

Chapter NR 150

ENVIRONMENTAL ANALYSIS AND REVIEW PROCEDURES

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Note: Chapter NR 150 was repealed and recreated [Register March 2014 No. 699](#).

NR 150.01 Purpose. This chapter outlines the definitions, procedures and criteria to be used by the department in the implementation of s. 1.11, Stats. The purpose of this chapter is to assure that the department decisionmakers, other decisionmakers, and the interested public have information to be able to fully consider the short- and long-term effects of department policies, plans, programs, and actions on the quality of the human environment.

Note: Section 1.11, Stats. was enacted as ch. 274, laws of 1971, amended by ch. 204, laws of 1973, and is known as the Wisconsin environmental policy act or WEPA.

History: CR 13-022: cr. [Register March 2014 No. 699](#), eff. 4-1-14.

NR 150.02 Applicability. This chapter shall apply to all department actions which may negatively affect the quality of the human environment and to consideration of strategic natural resource issues or policies which may involve unresolved conflicts concerning alternative uses of available resources.

Note: There are several statutory exemptions from s. 1.11, Stats., including the following: s. 30.025, Stats. construction of certain high voltage transmission lines; ss. 160.23 and 160.25, Stats. responses to groundwater standards exceedances; s. 283.93, Stats. cWPDES permit actions, except for WPDES permit actions for new sources; s. 285.60 c2gd cbd and c3d cbd, Stats. cair registration permits and general permits; and ss. 295.44, 295.45, 295.65, and 295.645, Stats. ferrous mining exploration licenses, bulk sampling approvals, successor operators, and responses to groundwater standards exceedances. The department may have previously conducted environmental analyses under s. 1.11 Stats., for actions that are exempt under s. 283.93, Stats., even though the department was not statutorily required to do so.

History: CR 13-022: cr. [Register March 2014 No. 699](#), eff. 4-1-14.

NR 150.03 Definitions. **c1d** XActionY means any final decision by the department to exercise the department[s statutory or administrative rule authority that affects the quality of the human environment including actions under s. NR 150.20 c1md to c4d, but not including policies as defined in sub. c19d.

c2d XAlternativesY means other actions or activities which may be reasonably available to achieve the same or altered purpose of the proposed action or project, including the alternative of no action.

c3d XApplicantY means a person who applies for a permit, license, or approval granted or issued by the department.

c4d XCumulative effectsY means compounding effects resulting from repeated or other proximal actions, activities or projects.

c5d XDepartmentY means the department of natural resources.

c5md XDepartment facilityY means department infrastructure, including dams, buildings, roads, and trails for resource management, public use, or other purposes.

c6d XEIRY means environmental impact report.

c7d XEISY means environmental impact statement.

c8d XEnvironmental analysisY means a detailed analysis that evaluates a proposed action or project[s effect on the human environment and studies, develops and describes alternatives to the proposed action or project.

c9d XEnvironmental effect,Y Xeffect,Y Xenvironmental impact,Y Ximpact,Y Xeffect on the environment,Y or Xenvironmental consequenceY means a direct, indirect, secondary, or cumulative change to the quality of the human environment.

c12d XHuman environmentY means the natural or physical environment, including the components, structures, and functioning of ecosystems, and the relationship of people with that environment, including aesthetic, historic, cultural, economic, social, and human health-related components.

c12md XIntegrated analysis actionY means a department action for which department programmatic procedures provide for public disclosure and include an environmental analysis that provides sufficient information to establish that an environmental impact statement is not required.

c13d XIssueY means a general subject, topic or question concerning the use of, or effect on, natural resources about which the department may or may not have authority.

c14d XLead agencyY means the state or federal agency with primary concern or responsibility for a given project or action as determined by law, interagency consultation, or written agreement.

c15d XMinor actionY means a department action that is not subject to s. 1.11 c2d ccd, Stats., because it is not in conflict with state or federal environmental policies and is not likely to do any of the following:

cad Set precedent for reducing or limiting environmental protection.

cbd Result in deleterious effects over large geographic areas.

