation              | The re-designation or exchange of all or a portion of an existing department property to a different use classification which involves a basic change in existing land use.   | III                   |
| 3. Public Access                        | Acquisition and development of sites for public access to lakes, rivers and streams except those projects meeting the criteria of subd. 4. a.   | III                   |
| 4. Facilities and Building Construction | a. Construction of new buildings, campgrounds, roads, scenic overlooks, parking lots, dams, dikes, flowages, beaches, trails and other facilities costing \$100,000 or more on department lands or projects which would involve Type II actions under sub. (8) if carried out by a private applicant.   | II                    |

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|     | b. Construction of new buildings, campgrounds, roads, scenic overlooks, parking lots, dams, dikes, flowages, beaches, trails and other facilities costing \$30,000 to \$100,000 on department lands or projects which would involve Type III actions under sub. (8) if carried out by a private applicant.  | III  |
|     | c. 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. | IV   |
| 5.  | Property Boundary Adjustments   | Boundary adjustments to approved land acquisition projects which result in an increase or decrease of:   |
|     | a. 160 acres or more.   | II   |
|     | b. Less than 160 acres.   | III  |
| 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:      |
|     | a. Exceeds 160 acres in the same township.  | II   |
|     | b. Does not exceed 160 acres in the same township.  | III  |
| 7.  | Easements and Leases  | a. Acquisition of certain land rights for department projects.   |
|     | b. Conveyance of easements, land use permits, licenses and leases on department lands for activities otherwise listed in subs. (5) to (8) as:   | IV   |
|     | Type II actions   | II   |
|     | Type III actions or unlisted actions  | III  |
|     | Type IV actions   | IV   |
| 8.  | Natural Area Dedications  | Dedication of natural areas under ss. 23.27 and 23.29, Stats.  |
| 9.  | Sale of Land  | a. Recommendations to declare state-owned lands as no longer necessary for the state's use for conservation purposes under s. 24.085, Stats.                         |
|     | b. Sale of department lands and recommendations to declare department lands as no longer needed for conservation purposes which involve corrections to errors of survey.  | IV   |
| 10. | Department Gravel Pits  | a. 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. |
|     | b. 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 subd. 1. a.   | IV   |
| 11. | Habitat Management  | Actions designed to improve fish and wildlife habitat including:   |
|     | a. Forest wildlife habitat activities or land clearing involving more than 60 contiguous acres, or more than a total of 160 acres, within a department property during a calendar year;   | III  |
|     | b. Forest wildlife habitat activities or land clearing involving less than 60 contiguous acres, or less than a total of 160 acres, within a department property during a calendar year;   | IV   |
|     | c. Prescribed burning affecting 60 contiguous acres or more within a department property;   | III  |
|     | d. Prescribed burning affecting less than 60 contiguous acres within a department property;   | IV   |
|     | e. Spring pond dredging;  | II   |
|     | f. Pothole development;   | IV   |
|     | g. All habitat management activities involving filling or draining of wetlands except as provided in subd. 11. h.;  | II   |
|     | h. Level ditching in wetlands and activities affecting less than 5 acres of wetlands;   | III  |
|     | i. Installation of fish barriers;   | II   |
|     | j. Lake and stream habitat improvement;   | IV   |
|     | k. Herbicide treatment activities for brush control or control of nuisance vegetation within a department property during a calendar year involving:<br>broadcast application to 160 acres or more;<br>broadcast application to less than 160 acres;<br>or spot applications;   | II<br>III<br>IV  |
|     | l. Pesticide treatment of public waters for removal of rough or deleterious fish except as provided in subd. 11. m.;  | II   |
|     | m. 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; or  | IV   |
|     | n. Trail construction for wildlife management purposes.   | IV   |

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| 12. | Silvicultural Practices               | Actions on department properties including:  |     |
|     |                                       | a. Harvesting activities involving more than 60 contiguous acres or more than a total of 160 acres within a department property during a calendar year;  | III |
|     |                                       | b. Harvesting activities involving less than 60 contiguous acres or less than 160 acres in total within a department property during a calendar year;  | IV  |
|     |                                       | c. Prescribed burning affecting 60 contiguous acres or more;   | III |
|     |                                       | d. Prescribed burning affecting less than 60 contiguous acres;   | IV  |
|     |                                       | e. Forest type conversion;   | III |
|     |                                       | f. Chemical pesticide treatment activities involving broadcast application to 160 acres or more within a department property during a calendar year  | II  |
|     |                                       | g. 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;   | III |
|     |                                       | h. All nonbroadcast applications of pesticides in accordance with registered label instructions and uses including spot applications and row applications at time of planting; or  | IV  |
|     |                                       | i. Tree planting; plantation thinning; timber stand improvement activities (except pesticide treatments), or noncommercial cutting for aesthetic management.   | IV  |
| 13. | Research Projects                     | a. The conduct of research involving substantial land, air, water or habitat manipulation; the use of pesticides not in accordance with label instructions and uses; and laboratory research involving the potential for material environmental effects outside the laboratory, or other actions otherwise listed as Type II under this section.                                     | II  |
|     |                                       | b. Projects 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 or IV under this section. | IV  |
|     |                                       | c. Projects involving the field testing or release of living matter prepared by recombinant DNA techniques.  | II  |
| 14. | Introduction of New or Exotic Species | a. Stocking or introduction of wildlife species that are not native or established in Wisconsin.   | II  |
|     |                                       | b. Stocking or introduction of fish species or strains that are not native or established in Wisconsin's portion of that major watershed.  | II  |
| 15. | 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. This includes stocking of common hybrids derived from only endemic species.   | IV  |
| 16. | Inventories                           | Includes all surveys conducted in the field for wildlife management, fish management, forestry, fire control, environmental protection, natural areas, rare, threatened or endangered plant and animal species, and lake mapping.  | IV  |
| 17. | 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."  | IV  |
| 18. | 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.  | IV  |
| 19. | Forest Nursery Operations             | Procedures including seed procurement, lifting and disbursing plants, and disease and pest control. Includes the use of pesticides.  | IV  |
| 20. | State Game Farm Operations            | Procedures including hatching and rearing wildlife species. Includes the use of pesticides.  | IV  |
| 21. | Fire Control                          | Operations including training, educational programs and fire suppression.  | IV  |
| 22. | 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.   | IV  |
| 23. | Road and Parking Lot Resurfacing      | Projects which do not entail a major change or extension.  | IV  |
| 24. | Repair and Maintenance                | Maintenance of existing department facilities to prevent or reduce deterioration or damage.  | IV  |
| 25. | 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.   | IV  |
| 26. | Park and Forest Operations            | Activities and programs routinely conducted at 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 IV.   | IV  |

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| 27. | Operations of the MacKenzie Environmental Center | All education and maintenance activities.   | IV  |
| 28. | Information and Education Programs               | Conducted by department personnel in schools, with clubs, civic groups, other similar groups and at organized exhibitions.  | IV  |
| 29. | Extension Services                               | Services performed by department personnel including technical advice in forestry, wildlife, land and water management.     | IV  |
| 30. | Gifts and Bequests                               | Money, land, equipment, services, etc., given to the department to promote activities to benefit natural resource programs. | IV  |
| 31. | Other  | Actions otherwise not listed in subs. (5) to (8).   | III |

**(b) Air, Solid Waste, Water Regulation, Water Resources, Water Supply and Wastewater Programs.**

|    |                                    |  |                               |
|----|------------------------------------|--|-------------------------------|
| 1. | Research Projects                  | <p>a. The conduct of research involving substantial land, air, water or habitat manipulation; the use of pesticides not in accordance with label instructions and uses; and laboratory research involving the potential for material environmental effects outside the laboratory, or other actions otherwise listed as Type II under this section.</p> <p>b. Projects 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 or IV under this section.</p> <p>c. Projects involving the field testing or release of living matter prepared by recombinant DNA techniques.</p> | <p>II</p> <p>IV</p> <p>II</p> |
| 2. | Inventories                        | Includes all surveys in the field for environmental protection.  | IV                            |
| 3. | Information and Education Programs | Conducted by department personnel in schools, with clubs, civic groups, other similar groups and at organized exhibitions.   | IV                            |
| 4. | Extension Services                 | Services performed by department personnel including technical advice in air, land and water management.   | IV                            |
| 5. | Gifts and Bequests                 | Money, land, equipment, services, etc., given to the department to promote activities to benefit natural resource programs.  | IV                            |
| 6. | Other                              | Actions otherwise not listed in subs. (5) to (8).  | III                           |

**(6) PLANS AND POLICY RECOMMENDATIONS.****(a) Fish, Forestry, Education, Parks and Recreation, Research, and Wildlife Programs.**

|    |                              |   |  |
|----|------------------------------|---|--|
| 1. | Board Policies               | <p>a. 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.</p> <p>b. 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.</p>  | <p>II</p> <p>IV</p>  |
| 2. | Legislation                  | <p>a. Department proposals for new programs or major changes in existing programs, the implementation of which would have material effects on the human environment.</p> <p>b. Proposals for new programs that would not result in material effects on the human environment and for minor changes in existing programs.</p> <p>c. Budget proposals to continue funding of existing programs.</p>   | <p>II</p> <p>IV</p> <p>IV</p>                                |
| 3. | Administrative Rules         | <p>a. Promulgation of new rules or changes in existing rules 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 practices are excluded.</p> <p>b. Promulgation of new rules, emergency rules or changes in existing rules when: the implementation will not have material impacts on the human environment, or the department has limited discretion in formulating all important provisions of the rule.</p> <p>c. Promulgation of emergency rules to relieve conditions that are hazardous to life, health, property or the environment.</p> <p>d. Revisions to ch. NR 5 regarding slow-no-wake speed restrictions.</p> <p>e. Revisions to ch. NR 46 regarding stumpage values.</p> <p>f. Revisions to ch. NR 11, 15 or 26 regarding refuges and closed areas.</p> | <p>II</p> <p>III</p> <p>IV</p> <p>IV</p> <p>IV</p> <p>IV</p> |
| 4. | County Forest Ten Year Plans | <p>Approvals of plans covering management activities on county forests where the proposed activities would be:</p> <p>a. Type II actions if carried out by the department.</p>  | <p>II</p>  |