ccd Result in long-term deleterious effects that are prohibitively difficult or expensive to reverse.

cdd Result in deleterious effects on especially important, critical or sensitive environmental resources.

ced Involve broad public controversy.

cfcd Result in substantial risk to human life, health, or safety.

c16d XMitigating measureY means an action or activity proposed or undertaken by federal or other state agencies, the department or an applicant to reduce the severity or extent of environmental effects that would result from a proposed action or activity.

c16md XNatural resource management, timber management, or environmental restorationY includes all actions associated with the management, economic production, protection, and restoration of native and non-native fish, game, plants, trees and timber, habitat protection, habitat management, habitat restoration, silvicultural practices, forest inventory, chemical and me-

chanical site preparation, timber harvesting, timber sales, timber transporting, tree planting, direct seeding, forest type conversions, invasive species control, timber stand improvement activities, forest nursery operations, prescribed burning, fire prevention, fire detection, fire suppression, rehabilitation of fire burned areas, environmental remediation, fish hatchery operations, state game farm operations, pesticide or herbicide applications, and field surveys for environmental protection.

c17d XNEPAY means the national environmental policy act under 42 USC 4321 et. seq.

c17md XNew sourceY has the meaning given in s. 283.01 c8d, Stats.

Note: Section 283.01 c8d, Stats., defines Xnew sourceY to mean any point source the construction of which commenced after the effective date of applicable effluent limitations or standards of performance.

c18d XPersonY includes any natural 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.

c19d XPolicyY means a written plan or set of guiding principles, priorities, or protocols to guide department action that has been issued as a department manual code, or approved in writing by the natural resources board or the department secretary, but does not include actions as defined in sub. c1d.

c20d XPrime farm landY means land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses, as defined in U.S. Department of Agriculture, Natural Resources Conservation Service National soil survey handbook, title 430-VI.

Note: U.S. Department of Agriculture, Natural Resources Conservation Service National soil survey handbook, title 430-VI is available online at: http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/planners?cid=nrcs142p2_054242.

c21d XPrior complianceY means that one or more environmental analysis documents exist for prior actions that are similar to the proposed action in kind, scale, and environmental setting.

c22d XProjectY means one or more actions and other activities related to a single undertaking by the department or an applicant.

c23d XProtocolsY means written department procedures to guide department action, other than statutes or administrative codes, that have been approved by the natural resources board or the department secretary.

c23md XPublicly announceY or Xpublic announcementY means publication on the department[s] internet web site, or other reasonable methods to provide public notice.

c24d XSecondary effectsY means reasonably foreseeable indirect effects caused by an action or project later in time or farther removed in distance, including induced changes in the pattern of land use, population density, or growth rate and related effects on the human environment.

c25d XStrategic analysisY means an environmental and alternatives analysis of an issue or policy.

c26d XUnresolved conflicts concerning alternative uses of available resourcesY means an unsettled disagreement between experts, policymakers of local, state, or tribal governments, or citizen interest groups in Wisconsin concerning a policy affecting the utilization of a substantial natural or physical resource where the utilization would be of sufficient magnitude that, on a statewide or regional basis, it would have a considerable and important impact to the natural resources of the state. 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.

c27d XWEPAY means s. 1.11, Stats.

Note: S. 1.11, Stats. was enacted as ch. 274, laws of 1971, amended by ch. 204, laws of 1973, and is known as the Wisconsin environmental policy act or WEPA.

History: CR 13-022: cr. Register March 2014 No. 699, eff. 4-1-14; correction in numbering in c15d made under s. 13.92 c4d cbd 1., Stats., Register March 2014 No. 699; EmR1517: emerg. am. c1d, c10d, c11d, c15d cintro.d, cr. c23md, am. c25d, c26d, eff. 6-10-15; CR 15-037: am. c1d, cr. c5md, r. c10d, c11d, cr. c12md, am. c15d cintro.d, cr. c16md, c17md, am. c19d, cr. c23md, am. c25d, c26d Register December 2015 No. 720, eff. 1-1-16.

NR 150.04 Policy. c1d cad 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.

cbd 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.

c2d In order to carry out the policy set forth under sub. c1d, the department shall do all the following:

cad Acknowledge WEPA as an obligation shared by all units of the department to the extent that any unit contemplating regulatory or management actions subject to WEPA review under this chapter shall evaluate and be aware of the environmental consequences of such actions.

cbd 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.

ccd Develop, where possible, agreements and understandings with other state, federal, and local agencies to minimize duplication in meeting environmental review requirements and establish a mechanism for resolution of interagency conflict.

cdd Develop appropriate strategic analyses for any issue or policy which involves unresolved conflicts concerning alternative uses of available resources.

ced Develop appropriate environmental effects information and analysis along with a discussion of meaningful alternatives and make this available to the decisionmaker 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 review process is completed.

cfd 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.

cgd Consider the findings of environmental analyses and comments received from the public in making decisions on proposed actions.

chd Recognize that the department has an affirmative duty within its resources to comment on the environmental review

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

History: CR 13-022; cr. Register March 2014 No. 699, eff. 4-1-14.

NR 150.05 WEPA Coordinator. The department shall designate a qualified staff person as WEPA coordinator to coordinate and oversee performance of WEPA requirements under this chapter. The WEPA coordinator shall do all the following:

c1d Advise the department to ensure that it is in compliance with this chapter and s. 1.11, Stats.

c2d Participate on behalf of the department in inter-agency WEPA activities.

c3d Act as contact for other state, federal and local agencies seeking assistance or opinions on environmental analysis matters.

c4d Advise the department and the natural resources board on strategic natural resource issues or policies needing analysis under s. NR 150.10.

c5d Prepare and submit to the chief clerk of each house of the legislature the department[s annual WEPA report required by s. 1.11 c2d cjd, Stats.

History: CR 13-022; cr. Register March 2014 No. 699, eff. 4-1-14.

NR 150.10 Strategic analysis. c1d PURPOSE. This section establishes the procedures to fulfill the requirements of s. 1.11 c2d ced and chd, Stats.

c1md IDENTIFICATION OF ISSUES. cad Policies. The department shall conduct a strategic analysis for all new or revised policies if both of the following apply:

1. The policy involves unresolved conflicts concerning alternative uses of available resources.

2. The department has substantial discretion in formulating important provisions of the policy.

ccd Other issues or policies. Although not required under this section, the department may use the strategic analysis processes in subs. c2d to c4d for any of the following issues or policies:

1. A complicated or complex issue.

2. An issue that is new to the state.

3. An issue or policy that will likely lead to future department actions that will require an EIS.

4. Issues for which there is a high potential for legislation or new department policy.

5. Planning and development of controversial resource-oriented projects.

6. Any other issue or policy that involves unresolved conflicts concerning alternative uses of available resources.

c2d SCOPING. cad General requirement. The department shall determine the scope of the analysis, potential alternative approaches, potentially affected natural resources, and likely effects of the alternatives on those resources. The department shall also identify incomplete or unavailable information that is relevant to a reasoned choice among alternatives.

cbd Consultation. The department may consult with and obtain the comments of any agency that has expertise with respect to any issue involved.

ccd Public scoping. The department shall use a public scoping process. The process may consist of comment periods, meetings, hearings, workshops, surveys, questionnaires, interagency committees, or other appropriate methods or activities, and may be integrated with other public participation requirements.

c3d ANALYSIS. cad Purpose. The purpose of the analysis is to inform decisionmakers and the public of alternative courses of

action and the anticipated effects of those alternatives on the quality of the human environment.

cbd Intent. Using available ecological and other scientific information, the analysis shall consider the alternatives and environmental effects in a dispassionate manner and may not advocate a particular position about alternatives.

ccd Authorship. Any part of the analysis may be prepared by the department, a consultant to the department, or another state, federal, tribal, or local agency. The department may rely on any relevant information from any source.