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|   | b. Type III actions if carried out by the department.  | III |
|   | c. Type IV actions if carried out by the department.   | IV  |
| 5. Long Range Plans   | a. 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 that may significantly affect the human environment.   | II  |
|   | b. Plans or modifications of plans adopted or approved by the department that would not essentially pre-determine future individual department actions or significantly affect the physical or biological environment.   | IV  |
|   | c. Program strategic plans.  | IV  |
| 6. Master Plans and Management Plans  | a. Conceptual elements of all master plans.  | II  |
|   | b. Conceptual elements of management plans for individual department properties that involve activities otherwise listed as Type II under this section.  | II  |
|   | c. Conceptual elements of management plans for individual department properties unless it involves activities otherwise listed as Type II under this section.  | III |
|   | d. Implementation elements of master plans and management.   | IV  |
| 7. Environmental Restoration  | Planning and carrying out comprehensive restoration or aquatic environments unless it involves activities otherwise listed as Type II.   | III |
| 8. Closed areas   | Established on department properties for fish management, wildlife management or human safety under s. NR 45.04 or 11.13.  | IV  |
| <b>(b) Air, Solid Waste, Water Regulation, Water Resources, Water Supply and Wastewater Programs.</b> |  |     |
| 1. Board Policies   | a. 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.  | II  |
|   | b. 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 practices or which, upon implementation, will not have material effects on the human environment.                        | IV  |
| 2. Legislation  | a. Department proposals for new programs or major changes in existing programs, the implementation of which would have material effects on the human environment.  | II  |
|   | b. Proposals for new programs that would not result in material effects on the human environment and for minor changes in existing programs.   | IV  |
|   | c. Budget proposals to continue funding of existing programs.  | IV  |
| 3. Administrative Rules   | a. Promulgation of new rules or changes in existing rules 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. | II  |
|   | b. Promulgation of new rules, emergency rules or changes in existing rules: The implementation will not have material impacts on the human environment, or the department has limited discretion in formulating important provisions of the rule.  | III |
|   | c. Promulgation of emergency rules to relieve conditions that are hazardous to life, health, property or the environment.  | IV  |
| 4. Long-Range Plans   | a. 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 that may significantly affect the human environment.   | II  |
|   | b. Plans or modifications of plans adopted or approved by the department that would not essentially pre-determine future individual department actions or significantly affect the physical or biological environment.   | IV  |
|   | c. Program strategic plans.  | IV  |
| 5. Areawide Water Quality Management Plans  | Adoption, revision, additions, updates or other modifications under ch. NR 121 for:  | II  |
|   | a. Delineation of areas over 1000 acres that may be served by a sewage collection system.  | II  |
|   | b. Delineation of areas that may be served by a sewage collection system where the sum of the service area changes result in a cumulative increase to the service area of more than 5% during a calendar year.   | II  |
|   | c. Delineation of areas that may be served by a sewage collection system and include wetlands, floodways or 60 contiguous acres or more.   | III |
|   | d. Other plan elements that would predetermine future department actions under ss. 144.04 and 147.02, Stats., or s. NR 110.08 (4) which require conformance to the areawide plan.  | III |
|   | e. Other.  | IV  |

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|----|---------------------------------------|---|--------------------------------|
| 6. | Priority Watershed Plans              | Approval of plans under ch. NR 120.   | IV                             |
| 7. | Emergency and Remedial Response Plans | <p>a. Remedial action plans or modifications of plans adopted by the department for projects funded by the environmental fund under s. 144.442, Stats., to respond to sites or facilities which pose a substantial danger to public health or welfare or the environment.</p> <p>b. Remedial action plans or modifications of plans approved by the department under environmental repair contracts entered into pursuant to s. 144.442, Stats.</p> <p>c. Emergency environmental restoration plans including plans for emergency action in response to hazardous substance spills under s. 144.76, Stats., and plans for emergency response under s. 144.442, Stats.</p> | <p>III</p> <p>IV</p> <p>IV</p> |

**(7) FINANCIAL ASSISTANCE. (a) Education, Fish, Forestry, Parks and Recreation, Research, and Wildlife Related.**

- |    |   |   |     |
|----|---|---|-----|
| 1. | General Criteria  | Grants, aids, loans or other financial assistance for all or part of a proposal that would involve:   |     |
|    |   | a. Type II actions if carried out by the department.  | II  |
|    |   | b. Type III actions if carried out by the department.   | III |
| 2. | LAWCON Grants   | New individual land and water conservation fund (LAWCON) grants to local units of government for:   |     |
|    |   | a. Initial acquisition or development of a new community-wide park.   | II  |
|    |   | b. Initial acquisition, expansion or initial development of a new neighborhood park except as provided under subd. 1.   | IV  |
|    |   | c. Acquisition or development, except under subd. 1 or 2. a. or b.  | IV  |
| 3. | State Grants for Local Parks and County Conservation Aids | a. New individual grants to local units of government under s. 23.09 (12), Stats., for enhancing fish and wildlife habitat activities except those under subd. 1.   | IV  |
|    |   | b. New individual grants to local units of government under s. 23.09 (11), Stats., for the initial acquisition or development of a new park or for additional acquisition or development in any existing park except under subd. 1. | IV  |
| 4. | Snowmobile and Motorcycle Grants                          | Grants to local units of government under ss. 23.09 (25) (a), (26), 23.33 and 350.12 (4), Stats., for acquisition, development and maintenance of snowmobile and off-road-vehicle trails and facilities when the project involves:  |     |
|    |   | a. New trails and extensions to trails.   | II  |
|    |   | b. Modifications to existing trails.  | III |
| 5. | Park and Forest Road Aids                                 | Grants 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.   | IV  |
| 6. | State Forestry Loans                                      | Loans issued under s. 28.11 (8) (b) 2., Stats., except those under subd. 1.   | IV  |
| 7. | Wildlife Habitat Grants                                   | New individual grants to counties under s. 23.09 (17m), Stats., for land management practices benefiting wildlife except those under subd. 1.   | IV  |
| 8. | Wildlife Damage Aids                                      | Grants to counties under s. 29.598, Stats., for wildlife damage claims and prevention measures.   | IV  |
| 9. | Scenic Urban Waterway                                     | Grants to municipalities under s. 30.275, Stats., except those under subd. 1. a.  | III |

**(b) Air, Solid Waste, Water Regulation, Water Resources, Water Supply and Wastewater Related.**

- |    |  |   |     |
|----|--|---|-----|
| 1. | Lake Management Grants                               | New individual grants to lake management organizations for proposals involving:   |     |
|    |  | a. Actions otherwise listed as Type II under this section.  | II  |
|    |  | b. Actions that would be Type III under this section.   | III |
|    |  | c. Actions that would be Type IV under this section.  | IV  |
|    |  | d. Feasibility studies.   | IV  |
| 2. | Nonpoint Source Pollution Abatement Grants           | Grants to designated management agencies under s. 144.25, Stats., to implement priority watershed plans and local abatement priority projects.  | IV  |
| 3. | Wastewater Facility Grants                           | New individual grants under the Wisconsin fund point source program, or department recommendations for new individual grants 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). | IV  |
| 4. | Individual Septic Tank Replacement or Rehabilitation | Grants to counties under s. 144.245, Stats., for failing private sewage systems.  | IV  |
| 5. | Revenue Sharing Bond                                 | Certification of pollution abatement facilities.  | IV  |
| 6. | Pollution Tax Exemptions                             | Certification or approval for water pollution control facilities tax exemptions.  | IV  |
| 7. | Feasibility Study Grants                             | State grants to local units of government to conduct feasibility studies.   | IV  |