cdd Format. The document shall follow a format relevant to the scope of the analysis.

ced Presentation. The analysis shall be written in plain language and should use appropriate graphics to aid decisionmakers and the public.

c4d PUBLIC REVIEW. cad Document publication. The department shall publicly announce that the analysis is available for public comment and shall make the analysis available to the governor, legislature, local governments, other concerned state agencies, federal agencies, tribal agencies, natural resources board, department secretary and administrators, and the public as required by s. NR 150.50. Copies of the analysis shall be provided to any individual or group requesting a copy. A charge may be assessed to cover reproduction and handling costs for requests for paper copies of documents. The announcement also may be distributed to any of the following entities:

1. All local and regional units of government that may be affected by the issue or policy.

2. Regional and statewide information outlets.

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.

cbd Public announcement content. The public announcement shall include a brief description of the analysis, the date by which public comments on the analysis must be received by the department, the name and address of a contact within the department who will receive comments and respond to questions, and the locations where copies of the analysis are available for review.

ccd Public comment period. 1. Unless otherwise provided by law, the department shall provide a minimum of 45 days after the date the analysis is publicly announced to receive comments from other agencies and the public.

2. Unless otherwise provided by law, the department may grant reasonable requests from any person to extend the comment period for the analysis.

3. If a hearing is held under par. cdd, the public comment period shall be extended for a minimum of 7 days after the date the hearing is held.

cdd Hearing. The department may hold one or more public hearings on the analysis in the manner and locations that the department deems appropriate to the scope of the analysis. Any hearings held shall be announced to the public in a manner that the department deems appropriate.

ccd Consideration of public comments. Following the public comment period, the department shall summarize and consider all comments received within the public comment period. The department may revise the analysis based on comments received. The comment summary shall be made public pursuant to s. NR 150.50 along with the final version of the analysis and any supporting documents.

History: CR 13-022; cr. Register March 2014 No. 699, eff. 4-1-14; correction in

numbering in c1d, c1md, c2d made under s. 13.92 c4d cbd 1., Stats., c1d, c2d cad titled added under s. 13.92 c4d cbd 2., Stats., corrections in c2d cad made under s. 35.17, Stats., Register March 2014 No. 699; EmR1517: emerg. am. c1d, c1md cad, r. c1md cbd, am. c1md ccd cintro.d, c2d cad, eff. 6-10-15; CR 15-037: am. c1d, c1md cad, r. c1md cbd, am. c1md ccd cintro.d, c2d cad Register December 2015 No. 720, eff. 1-1-16.

NR 150.20 Environmental analysis of department actions. c1d PURPOSE. This section establishes the procedures to fulfill the requirements of s. 1.11 c2d ccd, Stats.

c1md MINOR ACTIONS. The following actions do not require environmental analysis under this chapter because they are minor actions:

cad A real estate action, including property boundary establishment or modification, purchase, sale, easement, lease, designation, redesignation, or dedication.

cbd Development or construction of new department facilities that follows protocols.

ccd Natural resource management, timber management, or environmental restoration that follows protocols.

cdd The operation, repair, maintenance, removal, or in-kind replacement of existing department facilities that follows protocols.

ced A research action that does not involve species introductions or substantive manipulation of resources, or that does involve species introductions or substantive manipulation of resources but follows protocols for doing so.

cfid A natural resource inventory or mapping action.

cgd Issuance of a grant or other financial assistance action.

cged Educational activities.

cgmd Model ordinances developed to assist municipalities in the creation of ordinances.

cgsd Consultation offered to third parties.

chd Issuance of high capacity well approvals under s. 281.34 c2d, Stats., except for wells under s. 281.34 c4d, Stats.

cid Issuance of high capacity well approvals under s. 281.34 c4d, Stats., that are exempted from environmental analysis requirements under s. NR 820.30 c2d and c3d.

cjd Reissuance, modification, revocation, and reissuance, or issuance of a routine or small-scale approval or action.

cjgd Routine variances from department rule requirements.