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|---|---|--|---|
| 8.  | Solid Waste Management Grants                 | Grants under ss. 144.781 to 144.784 and 144.799, Stats., to develop areawide solid waste management plans, feasibility studies, waste reduction and recycling plans, and demonstration projects  | IV  |
| 9.  | Well Compensation Grants                      | Grants under s. 144.027 or 144.028, Stats., to individuals or municipalities to replace a contaminated water supply.   | IV  |
| 10.   | Floodplain and Shoreland Mapping Grants       | Grants to municipalities under s. 87.31, Stats., to undertake mapping of floodplain and shoreland areas.   | IV  |
| <b>(8) REGULATION (a) Various Programs.</b> |   |  |   |
| 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.   | I   |
| 2.  | Metallic Ore Refining                         | Department regulatory actions involving any new metallic ore refinery intended for commercial production.  | I   |
| 3.  | Confidential Status                           | Actions on requests for confidential status under s. NR 2.19.  | IV  |
| 4.  | Administrative Procedural Regulations         | Actions under ss. 227.11 (2) (a) and 227.46 (1), Stats.  | IV  |
| 5.  | Reports and Fees for Environmental Discharges | Actions for s. 144.96, Stats., for effluent discharges and air emissions.  | IV  |
| 6.  | Air and Water Quality Testing and Monitoring  | Department acceptance of air and water quality monitoring by private applicants 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 ch. NR 439 and approval of reference and equivalent procedures for measuring air quality under s. NR 404.05.  | IV  |
| 7.  | Operator Certification                        | Certification of operators of waterworks and wastewater treatment plants under s. 144.025 (2) (l), Stats., and ch. NR 114.   | IV  |
| 8.  | Commence Site Work                            | Approvals and waivers allowing site preparation prior to approval of approval of a facility.   | IV  |
| 9.  | Enforcement                                   | <p>a. All enforcement and rescue procedures and actions by department staff including conservation wardens, special wardens, and pilots.</p> <p>b. Issuance of orders under s. 144.975, Stats.</p> <p>c. Adoption of approval of enforcement plans to meet established standards or policies.</p> <p>d. Appropriation requests initiated by the department or developed on request by the department.</p> <p>e. Issuance of orders to discontinue the manner or site of refuse disposal in areas subject to flooding, under s. 144.045, Stats.</p> <p>f. 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.</p> | <p>IV</p> <p>IV</p> <p>IV</p> <p>IV</p> <p>IV</p> <p>IV</p> |
| 10.   | Birds or Animals Causing Damage               | Permits to eradicate or control issued under ss. 29.594, 29.595, 29.596, and 94.67 to 94.71, Stats.  | IV  |
| 11.   | Boat Registration                             | Registration under ss. 30.50 to 30.80, Stats.  | IV  |
| 12.   | Scientific Collectors Permits                 | Issuance of permits under s. 29.17, Stats.   | IV  |
| 13.   | Competitive Events on Department Lands        | Issuance of permits under ss. 23.09 to 23.11 and 29.255, Stats.  | IV  |
| 14.   | Guide Licenses                                | Issuance of licenses under ss. 29.165 and 29.166, Stats.   | IV  |
| 15.   | State Park, Forest and Trail Admission        | Issuance of admission stickers and tags under s. 27.01 (2r), Stats.  | IV  |
| 16.   | Snowmobile and ATV Registration               | Registration under s. 350.12 or 23.33, Stats.  | IV  |
| 17.   | Wild Rice and Ginseng Licenses                | Issuance of licenses under ss. 29.544 and 29.547, Stats.   | IV  |
| 18.   | Endangered Species Permits                    | Issuance of permits under s. 29.415 (6), Stats., to take, export, transport, possess or propagate endangered species.  | IV  |
| 19.   | Permits to Introduce Fish and Game            | <p>Issuance of permits under s. 29.535, Stats., for:</p> <p>a. Wildlife species that are not native or established in Wisconsin.</p> <p>b. Fish species or strains that are not native or established in Wisconsin's portion of that major watershed.</p> <p>c. Stocking into habitats containing that species.</p>  | <p>II</p> <p>II</p> <p>IV</p>                               |
| 20.   | Concession Agreements                         | Agreements allowing operations of concessions within state parks under s. 27.01, Stats.  | IV  |

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|                                 |  |   |     |
|---------------------------------|--|---|-----|
| 21.                             | Denials  | a. Denial of actions listed in this section as type II unless denied for procedural rather than substantive reasons.  | II  |
|                                 |  | b. Other denials.   | IV  |
| <br>(b) <i>Air Management.</i>  |  |   |     |
| 1.                              | Air Pollution Control Permits                  | Permits issued under ss. 144.391 and 144.392 (8), 144.3925 (6), Stats., and permit alterations under s. 144.395 (1) (e), Stats., for:   |     |
|                                 |  | a. New sources or modifications or relocations of existing sources resulting in a potential for increased emissions of particulate matter, sulfur dioxide, carbon monoxide, oxides of nitrogen, volatile organic compounds, lead or lead compounds: |     |
|                                 |  | - 100 tons or more per year after controls,   | II  |
|                                 |  | - 100 tons or more per year before controls.  | III |
|                                 |  | - Less than 100 tons per year before controls unless analysis is required under s. 144.393 (2) (d), Stats.  | IV  |
|                                 |  | b. New or modified parking facilities, highways or airports reviewed under s. NR 406.04   | II  |
|                                 |  | c. New sources or modifications or relocations of existing sources resulting in a potential for increased emissions, before controls, of any hazardous air contaminant;   | III |
|                                 |  | d. Any new or modified source requiring analysis under s. 144.393 (2) (d), Stats.;  | III |
|                                 |  | e. Existing sources of air contaminants; or   | IV  |
|                                 |  | f. Reconstruction or replacement of existing sources of air contaminants  | III |
| 2.                              | 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 436.05 or 436.06, 439.08, 436.03, 416.05 (1) (b), 422.03 (5), 423.03 (2) (b) or 425.04 (5).             | IV  |
| 3.                              | Local Air Pollution Control Programs           | Actions under s. 144.401 or 144.41, Stats., or s. NR 403.025 for county air pollution control programs.   | IV  |
| 4.                              | Emission Plans and Programs                    | Actions under s. NR 436.03 or 493.02, ch. NR 415, 416, 417, 418 or 419 to 425 on RACT compliance plans, emission control action programs and maintenance, startup or shutdown emission plans or schedules.  | IV  |
| 5.                              | Open Burning Methods; Habitat Management Burns | Approvals of methods under s. NR 429.04 (1) (i) or (k) or approval of prescribed burns for forest or wildlife habitat management under s. NR 429.04 (1) (c).  | IV  |
| 6.                              | Nonattainment Area Documents; Sources Affected | Issuance of documents defining, listing, describing or identifying nonattainment areas or air contaminant sources under ch. NR 401 and s. 144.371, Stats.   | IV  |
| 7.                              | Portable Source Relocation                     | Approval under s. NR 409.03 (3) and s. 144.391 (5), Stats., for portable sources of air contaminants.   | IV  |
| 8.                              | Auto Emission Inspections                      | Certification or withdrawal of certification under s. 144.42, Stats., of counties where inspections are required.   | IV  |
| 9.                              | Enforcement                                    | a. 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.   | IV  |
|                                 |  | b. Activities under s. 144.423, Stats., to correct violations of ss. 144.30 to 144.426 and 144.96, Stats., pertaining to air quality.   | IV  |
|                                 |  | c. Issuance of orders to reduce or discontinue air contaminant emissions in the event of an emergency, under s. 144.424, Stats.   | IV  |
|                                 |  | d. Requiring corrective measures upon determination that a local air pollution control program is inadequate, under s. 144.41 (4), Stats.   | IV  |
|                                 |  | e. Alteration, suspension, or revocation of permits under s. 144.395, Stats., except as provided in s. 144.395 (1) (e), Stats.  | IV  |
| <br>(c) <i>Fish Management.</i> |  |   |     |
| 1.                              | Children's Fish Pond License                   | Issuance of licenses under ss. 23.09 and 23.11, Stats.  | IV  |
| 2.                              | Commercial Fishing License                     | Issuance of licenses under ss. 29.30 to 29.37, Stats.   | IV  |
| 3.                              | Wholesale Fish Dealers' License                | Issuance of licenses under s. 29.135, Stats.  | IV  |
| 4.                              | Rough Fish Transport Permit                    | Issuance of permits under s. 29.47, Stats.  | IV  |
| 5.                              | Sport Fishing Licenses                         | Issuance of licenses under ss. 29.14 to 29.147, Stats.  | IV  |
| 6.                              | Bait Dealers' Permit                           | Issuance of permits under s. 29.137, Stats.   | IV  |
| 7.                              | Private Fish Management Permits                | Issuance of permits under s. 29.513, Stats.   | IV  |
| 8.                              | Private Fish Hatchery Permits                  | Issuance of permits under s. 29.52, Stats.  | IV  |
| 9.                              | Permits to Take Rough Fish                     | Issuance of licenses under s. 29.625, Stats.  | IV  |
| 10.                             | Sturgeon Spearing Licenses                     | Issuance of licenses under s. 29.148, Stats.  | IV  |

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|-----|---|--|-----|
| 11. | Net and Set Line Licenses for Inland Waters             | Issuance of licenses under ss. 29.30 and 29.37, Stats.                                 | IV  |
| 12. | Net and Set Hook Licenses for Outlying Waters           | Issuance of licenses under s. 29.33, Stats.  | IV  |
| 13. | Net Licenses for Mississippi and St. Croix Rivers       | Issuance of licenses under 29.34, Stats.   | IV  |
| 14. | Slat and Trammel Net Licenses for the Mississippi River | Issuance of licenses under s. 29.343, Stats.   | IV  |
| 15. | Set or Bank Pole Licenses                               | Issuance of licenses under s. 29.36, Stats.  | IV  |
| 16. | Certification of Municipal Fish Hatcheries              | Certification under s. 29.536, Stats.  | IV  |
| 17. | Abandonment of Ways to Water                            | Approval of resolutions or ordinances adopted by a municipality under s. 80.41, Stats. | III |

(d) *Forestry.*

|    |  |  |     |
|----|--|--|-----|
| 1. | County Forest Land Withdrawal                | Approval of withdrawals of lands under s. 28.11, Stats., for:  |     |
|    |  | a. Withdrawal of land due to errors of title or survey.  | IV  |
|    |  | b. Withdrawal of land outside of county forest boundaries and not entered as special-use lands.  | III |
|    |  | c. Other withdrawals.  | II  |
| 2. | Forest Crop Law                              | Withdrawal of lands from the program under s. 77.10, Stats.  | IV  |
| 3. | Woodland Tax Law                             | Withdrawal of lands from the program under s. 77.16, Stats.  | IV  |
| 4. | Managed Forest Land Law                      | Entry or withdrawal of lands from the program under ss. 77.82 and 77.88, Stats.  | IV  |
| 5. | County Forest Mineral Prospecting Agreements | Approval of agreements entered into by counties under s. 28.11 (3) (i), Stats., to prospect for ore or minerals on county forest lands | IV  |
| 6. | Burning Permits                              | Issuance of permits in intensive and extensive fire control districts under s. 26.12, Stats.   | IV  |