cjrd Denial, termination, revocation, or suspension of a grant, permit, license, approval, variance, land application site, or of any proposed activity.

ckd A routine or small-scale approval or action, or an approval or action associated with a permit.

cLd Confirmation of coverage under a general permit.

cmd Promulgation of emergency administrative rules under ch. 227, Stats.

cnd Any enforcement action.

cnmd Any emergency action that protects public health, safety, or welfare.

cod Issuance of a minor source construction permit under ch. NR 406 or an operation permit renewal or revision under ss. 285.60 and 285.62, Stats., for air emission sources.

cpd Issuance of licenses for servicing septage and approvals of county programs to regulate the disposal of septage under s. 281.48, Stats.

cped Issuance of operator certifications under s. 281.17 c3d, Stats., and licenses or registrations for well drillers and pump installers.

cpmd Approvals of geothermal heat exchange projects.

cpsd Approvals of additives to wastewater or cooling water.

cqd Issuance of general permits established by administrative code under ch. 30, Stats.

cqmd Issuance of aquatic plant management permits under ch. NR 109.

crd Listing and delisting of an impaired water as defined in s. NR 151.002 c16md.

csd Review and approval of municipal ordinances or approval of changes to municipal floodplain or shoreland-wetland maps.

cscd Temporary drawdowns of dams under s. 31.02, Stats.

csgd Reconstruction and repairs of dams under ss. 31.12, 31.18, or 31.185, Stats.

csLd Transfer of dam ownership under s. 31.14, Stats.

cspd Dam inspections under s. 31.19, Stats.

cstd Plan approvals for dams under s. 31.33, Stats., and approvals of emergency action plans, inspection plans, operation and maintenance plans, dam failure analysis plans, or stability analysis plans under ch. NR 333.

csxd Review and approval of hydrologic and hydraulic studies for floodplain mapping under s. NR 116.07.

ctd Approval of construction plans and specifications under s. 281.41, Stats., for municipal and industrial pretreatment wastewater facilities, public water systems, and CAFO reviewable structures.

cud Decisions related to evaluations of existing reviewable facilities and systems for concentrated animal feeding operations under ch. NR 243.

Note: This subsection does not include the concentrated animal feeding operations permit actions identified as integrated analysis actions pursuant to s. NR 150.20c2d cad 3w.

cugd Approvals of land application or nutrient management plans or modifications to the plans.

curd Approvals of land application sites.

cvd Issuance of natural heritage inventory permits, approvals, or licenses under ch. NR 29 except for permits issued under s. 29.604 c6md, Stats.

cwd Issuance of an order or any action relating to the forest croplands or managed forest land programs under subch. I or VI of ch. 77, Stats.

c2d INTEGRATED ANALYSIS ACTIONS. cad The following actions do not require a separate environmental analysis process under this chapter because they are integrated analysis actions:

1. Property planning under ch. NR 44.

2. County forest planning under s. 28.11 c5d, Stats.

2g. Approval of a withdrawal of county forest land under s. 28.11 c11d, Stats.

2r. Cooperative state trail planning.

3. Areawide water quality management planning or priority watershed planning under ch. NR 121.

3c. Development of total maximum daily loads as defined in s. NR 151.002 c46md.

3g. Issuance, reissuance, revocation and reissuance, or modification of a WPDES permit that authorizes a new source discharge that is subject to antidegradation review under ch. NR 207.

3n. Approval of a variance from a water quality standard under ch. 283, Stats.

3r. An approval of a municipal wastewater facilities plan under s. NR 110.08, and approvals of municipal wastewater projects receiving federal grants or state financial assistance under ss. 281.58 and 281.59, Stats.

3w. Issuance, reissuance, revocation and reissuance, or modification of an individual WPDES permit for a concentrated animal feeding operation under ch. NR 243 that is a new source.

4. Issuance of a major source construction permit under ch. NR 405 or 408 or an initial operation permit under ss. 285.60 and 285.62, Stats., for air emission sources.