(e) *Solid Waste.*

|    |   |   |     |
|----|---|---|-----|
| 1. | Metallic Mining                               | a. 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: The estimated weight of the ore deposit exceeds 5 million tons; The land area directly committed to mining operations, including waste disposal, exceeds 160 acres; or The principal ore being mined will generate radioactive waste products. | I   |
|    |   | b. 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:<br>The estimated weight of the ore body is 5 million tons or less,<br>The land area directly committed to mining operations, including waste disposal is 160 acres or less, and<br>The principal ore being mined will not generate radioactive waste products.  | II  |
| 2. | Metallic Mining                               | Certification of completion or partial completion of the reclamation plan and the release of reclamation bonds under s. 144.90, Stats.  | IV  |
| 3. | Metallic Minerals Exploration License         | Issuance of licenses, certificates of completion, and bond releases to individual explorers under s. 144.832, Stats.  | IV  |
| 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.  | I   |
| 5. | Solid and Hazardous Waste Feasibility Reports | Report approvals under s. 144.44 (2) and (9), Stats., chs. NR 157, 182, 500 to 685 for:   |     |
|    |   | a. New landfills, or expansion of existing landfills, with a new or additional design capacity of over 500,000 cubic yards.   | II  |
|    |   | b. New landfills, or expansion of existing landfills, with a new or additional design capacity of 500,000 cubic yards, or less for nonhazardous solid waste.  | III |
|    |   | c. Noncontainerized storage facilities with a design capacity greater than 50,000 cubic yards or 100 tons per day (wet weight).   | II  |
|    |   | d. Noncontainerized storage facilities for nonhazardous solid waste with a design capacity of less than 50,000 cubic yards or 100 tons per day (wet weight).  | IV  |
|    |   | e. Any hazardous waste or PCB disposal facility except for those meeting the criteria listed under subd. 4.   | II  |
|    |   | f. Any metallic mining waste facility.  | II  |

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|----------------------------------|--|-----|
|                                  | g. Any hazardous waste treatment, including incineration, or storage facility except under subd. 5. i.   | II  |
|                                  | h. Processing facilities and incinerators for nonhazardous solid waste.  | IV  |
|                                  | i. Small storage facilities for hazardous waste under s. NR 640.07.  | IV  |
| 6.                               | Solid Waste Plan of Operation  |     |
|                                  | Plan approvals under chs. NR 500 to 590, for:  |     |
|                                  | a. 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.                     | II  |
|                                  | b. 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.                   | IV  |
|                                  | c. Noncontainerized storage facilities and air curtain destructors.  | IV  |
|                                  | d. Solid waste landfills or hazardous waste facilities under s. 144.44 or 144.64, Stats.   | IV  |
|                                  | e. Land spreading of solid waste under ch. NR 518.   | III |
| 7.                               | Operating Licenses   | IV  |
|                                  | Issuance of licenses under s. 144.44 or 144.64, Stats., for solid waste facilities or hazardous waste facilities.  |     |
| 8.                               | Radioactive Waste  | II  |
|                                  | Approval of drilling for site exploration under s. 144.833, Stats.   |     |
| 9.                               | Construction Observation Reports   | IV  |
|                                  | Approval of reports for solid or hazardous waste facility under chs. NR 500 to 590 or 600 to 685.  |     |
| 10.                              | One-Time Disposal  | IV  |
|                                  | Approval of facilities for one-time disposal of solid waste under s. NR 500.08.  |     |
| 11.                              | Closure Plans  | IV  |
|                                  | Approval of plans for the closure of a solid or hazardous waste facility under s. NR 514.07 or 685.05 (1).   |     |
| 12.                              | Solid Waste Open Burning   | IV  |
|                                  | Licenses issued under s. 144.436, Stats., and approvals of wood burning facilities under chs. NR 500 to 590.   |     |
| 13.                              | Solid Waste Exemptions   | III |
|                                  | Exemptions from licensing granted under s. 144.44 (7), Stats., or chs. NR 500 to 590.  |     |
| 14.                              | Monitoring Plans   | IV  |
|                                  | Approval of new or modified monitoring plans at facilities licensed under chs. NR 500 to 590.  |     |
| 15.                              | Hazardous Waste Variances, Waivers and Exemptions  | IV  |
|                                  | Variances, waivers and exemptions from licensing requirements under s. 144.64 (3), Stats., ch. NR 625 or ss. 680.20 and 680.21.  |     |
| 16.                              | Hazardous Waste Licenses   | IV  |
|                                  | Issuance of transportation service licenses under s. 144.64 (1), Stats.  |     |
| 17.                              | Solid Waste Management Plan  | IV  |
|                                  | Final plan approvals under s. NR 185.07.   |     |
| 18.                              | Engine Waste Oil Plans   | IV  |
|                                  | Approval of informal plans of operation for collection and storage facilities under ch. NR 590.  |     |
| 19.                              | Waste Management Fund and Financial Responsibility   | IV  |
|                                  | Actions under s. 144.441, Stats., for solid or hazardous waste disposal facilities.  |     |
| 20.                              | Enforcement  | IV  |
|                                  | a. 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.                                       | IV  |
|                                  | b. Issuance of orders to mine operators to comply with mining and reclamation plans, under s. 144.91 (1), Stats.   | IV  |
|                                  | c. Performance of actions ordered under s. 144.91 (1), Stats., in the event of noncompliance, under s. 144.91 (2), Stats.  | IV  |
|                                  | d. Issuance of enforcement orders under ss. 144.44 (8) or 144.47, 144.72 and 144.73, Stats.  | IV  |
|                                  | e. Issuance of orders, referrals to the department of justice, and other department actions under s. 144.76 (3), (4) and (7), Stats., and ch. NR 728.                                  | IV  |
|                                  | f. Waivers of compliance issued to prevent emergency conditions under ss. 144.44 (7) and 144.64 (1) (c), Stats.  | IV  |
| <br>(f) <i>Water Regulation.</i> |  |     |
| 1.                               | Dredging   |     |
|                                  | Permits and contracts involving lakes and harbors, rivers and streams under s. 30.20, Stats., that involve:  |     |
|                                  | a. The removal of 3,000 cubic yards or more of material except when restoring the original dimensions of an area legally dredged during the 10 years prior to the date of application; | II  |
|                                  | b. A potential for sediments to be characterized as a hazardous substance exists and more than 7 cubic yards of material would be removed;   | II  |
|                                  | c. Draining or filling affecting wetlands greater than 5 acres in size;  | II  |
|                                  | d. Draining or filling affecting wetlands smaller than 5 acres;  | III |
|                                  | e. All other activities.   | IV  |

|     |   |  |     |
|-----|---|--|-----|
| 2.  | Enlargement or Alterations of Waterways               | Activities defined in s. 30.19, Stats., involving:   |     |
|     |   | a. Connected waterways except as provided under subd. 2. c.;   | II  |
|     |   | b. Unconnected waterways and grading when related to:  |     |
|     |   | Extraction of minerals or mineral aggregates,  | II  |
|     |   | Draining or filling affecting wetlands, greater than 5 acres in size   | II  |
|     |   | Draining or filling affecting wetlands smaller than 5 acres,   | III |
|     |   | Other activities;  | IV  |
|     |   | c. Boat slips for the private use of riparian property owners.   | IV  |
| 3.  | Channel Changes                                       | Approvals to change the course of a navigable stream under s. 30.195, Stats., involving:   |     |
|     |   | a. Over 500 feet of stream length;   | II  |
|     |   | b. 500 feet or less of stream length.  | III |
| 4.  | Fills or Structures Below the Ordinary High Watermark | a. Permits issued under s. 30.12 (2), Stats., for structures on the beds of navigable waters.  | III |
|     |   | b. Permits for sand blankets, fish cribs, shoreline protection and fords pursuant to s. 30.12 (3) (a) 1, 2, 3, and 4, Stats.                             | IV  |
| 5.  | Bulkhead Line   | Approvals of ordinances or proposed leases for modification of existing shorelines:  |     |
|     |   | a. Under s. 24.39, Stats.  | II  |
|     |   | b. Under s. 30.11, Stats.  | III |
| 6.  | Pierhead Lines  | Approvals of pierhead line ordinances and maps adopted under s. 30.13, Stats.  | IV  |
| 7.  | Dams  | Permits or approvals under ch. 31, Stats., for:  |     |
|     |   | a. Constructing, raising, enlarging or abandoning large dams in navigable or nonnavigable waters.  | II  |
|     |   | b. Additions or substantial alterations to large dams in navigable waters that may affect the level of the flowage or release of water downstream.       | II  |
|     |   | c. Additions or alterations except as provided under subd. 7. b.   | IV  |
|     |   | d. Constructing, raising, enlarging or abandoning in navigable or nonnavigable waters except as provided under subpar. a.                                | III |
|     |   | e. Transfers of ownership.   | IV  |
|     |   | Note: Large dams as defined under s. 31.19, Stats.   |     |
| 8.  | Water Level Control                                   | a. Establishment of new levels, flow releases or approval of drawdowns of controlled lakes and flowages under s. 31.02, Stats., for:                     |     |
|     |   | Large dams, except as provided under subd. 8. c and d.,  | II  |
|     |   | Other dams.  | IV  |
|     |   | b. Establishment of historic levels or flow releases for controlled lakes and flowages.  | IV  |
|     |   | c. Approval of temporary drawdowns to conduct safety inspections.  | III |
|     |   | d. Approval of temporary drawdowns to relieve conditions which are unsafe or dangerous to life, health or property; under ss. 31.02 and 31.19, Stats.    | IV  |
| 9.  | Surface Water Diversion                               | a. Permits to divert water under ss. 30.18 (2) (a) 1, 30.18 (2) (b) or 144.855 (2), Stats.   | II  |
|     |   | b. Permits to divert water under s. 30.18 (2) (a) 2, Stats., for agricultural and irrigation purposes.   | IV  |
|     |   | c. Registration of new or increased surface water uses under s. 144.026 (3), Stats.  | IV  |
| 10. | Enclosure of Waterways                                | Permits to enclose navigable waters under s. 30.196, Stats.  | II  |
| 11. | Bridges and Culverts                                  | Authority to construct bridges and roadway culverts across navigable waters under ss. 30.10, 30.12, 30.123 and 32.23, Stats.                             | IV  |
| 12. | Barge Fleeting  | Approval of barge fleeting areas under s. 30.10, Stats., and ch. NR 327 for:   |     |
|     |   | a. Areas established and used for the past 10 years,   | III |
|     |   | b. Other areas.  | II  |
| 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: |     |
|     |   | a. Type II   | II  |
|     |   | b. Type III  | III |
|     |   | c. Type IV   | IV  |

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|     |                                      |  |    |
|-----|--------------------------------------|--|----|
| 14. | Floodplain Zoning                    | Approvals of ordinances and amendments under s. 87.30, Stats.  | IV |
| 15. | Shoreline Zoning and Wetland Mapping | Approval of ordinances, wetland inventory maps and amendments under ss. 59.971, 61.351, 62.231 and 144.26, Stats.  | IV |
| 16. | 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.  | IV |
| 17. | Boathouse Repair Cost Certification  | Certification of required maintenance and repair costs under ch. NR 325.   | IV |
| 18. | 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 unusually valuable wetlands may require further analysis.  | IV |
| 19. | Enforcement                          | a. Adoption of a shoreland zoning ordinance, under s. 59.971, Stats., for counties that fail to adopt an adequate ordinance.   | IV |
|     |                                      | b. Adoption of a floodplain zoning ordinance, under s. 87.30, Stats., for municipalities that fail to adopt an adequate ordinance.   | IV |
|     |                                      | c. Adoption of a shoreland-wetland zoning ordinance under s. 61.351 or 62.231, Stats., for a city or village that fails to adopt an adequate ordinance.  | IV |
|     |                                      | d. 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. | IV |

(g) *Water Resources.*

|    |                          |  |    |
|----|--------------------------|--|----|
| 1. | Aquatic Nuisance Control | Permits under s. 144.025 (2) (i), Stats., for:                   |    |
|    |                          | a. Mosquito larvaciding involving application to over 160 acres. | II |
|    |                          | b. All other activities.   | IV |

(h) *Water Supply.*

|    |  |   |    |
|----|--|---|----|
| 1. | High Capacity Well Permits             | Permits and approvals issued under s. 144.025 (2) (e), Stats.   | IV |
| 2. | Well Drillers, Pump Installers Permits | Issuance of permits under s. 162.04, Stats.   | IV |
| 3. | Private Wells                          | Determinations of compliance with ch. NR 812.   | IV |
| 4. | Water Supply Systems Plan Approvals    | Plan approvals under s. 144.04, Stats., for public water main extensions and waterworks.                                    | IV |
| 5. | Equipment and Material                 | Determinations of acceptability under ch. NR 812.   | IV |
| 6. | County Programs                        | Authorization to adopt, and approval of ordinances and amendments under s. 162.07, Stats., for county enforcement programs. | IV |
| 7. | Enforcement                            | Issuance of orders, under ch. 144 or 162, Stats., to require system modification, upgrading or abandonment.                 | IV |

(i) *Wastewater.*

|    |                               |   |     |
|----|-------------------------------|---|-----|
| 1. | Sewer Extension Plan Approval | Department approval of extension of wastewater collection systems under s. 144.04, Stats., that:  |     |
|    |                               | a. Pass through a wetland area greater than 5 acres;  | II  |
|    |                               | b. Has a pipe diameter greater than 18 inches;  | II  |
|    |                               | c. Involves an extension where the department determines that a potential exists for significant primary or secondary environmental impacts; or   | II  |
|    |                               | d. Represents other extensions not listed under subd. 1. a. to c.   | IV  |
| 2. | WPDES Permits                 | Permits issued under s. 147.02, 147.023 or 147.03, Stats., for:   |     |
|    |                               | a. Issuance or modification of permits for substantially increased levels of pollutant discharge resulting from activities to increase production capacity at existing facilities, or for discharges from facilities which result in development of a new site.   | II  |
|    |                               | b. Issuance or substantial modifications for general permits. This does not include a determination that a discharge is covered by an existing general permit.  | II  |
|    |                               | c. Discharges to surface or groundwaters from 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 or which do not result in substantially increased levels of pollutant discharge. This includes increased permit limits to comply with the requirements of s. 147.035 (2), Stats. | III |
|    |                               | d. Relocation of an existing discharge to a new receiving water.  | III |
|    |                               | e. Individual permits for existing discharges.  | IV  |

- f. Modifications of individual permits for existing discharges not resulting from activities to increase production capacity at existing facilities and which do not involve a change in receiving water. IV
- g. Discharges from the relocation of land spreading systems and discharges from Type IV dredging operations. IV
3. Wastewater Plan Approvals Plan approval under s. 144.04, Stats., for:
- a. Municipal and industrial wastewater facilities which will result in substantially increased levels of pollutant discharge, or in the development of a new site and which are not for the purpose of bringing an existing discharge into compliance with applicable standards. II
- b. Municipal and industrial wastewater facilities except those under subd. 3. a. IV
- c. Relocation of land spreading sites. IV
4. Wastewater Sludge Disposal Approvals under s. 144.04 or 147.02 (1), Stats., for:
- a. Sludge storage facilities constructed away from the wastewater treatment plant site; III
- b. Sludge storage facilities constructed at the wastewater treatment plant site; IV
- c. High-rate land spreading of sludges; III
- d. Approval of land spreading of sludge, except for high rate disposal. IV
5. Municipal Wastewater Facilities Plans Approval of facilities plans under s. NR 110.08 (1), for:
- a. New municipal sewage treatment plants, II
- b. Other reviewable projects which will increase the capability of an existing treatment facility, III
- c. Reviewable projects which will not increase the capacity of an existing treatment facility. IV
6. 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; III
- c. Involve all other activities IV
7. Septage Activities under s. 146.20, Stats.
- a. Issuance of licenses for servicing septic tanks, soil absorption fields, holding tanks, grease traps and privies. IV
- b. Approval of county programs to regulate the disposal of septage. IV
8. Enforcement
- a. Issuance of special water pollution abatement orders under s. 144.025 (2) (d) 1., Stats. IV
- b. Issuance of temporary emergency orders under s. 144.025 (2) (d) 2., Stats. IV
- c. Issuance of orders to enforce agreements to control pollution of interstate waters under s. 144.025 (2) (j), Stats. IV
- 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. IV
- e. Issuance of orders to obtain specific operating results from or to require modifications to, extensions of or replacement of systems or plants which tend to create a nuisance or menace to health or comfort under s. 144.025 (2) (r), Stats. IV
- 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. IV
- g. Department performance of actions ordered under s. 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. IV
- h. 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. IV
- i. Issuance of orders to connect a sewerage system to that of an adjoining town, village or city, under s. 144.07, Stats. IV

|                      |  |   |
|----------------------|--|---|
|                      | j. Issuance of orders to abate or remove a nuisance, and upon noncompliance to abate or remove the nuisance, under s. 145.14 (1), Stats. | IV  |
|                      | k. Revocation of permits under s. 147.03, Stats.   | IV  |
| <b>(j) Wildlife.</b> |  |   |
| 1.                   | Special Deer Dealer License  | Issuance of licenses under s. 29.578, Stats. IV   |
| 2.                   | Hunter's Choice, Party or Special Permits  | Issuance of permits under ss. 29.107 or 29.108, Stats. IV   |
| 3.                   | Hunting Permits and Licenses   | Issuance of permits and licenses under ss. 29.085, 29.10 to 29.12 and 29.174, Stats. IV   |
| 4.                   | Falconry Permits   | Issuance of permits under ch. NR 18. IV   |
| 5.                   | Private Game and Fur Farm and Shooting Preserve Licenses   | Issuance of licenses under ss. 29.572 to 29.578, Stats. IV  |
| 6.                   | Trapping Licenses  | Issuance of licenses under s. 29.13, Stats. IV  |
| 7.                   | Wildlife Exhibit Licenses  | Issuance of licenses under s. 29.585, Stats. IV   |
| 8.                   | Serving Game to Guests   | Issuance of permits under ss. 29.578 and 29.49, Stats. IV   |
| 9.                   | Rehabilitation Permits   | Issuance of permits under s. 29.174, Stats., for the temporary possession of wild animals to provide first aid and temporary care administered to orphaned, injured or confiscated wildlife. IV |
| 10.                  | Dog Trial and Training Permits   | Issuance of permits under s. 29.255, Stats. IV  |
| 11.                  | Raptor Permits   | Issuance of permits under s. 29.174, Stats., for the breeding and propagation of birds of prey. IV  |
| 12.                  | Fur Dealers License  | Issuance of licenses under s. 29.134, Stats. IV   |

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am., Register, February, 1981, No. 302, eff. 3-1-81; am. (intro.), (1), (6) and (7), r. and recr. (2) to (4), Register, February, 1984, No. 338, eff. 3-1-84; am. (3) (b) 22. and (3) (b) 30., cr. (2) (b) 22.e. and (3) (b) 30m., Register, June, 1985, No. 354, eff. 7-1-85; am. (3) (c) 12., Register, February, 1986, No. 362, eff. 3-1-86; r. and recr. Register, January, 1987, No. 373, eff. 2-1-87; am. (6) (b) 7., (8) (e) 20. e., Register, April, 1994, No. 460, eff. 5-1-94; am. (6) (b) 7., Register, March, 1995, No. 471, eff. 4-1-95.