6. An incidental take permit under ch. NR 27 and s. 29.604 c6md, Stats.

7. A solid waste feasibility approval or a commercial PCB waste storage or treatment facility feasibility approval under ss. 289.25 and 289.53, Stats., and chs. NR 157, 182, and 512.

7e. Funding decisions made pursuant to ch. 292, Stats., and chs. NR 700 to 754.

7m. Issuance of regulatory approvals, liability clarification letters, exemptions, and technical assistance under ch. 292, Stats., and chs. NR 700 to 754.

7s. Except for facilities specified in s. 291.27, Stats., the approval of a feasibility and plan of operation report and issuance of a license for either a new or existing hazardous waste treatment, storage, or disposal facility or class 3 modification of an existing hazardous waste treatment, storage, or disposal facility under ch. NR 670 and s. 291.25, Stats.

8. Issuance of an individual wetland permit or general permit under s. 281.36, Stats.

9. Approval of a bulkhead line ordinance for modification of an existing shoreline under s. 30.11, Stats.

10. Issuance of findings of public interest under s. 30.11 c5d, Stats., for a proposed lease of the bed of a lake or lease of rights to fill in a bed of a lake or a navigable stream.

11. Issuance of an individual permit, general permit, certification, or contract under subchapter II of ch. 30, Stats.

12. Issuance of an individual permit or general permit under s. 30.19, Stats., including permits to construct or alter waterways.

13. Issuance of an individual permit or general permit to change the course of or enclose a navigable stream under s. 30.195 or 30.196, Stats.

14. Issuance of an individual permit, general permit, or contract under s. 30.20, Stats., to remove material from the bed of a navigable waterway under ch. NR 345, or for non-metallic mining and reclamation in and near navigable waters under ch. NR 340.

15. Issuance of a barge fleeting permit under ch. NR 327.

16. Issuance of a permit, order, or approval for water levels or flows, or for the regulation of a dam in navigable or nonnavigable waters under ch. 31, Stats., and ch. NR 333.

17. An approval of a drainage board action affecting navigable waters under s. 88.31, Stats., for permits under s. 88.31 or ch. 30 or 31, Stats.

18m. Issuance of a report under s. 13.097, Stats., that includes the required department findings under s. 13.097 c4d, Stats., and conclusions under s. 13.097 c6d, Stats., regarding whether legislation that proposes to convey lake bed or amend a prior conveyance of lake bed area is consistent with protecting and enhancing a public trust purpose.

19m. Review of existing or proposed uses for an existing lakebed grant, existing lease of the bed of a lake, or existing lease of rights to fill in a bed of a lake or a navigable stream to ensure the existing or proposed uses are consistent with the purposes and uses for which the grant or lease was issued.

20. Issuance of an aquatic plant management permit under s. NR 107.05 that meets the criteria under s. NR 107.04 c3d.

21. Approvals of aquatic plant management plans under s. NR 109.09 and surface water management plan recommendations under s. NR 193.53.

22. Promulgation of permanent administrative rules under ch. 227, Stats.

cbd The department may determine under s. NR 150.35 that an action not listed in par. cad does not require a separate environmental analysis process under this chapter because it meets the definition of an integrated analysis action.

c3d PRIOR COMPLIANCE ACTIONS. cad The following actions do not require additional environmental analysis under this chapter because one or more environmental analysis documents exist for prior actions that are similar to the proposed action in kind, scale, and environmental setting:

1. Department facility development planned under ch. NR 44.

2. Natural resource management, timber management, or environmental restoration planned under ch. NR 44.

3. A research action that involves species introductions or substantive manipulation of resources that was planned under ch. NR 44.

6. Approval of an extension of a wastewater collection system and other plan approvals under s. 281.41, Stats., that are covered under an area wide water quality management plan under s. 283.83, Stats., and ch. NR 121.

7. Issuance, reissuance, revocation and reissuance, or modification of an individual WPDES permit under s. 283.31, Stats., for a facility that is covered under an area wide water quality management plan under s. 283.83, Stats., and ch. NR 121.

8. Issuance or reissuance of an individual or general storm water permit under s. 283.33, Stats., and ch. NR 216.

9. Reissuance or modification of any general permit.

10. The approval of a feasibility and plan of operation report and issuance of a license for a class 1 or class 2 modification of an existing hazardous waste treatment, storage, or disposal facility under s. 291.25, Stats., and ch. NR 670.

cbd The department may determine under s. NR 150.35 that there is prior compliance for a specific action not listed in par. cad.

c4d EIS ACTIONS AND PROJECTS. cad *EIS actions*. The department shall comply with the EIS procedures in s. NR 150.30 for all actions not included under sub. c1md, c2d, or c3d.

cbd *EIS projects*. The department may follow the EIS procedures in s. NR 150.30 for projects of such magnitude and complexity that one or more of the following apply:

1. The project involves multiple department actions.

2. The project may be in conflict with local, state or federal environmental policies.

3. The project may set precedent for reducing or limiting environmental protection.

4. The project may result in deleterious effects over large geographic areas.

5. The project may result in long-term deleterious effects that are prohibitively difficult or expensive to reverse.

6. The project may result in deleterious effects on especially important, critical, or sensitive environmental resources.

7. The project involves broad public controversy.

8. The project may result in substantial risk to human life, health, or safety.

History: CR 13-022: cr. Register March 2014 No. 699, eff. 4-1-14; correction in numbering in c1d and c1md made under s. 13.92 c4d cbd 1., Stats., c1d titled added under s. 13.92 c4d cbd 2., Stats., corrections in c1md cid and c3d cad 6. to 8., c4d made under s. 13.92 c4d cbd 7., Stats., Register March 2014 No. 699; EmR1517: emerg. am. c1d, c1md cad, cbd, cr. c1md, cged, cgmd, cgsd, am. c1md cjd, cr. c1md cjd, cjr, am. c1md ckd, cr. c1md cmd to cwd, am. c2d cad cintro.d, cr. c2d cad 2r., 3c., 3g., 3n., am. c2d cad 4., renum. c2d cad 5. to cad 2g., am. c2d cad 7., cr. c2d cad 7e., 7m., 7s., am. c2d cad 8., 10. to 14., 16., renum. c2d cad 18. to cad 3r. and am., cr. c2d cad 18m., renum. c2d cad 19. to cad 3w., cr. c2d cad 19m. to 22.,

am. c3d cad cintro.d, r. c3d cad 4., 5., am. c3d cad 6., 7., cr. c3d cad 9., 10., am. c4d cbd cintro.d, eff. 6-10-15; CR 15-037: am. c1d, c1md cad, cbd, cdd, cr. c1md, cegd, cgm, cgsd, am. c1md cjd, cr. c1md cjd, cjd, am. c1md ckd, cr. c1md cmd to cwd, am. c2d cad cintro.d, cr. c2d cad 2r., 3c., 3g., 3n., am. c2d cad 4., renum. c2d cad 5. to cad 2g., am. c2d cad 7., cr. c2d cad 7e., 7m., 7s., am. c2d cad 8., 10. to 14., 16., renum. c2d cad 18. to cad 3r. and am., cr. c2d cad 18m., renum. c2d cad 19. to cad 3w., cr. c2d cad 19m. to 22., am. c2d cbd, c3d cad cintro.d, 1., r. c3d cad 4., 5., am. c3d cad 6. to 8., cr. c3d cad 9., 10., am. c4d cbd cintro.d Register December 2015 No. 720, eff. 1-1-16; correction in c1md cwd made under s. 13.92 c4d cbd 7., Stats., Register December 2015 No. 720; CR 19-078: am. c2d cad 21. Register May 2020 No. 773, eff. 6-1-20.