**NR 150.10 Assistance to applicants.** (1) Prior to making a formal application, any person considering a project that will require department approval may provide the department with a preliminary description of the proposed project and request that the department make a preliminary determination on the need for an EIR. The preliminary project description shall include a description of:

- (a) The planned development,
- (b) Major facilities and anticipated by-products or pollutant discharges, and
- (c) The specific locations being considered for the project.

(2) Upon receipt of a request under this section, the department shall, based on the information provided, provide the person with a list of department authorizations, permits and approvals that may be required, other available information that may affect the feasibility of the proposed project, and within 45 days of a request complying with this section, make a preliminary determination on the need for an EIR.

(3) A final determination will not be made until formal applications are submitted to the department.

**History:** Cr. Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.20 Environmental review process.** The environmental review process shall apply to all actions of the department including both regulatory and department sponsored actions.

(1) **DETERMINATION OF APPROPRIATE PROCEDURES.** Upon the filing of an application with the department for permission to proceed with an action, and during the early planning stages on department sponsored actions, the de-

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partment shall use the action type list in s. NR 150.03 to determine the minimum review process appropriate for the proposed action.

**Note:** Procedures required for Type III actions assure that unusual proposals or proposals in unusual situations receive the appropriate level of analysis.

(a) **Type IV actions.** Except as provided under s. NR 150.20 (2) (b), type IV actions do not require the EA or EIS process, do not require a news release, and are otherwise exempt from the procedural requirements of this chapter. The department may prepare and distribute an EA on the proposed action to aid department decision making if the department determines that critical resources are affected by the proposed action, or there may be substantial risk to human life, health or safety.

(b) **Type III actions.** 1. Except for emergency rules, type III actions require issuance of a news release or other public notification under s. NR 150.21.

2. As provided under s. NR 150.25 and s. 23.11 (5), Stats., the department may require an applicant to provide an EIR to submit additional information about the proposal.

3. Except as provided under subd. 4, type III actions do not require an EA or EIS and are exempt from the procedural requirements of ss. NR 150.22 to 150.24. The department's determination on compliance with s. 1.11, Stats., becomes final upon approval of the director of the bureau of environmental analysis and review, or his or her designee.

4. The department may require the issue identification, EA and decision stages on the EIS process under ss. NR 150.21, 150.22 and 150.24 or the full EIS process under ss. NR 150.21 to 150.24, if:



a. The department determines that the proposed action may significantly affect the quality of the human environment.

b. Scarce resources, such as critical habitat for threatened or endangered species, valued fish spawning areas, wetlands, historic, cultural, scenic or recreational areas, may be affected.

c. Substantial acute risk, to human life or health, or to significant natural resources due to failure of pollution control systems, fire or other reasonably foreseen failures at the proposed facility, may be created.

d. An EA or EIS is otherwise required under s. NR 150.20 (2) (b).

(c) *Type II actions.* 1. Type II actions require the issue identification, EA and decision procedures of the EIS process under ss. NR 150.21, 150.22 and 150.24.

2. As provided under s. NR 150.25 and s. 23.11 (5), Stats., the department may require an applicant to provide an EIR to submit additional information about the proposal.

3. If the department determines that the proposal is a major action significantly affecting the quality of the human environment, the full EIS process under ss. NR 150.21 to 150.24 is required.

(d) *Type I actions.* 1. Type I actions require the full EIS process under ss. NR 150.21 to 150.24.

2. As provided under s. NR 150.25 and s. 23.11 (5), Stats., the department may require an applicant to provide an EIR to submit additional information about the proposal.

(2) **SPECIAL CONDITIONS.** (a) *Determination of application completeness.* Except as otherwise provided by law, an application or request for approval will not be considered complete until s. 1.11, Stats., and this chapter have been fully complied with.

(b) *Proposals involving multiple department actions.* When an EA or EIS is required for a proposal involving more than one department action, the entire project proposal including all related department actions shall be addressed in a comprehensive environmental analysis unless:

1. Statutory deadlines preclude compliance with the procedural requirements of s. 1.11, Stats., and this chapter, or

2. The department completes the environmental review process by entering a decision under s. NR 150.24, or

3. The action meets all of the following criteria:

a. The action will not limit the choice of reasonable alternatives for the remaining actions.

b. The action otherwise meets the procedural requirements of this chapter.

c. The action allows activities that have an independent utility.

d. The action does not compel implementation of the remaining actions.

e. The action does not involve impacts that may cumulatively be significant when considered with the other department actions related to the proposal.

(c) *Prior compliance.* A previous EA or EIS which meets the content and procedural requirements of this chapter and which substantially addresses the proposed department action, satisfies the requirements of this chapter except for the decision requirements under s. NR 150.24.

(d) *Revised proposals.* If a proposal which is the subject of an EA is substantially changed before or after the department reaches its final decision under s. NR 150.24, the department may revise the EA or prepare a supplement to the EA if the changes to the proposal are relevant to environmental concerns. If the public notification under s. NR 150.21 (1) contained serious errors or omissions, the department shall issue a news release under s. NR 150.21 (1) on the revised EA or supplement before issuing, reissuing or amending the decision under s. NR 150.24.

(e) *Generic EA or EIS.* 1. A generic EA or EIS may be used to assess the environmental effects of actions likely to be repeated on a recurring basis or actions which have relevant similarities such as common timing, impacts, alternatives, methods of implementation or subject matter.

2. Generic EAs require the same environmental review process as type II actions, and generic EISs require the same review process as type I actions.

3. The generic EA or EIS shall contain the information required under s. NR 150.22. When subsequent individual project locations, time schedules and similar descriptive information are not reasonably available, the generic environmental analysis may be more general than a site specific EA or EIS. The generic environmental analysis shall specify the assumed features, characteristics, operations or other information about the project or suitable project sites. It may present and analyze in general terms several hypothetical scenarios that are likely to occur. It shall identify reasonably foreseeable conditions which indicate the need for further evaluation with a site specific EA or EIS.

4. The decision under s. NR 150.24 shall be signed by the director of the bureau of environmental analysis and review or designee, and specify conditions or criteria of subsequent individual proposals which are adequately evaluated by the generic EA or EIS process. The decision may also specify criteria for proposals which require further evaluation with a project specific EA or EIS.

5. Subsequent individual proposals that satisfy the criteria established in the decision under subd. 4 may satisfy the requirements of this chapter following completion of a public notification process similar to a type II action and completion of a project specific decision under s. NR 150.24. The notice and decision under subds. 2 and 4 satisfy the requirements of this subdivision for subsequent proposals at locations identified in the generic analysis, notice and decision under subds. 2 and 4.

6. The department may prepare supplements to a generic EA or EIS under par. (d) or s. NR 150.22 (4) and reconsider the decision under subd. 4 to evaluate substantial new information about project impacts, operations or other factors.

(f) *Interagency procedures on proposed actions involving NEPA or WEPA.*

**Note:** Whenever practical, the department will jointly prepare environmental analyses with other agencies who also would prepare an EA or EIS. This should reduce duplication and delay, and assure the full consideration of environmental effects.

1. The department may conduct an environmental review process jointly with another state, federal or local agency. The joint process shall meet the requirements of this chapter. 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 area of responsibility. For actions requiring an EA, the department shall make an independent determination on the need for an EIS.

2. The department may adopt an environmental analysis prepared by another agency as the department's EA on the proposal if the environmental analysis meets the requirements of s. NR 150.22. The department shall notify the public as required under s. NR 150.21 for an EA, and enter a decision on the proposal under s. NR 150.24.

3. When the department determines that a proposed action will require an environmental analysis and that the proposed action will involve one or more state, federal or local agencies, the lead agency may be determined through interagency consultation. 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.

(g) *Compliance with s. 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 recommended courses of action through one or more of the following mechanisms:

a. For Type I or II actions, preparation of an EA or EIS in accord with this section.

b. For all department actions, holding an informational meeting or a hearing under another statute or rule in which problems relating to conflicting uses of resources are discussed 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 as Type III or IV actions are not of sufficient magnitude to require compliance with s. 1.11 (2) (e), Stats.

(h) *Time limits.* For regulatory actions, the department shall make its determination on the need for the full EIS process following the consideration of public comments under s. NR 150.21 (2) and within 45 days after the department has received all information necessary for that determination. If the department determines that the full EIS process is required, the person seeking approval shall be notified of this determination by a written decision of the department. The decision shall include estimated time schedules and other pertinent information relating to the

EIS process. Such notification may occur as part of a scoping process under s. NR 150.21.

(i) *Emergency procedures.* Where emergency action by the department is necessary to protect public health, safety or the human environment, the department shall comply with this chapter to the maximum extent feasible under the emergency circumstances.

(j) *Conflicting procedures.* Where statutory review deadlines preclude compliance with this chapter, the department shall comply with this chapter to the maximum extent feasible.

**History:** Cr. (1), (2) (a) to (f), (h) to (j), (2) (g) renum. from NR 150.045 and Cr. Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.21 Issue identification procedures. (1) PUBLIC NOTIFICATION** (a) Except for emergency rules and legislation, the department shall develop a news release for each type I, II or III action to include the information in subds. 1 to 6. When deemed appropriate by the department, any other department notice, including a notice required under another statute or administrative rule, containing the information in subds. 1 to 6 may be used in lieu of a news release.

1. The name of the project and project sponsor;

2. A brief description of the project including location;

3. A statement regarding the proposal's potential to cause significant adverse environmental effects;

4. A statement regarding the department's preliminary decision on the need to prepare an environmental analysis and the need for the EIS process;

5. The name and address of a contact within the department who can receive comments and respond to questions; and

6. A date by which the department will accept and consider comments.

(b) The department shall distribute the news release or legal notice to appropriate news media in the vicinity of the proposed action.

**(2) CONSIDERATION OF PUBLIC COMMENTS.** Following the notice period, the department shall consider all public comments and may revise the EA if one was prepared. An informational meeting may be held to receive further public input and aid in the review of and decision on the need for the full EIS process.

**(3) ISSUE IDENTIFICATION.** Soon after the department determines to prepare an EIS, the department shall inform the public and affected agencies that an EIS will be prepared and that the process of identifying potential major issues is beginning. The department may also use these issue identification procedures to help identify issues for an EA.

(a) The issue identification process shall include, to the extent possible, affected federal, state and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons. The process may consist of meetings, hearings, workshops, surveys, questionnaires, interagency committees, or other appropriate methods or activities, and may be integrated with other public participation requirements.

(b) The department shall use the process described in par. (a) to accomplish any of the following:

1. Determine the scope and the significant issues to be analyzed in depth in the environmental analysis.

2. Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review. This will narrow the discussion of these issues in the environmental analysis to a brief presentation of why they will not have a significant effect on the human environment or a reference to their coverage elsewhere.

3. Allocate assignments for preparation of the environmental analysis among the lead and cooperating agencies.

4. Set page limits on environmental documents.

5. Set a time schedule for document preparation and opportunities for public involvement.

6. Identify incomplete or unavailable information that is relevant to a reasoned choice among alternatives.

(4) ENVIRONMENTAL BULLETIN. On a regular basis, the department shall prepare a bulletin listing and briefly describing the proposals involving type II or III actions. The report shall be distributed to all individuals, organizations and agencies upon request. A fee may be charged to those requesting copies of the bulletin to cover reproduction and handling costs.

**Note:** These issue identification procedures inform the public about proposals that may affect the quality of the environment and help identify key issues at an early stage in the department's review. For some actions, the department may familiarize itself with a proposal by drafting an EA or portions of an EIS before inviting public questions and comments.

**History:** Cr. (1), (2) and (4), (3) renum. from NR 150.06 and am. Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.22 Preparation and content of the EA or EIS. (1) GENERAL.** (a) The environmental analysis shall be prepared by the department or under s. NR 150.20 (2) (f).

1. Any part of an environmental analysis may be prepared by an applicant or by the applicant's consultant following the department's evaluation of the environmental issues and acceptance of responsibility for its scope and content. The names of the department's employees or its consultants responsible for the evaluation shall be included in the list of preparers in the environmental analysis.

**Note:** It is the intent of this paragraph that acceptable work not be redone, but that it be verified by the department.

2. The department's review and verification under this subsection shall be consistent with that required under s. NR 150.25 (3).

(b) The environmental analysis shall be an analytical document that enables environmental and economic factors to be considered in the development of a proposed action.

(c) An environmental analysis is not a document of justification. Furthermore, disclosure of adverse environmental effects does not necessarily require that a proposed action be denied or terminated.

(d) An environmental analysis shall be written in plain language and should use appropriate graphics to aid deci-

sion-makers and the public. Where appropriate, an environmental analysis may be combined with other required environmental or planning documents.

(e) The environmental analysis shall include information which is important to evaluating reasonably foreseeable significant adverse impacts on the human environment, unless the information cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known. When evaluating reasonably foreseeable, significant adverse effects and there is incomplete or unavailable information that is relevant to a reasoned choice among alternatives, the environmental analysis shall:

1. State that such information is incomplete or unavailable.

2. Describe the relevance of such information.

3. Summarize credible scientific evidence which is relevant to the evaluation.

4. Evaluate adverse impacts based upon theoretical approaches or research methods generally accepted in the scientific community.

(f) The department may determine that the development of an EA under ss. NR 150.21 and 150.22 for a proposal satisfies the EIS development requirements under ss. NR 150.21 and 150.22. This environmental analysis may be distributed for review as the EIS under sub. (3), and serve as the EIS for the public hearing and decision under ss. NR 150.23 and 150.24.

(2) CONTENTS OF AN EA OR EIS. The environmental analysis shall emphasize significant environmental issues. An environmental analysis shall substantially follow the regulations issued by the president's council on environmental quality, 40 CFR 1500-1508, for EIS's and shall provide an analysis of the environmental and economic implications of a proposed action contemplated by the department. While the format may vary, the environmental analysis shall include:

(a) A summary of the process used to identify major issues and the issues identified for detailed analysis. An EA shall evaluate whether the proposed action is, or is not, a major action and whether the EIS process is required under s. 1.11, Stats., and this chapter. In making this evaluation, the department shall consider:

1. The extent of short-term and long-term environmental effects including secondary effects; particularly to geographically scarce resources such as historic or cultural resources, scenic and recreational resources, prime farmlands, threatened or endangered species or ecologically critical areas.

2. The extent of cumulative effects of repeated actions of the same type, or related actions or other activities occurring locally that can be reasonably anticipated and that would compound impacts.

3. The degree of risk or uncertainty in predicting environmental effects or effectively controlling potential environmental impacts including those relating to public health or safety.

4. The degree in which the action may establish a precedent for future actions or foreclose future options. This includes consistency with plans or policy of local, state or federal government.

5. The degree of controversy over the effects on the quality of the human environment.

(b) A description of the purpose of the proposal and an evaluation of the need for the proposal.

(c) A description of the proposal 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 environmental analysis should describe, where appropriate, proposed preventive and mitigating measures.

(d) An evaluation of the probable environmental consequences of the proposal. An evaluation will be made of the positive and negative effects of the proposed action as it relates to the 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. The evaluation shall include impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason. 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 and of the visual impacts of the proposed action. An analysis shall also be made of the energy impacts of the proposed action.

(e) An evaluation of alternatives to the proposal, 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.

(f) A description and evaluation of required state or federal approvals. Where an environmental analysis is prepared on a proposal involving multiple state or federal regulatory actions, it will address each of the approvals and indicate the conformance or nonconformance of the project with applicable statutes, rules, and regulations. Local zoning actions shall also be addressed if appropriate.

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

(3) **PUBLIC REVIEW.** (a) *Generally availability of the EA or EIS.* Copies of the environmental analysis shall be

provided to any individual or group requesting a copy. A charge may be assessed to cover reproduction and handling costs. If the EA was prepared after the distribution of the news release or legal notice under s. NR 150.21 (1) (b) or otherwise not available during the period provided for the department to accept public comments under s. NR 150.21 (1) (a) 6., a minimum of 2 weeks, from the date the EA was sent to those who responded within the notice deadline, shall be allowed for the receipt of comments.

(b) *EIS distribution.* Copies of the EIS shall be distributed as follows:

1. The governor's office.

2. State, federal, and local governmental agencies having special expertise, interest or jurisdiction.

3. Regional and county planning agencies located within the proposed project or action area.

4. Offices of the department located in the vicinity of the proposed project or action area and the department's central office in Madison.

5. Libraries:

a. For proposed actions affecting a local area; the nearest library. In addition, the county clerk or town clerk will be requested to make the document available in the county courthouse, city hall or town hall.

b. For projects of regional importance; public libraries with a geographic distribution which provides public access without undue travel.

c. Projects having statewide significance; public libraries providing reasonable access by the individuals that would be potentially affected by the proposed action.

6. The applicant (for activities requiring approval).

(c) *Notice of availability of the EIS.* An announcement sheet giving a brief description of the proposed action, description of the administrative procedures to be followed, the date by which comments on the EIS are to be submitted to the department, and location where copies of the EIS are available for review will be distributed to all entities listed under subs. 1. to 4. The availability of the EIS may be announced through a notice of public hearing.

1. 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 to post the announcement sheet at the places normally used for public notice.

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

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

4. All participants in the scoping process not covered in subs. 1. to 3.

(d) *Period of time for comment on the EIS.* 1. A period of not less than 45 days and not more than 90 days from the date the EIS is mailed, depending on the length and complexity of the EIS, 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.

2. If other statutory time limits for department action conflict with the comment and review procedure set out in this subsection, the procedure may be adjusted so long as agency and public input is assured.

3. A reasonable request for extension beyond the initial review period, may be granted by the department for the review of the EIS, unless otherwise provided by law. The initial period for comments plus any extensions shall not exceed 90 days, unless otherwise provided by law.

4. If the department revises and recirculates an EIS under sub. (4), each version of the EIS shall be distributed in the same manner as the EIS under s. NR 150.22 (3), except the period of time to comment on a subsequent version of an EIS may be reduced to 30 days.

(e) *Summary of comments.* The department shall prepare a summary of comments received from the public or any other state, federal or local agency or tribal government on the proposed action or the department's environmental analysis. The summary may also summarize comments received at a hearing under s. NR 150.23, and contain the department's response to comments.

**(4) SPECIAL EIS REVIEW PROCEDURES.** Before reaching a decision under s. NR 150.24, the department may revise and redistribute an EIS or a portion of an EIS if it determines any of the following:

(a) Draft and final versions of an EIS are necessary to satisfy the requirements of a cooperating or lead agency to avoid separate agency EISs,

(b) The department's response to substantial public comments should be accomplished by revising and recirculating the EIS,

(c) The EIS and all comments received on it did not adequately address important environmental effects, reasonable major alternatives, or was otherwise inadequate, or

(d) Draft and final versions of an EIS are necessary to aid compliance with s. 1.11, Stats.

**Note:** While both an EA and an EIS have the same content requirements, EA's are usually prepared on less complex proposals with less complex impacts. The extent of the analysis in both the EA and the EIS reflects the extent and complexity of the proposed action and its associated impacts. As a result, the department may prepare an EA, later determine that the proposed action is a major action requiring the EIS process under this chapter, and circulate an adequate EA as the EIS.

**History:** Cr. (1) (a), (e) and (f), (2) (f) and (g), (3) (d) 3 and 4., (3) (e) and (4), (1) (b) to (d) renum. from NR 150.07 (2) to (4) and am., (2) renum. from NR 150.07 (1) (a) to (d) and am., (3) (a) to (d) renum. from NR 150.08 (1) (a) to (c) and (2) (d), Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.23 EIS hearing procedures. (1) EIS INFORMATIONAL HEARING.** (a) Except as otherwise provided by law, the department shall hold a public informational hearing, in accordance with s. 227.18, Stats., on the proposed action and the EIS prior to making its decision. The hearing shall be held not less than 30 days after issuance of the EIS. The schedule for submission of written comments shall be set by the department before the close of the hearing.

(b) The hearing shall be held in the locality affected, unless otherwise provided by statute. On actions of statewide significance, the hearing may be held in Madison.

(c) The hearing shall be noticed as follows:

1. At least 30 days prior to the hearing, notice shall be mailed to all known departments and agencies required to grant any permit, license or approval necessary for the proposed actions; to any regional planning commission within which any part of the proposed action lies; to the governing bodies of all towns, villages, cities and counties within which any part of the proposed action lies; to any Native American community located within a town which receives notice; to the governing bodies of any towns, villages or cities and Native American communities affected by any part of the proposed action; and to the Wisconsin public intervenor and other interested persons who have requested such notification.

2. At least 25 days prior to the hearing, a class I notice as defined in ch. 985, Stats., shall be published in a newspaper likely to give notice in the area or to the person affected, or in the official state paper for actions of statewide significance.

3. Notwithstanding subs. 1. and 2., notice of hearing on an EIS concerning administrative rules shall be given in the same manner as notice is given for rules hearings.

**(2) RELATIONSHIP TO PROCEDURES OF OTHER AGENCIES.** This section is applicable to the extent it does not conflict with the procedures and rules of another agency if that agency is the lead agency on the EIS.

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1981, No. 302, eff. 3-1-81; r. and recr. Register, June, 1986, No. 354, eff. 7-1-85; renum. from NR 150.09 (2) and (4) and am., Register, January, 1987, No. 373, eff. 2-1-87; reprinted to correct error in (1) (a), Register, April, 1988, No. 388.

**NR 150.24 Final decision.** After an EA or EIS and its public review have been completed, the department shall enter a final written decision on the proposed action under ch. NR 2.

**History:** Renum. from NR 150.09 (3) and am. Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.25 EIR procedures. (1) EIR DETERMINATION.** (a) The department may require an EIR to gain further information about the scope of a proposal, reasonable alternatives to the proposal, or the environment of the area potentially affected by a proposal.

**Note:** As provided under s. 23.11 (5), Stats., the department may require an EIR from a person who applies for a department permit, approval, license or other permission if the area affected exceeds 40 acres, or the cost of the proposed action exceeds \$25,000.

(b) The department shall determine the need for an EIR and notify the person seeking permission within 30 days after the department has received all information necessary for that determination including the request for permission. In determining the need for an EIR, the department shall consider:

1. The scope and complexity of the proposed action;
2. The information available to the department;
3. The concerns of persons affected by the proposed action; and
4. The effect of the proposal on the public interest.

**(2) EIR CONTENTS.** (a) When the department requests an EIR from a person seeking permission for a proposed

action, it shall provide a written decision which may 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 makes modifications in the proposal, the department may revise the instructions to insure the potential environmental effects can be identified in the department's EA or EIS.

(b) 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 also be 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.

(c) The instructions to the applicant may require that certain laboratory tests be performed by a laboratory certified, registered, or approved under ch. NR 149, HSS 157 or 165.

**(3) EIR ACCEPTABILITY AND DATE VERIFICATION.** (a) Upon submission of the EIR by the person seeking permission, the department shall review the report to determine if it complies with the department's instructions. The department shall make this determination and shall notify the person seeking permission in writing within 60 days after receipt of the 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.

(b) The department may accept original data from an EIR for use in an EA or EIS if:

1. The data relates to impacts essential to a reasoned choice among significant alternatives to the proposed action,
2. The data meets the requirements outlined in the department's instructions to the applicant, and
3. One or more of the following conditions are met:

a. The department, its consultant or a cooperating state or federal agency 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 by an expert who is employed by, or is a consultant to, the department or in a cooperating state or

federal agency. The determination shall be based upon knowledge of the subject area, relevant literature and published scientific data, or familiarity by the expert 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.

(c) 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 EIS. 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.

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

**(4) EIR PUBLIC INFORMATIONAL MEETING.** The department may hold an informational meeting on the applicant's EIR to gather additional information to assist in determining the significance of the proposed action and its potential environmental impacts.

**History:** Cr Register, January, 1979, No. 277, eff. 2-1-79; am Register, February, 1984, No. 338, eff. 3-1-84; cr. (2m), Register, April, 1986, No. 364, eff. 8-28-86; (2) and (3) renum. from NR 150.05 and am., cr. (1) and (4), Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.30 Review of and comment on an EIS.** (1) As required by s. 1.11 (2) (d), Stats., and federal regulations promulgated by the president's council on environmental quality, 40 CFR 1500-1508, the department will receive copies of EIS's prepared by other state and federal agencies. The department shall to the extent possible review and comment on each relevant EIS within the time period specified by the sponsoring or lead agency. The department may reply that it has no comment and should so reply when it is satisfied that its views are adequately reflected in the EIS.

(2) The department's review of other agencies' EIS's should be used to:

(a) Convey the department's perspective on the proposed action and its relation to areas of department concern by virtue of jurisdiction or expertise;

(b) Assist federal and state agencies in meeting the objectives of NEPA and WEPA;

(c) Provide the department's analysis of the potential environmental impacts of the proposed action;

(d) Coordinate the department's regulatory or resource management involvements with the proposal;

(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

(f) Provide technical assistance to federal, state, regional, and local government agencies to aid in their determination of the environmental consequences of their proposed actions.

(3) (a) The department's comments on an EIS should reflect the total environmental responsibilities of the department, especially in those cases where the basic nature of the EIS indicates a need for a coordinated multi-program response. The department's comments should strive to stimulate appropriate consideration of primary and secondary environmental effects by other agencies in their decision-making processes.

(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.

1. The review of an EIS should address both the environmental impact of the action and the adequacy of the information presented in the EIS. Comments on the adequacy of the document are to assist the originating agency in developing a comprehensive impact analysis in any subsequent EIS.

2. Comments on an EIS or on a proposed action shall be as specific as possible and may address either the adequacy of the EIS process or the merits of the alternatives discussed or both.

3. When the department criticizes a lead agency's predictive methodology, the department should describe the alternative methodology which it prefers and why.

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

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

**History:** Cr. Register, February, 1981, No. 302, eff. 3-1-81; am. (2) (e) and (3) (b) (intro.), Register, February, 1984, No. 338, eff. 3-1-84; renum. from NR 150.105 and am. (3) (b) 1. and 4., Register, January, 1987, No. 373, eff. 2-1-87.

**NR 150.40 Environmental impact statement charges.** (1) In accordance with ss. 23.40 and 144.833 (6), Stats., the department shall charge a fee for the preparation of an EIS on actions requiring permission from the department in-

cluding, upon agreement with the person proposing the action, a charge for preapplication services, and shall charge the U.S. department of energy or its agents for state EIS-related costs for radioactive waste site exploration under s. 144.833 (6), Stats. This section does not apply to applications of municipalities, as defined under s. 345.05 (1) (a), Stats., or to related environmental impact statements.

(a) Any person as defined in s. NR 150.02 (20), with the exception of municipalities, state agencies, departments, boards and commissions included in ch. 15, Stats., and the federal government, who files an application for a permit, license or approval granted or issued by the department, shall include with the application an estimate of the cost of the project or proposed action when deemed necessary by the department.

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

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

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

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

(e) If the department determines that an EIS shall be required for the proposed project or action in accordance with s. NR 150.20, it shall send a letter to the applicant stating its intent to prepare an EIS and requesting a statement of the estimated cost of the proposed project or action.

(f) Upon receipt of the statement of estimated project cost, the department shall notify the applicant of the estimated full cost of preparation of the EIS.

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

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

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

3. The cost of distributing the EIS or if prepared, EIS revisions or supplements to those parties or locations specified in s. NR 150.22.

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

5. Administrative indirect costs calculated at the current approved department rate based on total direct salaries, wages and related fringe benefits.

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

(i) The department may not include in the EIS fee costs associated with the following:

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

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

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

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

(k) Following the department's determination that an EIS is required or subsequent to execution of a preapplication services agreement, the department may bill the applicant or person proposing the action as often as every month for actual department costs incurred up to that

time. The applicant shall remit to the department the full amount of any EIS fee invoice within 60 days of the date of the invoice. The department shall cease work on the EIS, including preapplication services, if the full amount of any EIS fee invoice is not paid within 60 days of the date of the invoice. The department shall determine the full amount of the EIS fee and notify the application within 30 days following the close of the EIS 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 plus any additional costs to terminate outstanding contracts. The applicant shall be responsible for those costs.

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

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

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

**History:** Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. Register, February, 1981, No. 302, eff. 3-1-81; am. (1) (intro.) and (e), (f) 2., (g) 4., (j) and (l), cr. (1) (f) 3., Register, February, 1984, No. 338, eff. 3-1-84; am. (1) (intro.) and cr. (1) (gm), Register, May, 1985, No. 353, eff. 6-1-85; renum. from NR 150.11 and r. (1) (e), (f) & (k), am. (1) (a) to (d), (g) to (n) and (2), cr. (1) (e) and (f), Register, January, 1987, No. 373, eff. 2-1-87.