NR 150.30 EIS action analysis. c1d PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT. cad *Draft and Final EIS*. The department shall prepare a draft EIS and a final EIS.

camd *Notification*. As required by s. 23.40 c2d, Stats., the department shall notify an applicant when the department determines that it will follow the detailed environmental analysis for EIS procedures for a proposed project.

cbd *Purpose*. The purpose of an EIS is to inform decision-makers and the public of the anticipated effects on the quality of the human environment of a proposed action or project and alternatives to the proposed action or project. The EIS is an informational tool that does not compel a particular decision by the agency or prevent the agency from concluding that other values outweigh the environmental consequences of a proposed action or project.

ccd *Intent*. The EIS shall address the entire proposed project including all related department actions. An EIS shall consider the proposed action or project, alternatives and anticipated environmental effects in a dispassionate manner, and may not advocate a particular position about a proposed action or project. The EIS shall provide a level of detail commensurate with the complexity of the action or project being evaluated.

cdd *Authorship*. The department is responsible for the accuracy and completeness of the EIS. However, any part of an EIS may be prepared by an applicant, the department, a consultant to the applicant or department, or another state, federal, tribal or local agency. In preparing an EIS, the department may rely on an EIR provided by an applicant pursuant to par. cgd, documents prepared or relied upon by other agencies, or any other source of relevant information. The department shall disclose its information sources in compliance with sub. c2d cid.

ced *Format*. While there is no specific format required for an EIS, the department shall use a format that substantially follows the guidelines issued by the U.S. council on environmental quality under 42 USC 4331, as required by s. 1.11 c2d ccd, Stats. An EIS shall be written in plain language and should use appropriate graphics to aid decisionmakers and the public.

Note: 42 USC 4331 was enacted as P.L. 91- 190 and is known as Xthe national environmental policy act.Y

cfid *Issue identification*. 1. The department shall consult with other agencies as provided under s. 1.11 c2d cdd, Stats.

2. The department may use a public scoping process. The process may consist of comment periods, meetings, hearings, workshops, surveys, questionnaires, interagency committees, or other appropriate methods or activities, and may be integrated with other public participation requirements.

cgd *Environmental Impact Report cEIRd*. Pursuant to s. 23.11 c5d, Stats., the department may require an applicant for certain proposed projects to submit an EIR. The department may request any applicant to submit an EIR. The purpose of an EIR is to help the department develop the EIS by having the applicant provide a detailed, comprehensive description of the proposed project, reasonable alternatives to the proposed project, the present environmental conditions in the area potentially affected by the proposed project, and anticipated environmental effects of

the proposed project and alternatives. Predictive models, bioassays, and other analysis that can be subject to reasonable scientific verification may be required. The instructions to the applicant may also require that certain laboratory tests be performed by a laboratory certified, registered, or approved under ch. NR 149.

chd *Cooperation with other agencies*. In developing an EIS, the department may cooperate with other state, federal, tribal or local agencies in accordance with s. NR 150.40 c2d.

cid *Consultant services*. The department may enter into contracts for environmental consultant services under s. 23.41 c3d, Stats., to assist the department in the preparation of an environmental impact statement or to provide pre-application services as provided under s. 23.40 c5d, Stats.

cjd *Conflicting procedures*. The department may follow procedures for environmental review and analysis other than those contained in this chapter if the procedural requirements of this chapter conflict with statutory review procedures or with procedures and rules of another agency that is the lead agency for the environmental analysis. If other procedures for environmental review and analysis are followed, the department shall comply with this chapter to the maximum extent feasible.

c2d EIS CONTENT. An EIS shall emphasize environmental issues relevant to the evaluation of the action and provide a level of detail commensurate with the complexity of the action. As required by s. 1.11 c2d ccd, Stats., the EIS shall include all of the following:

cad A description of the proposed project that includes all the following:

1. Project location.
2. Type of facilities.
3. Time schedules.
4. Maps and diagrams.
5. Other information that the department deems necessary.

cbd A description of the purpose of the proposed project.

ccd A list of known state, federal, tribal, and local approvals required for the proposed project.

cdd A summary of the process used to identify major issues and the issues identified for detailed analysis.

ced A list of reasonable alternatives to the proposed project, particularly those that might avoid all or some of the adverse environmental effects of the project, including a description of proposed preventive and mitigating measures and an explanation of the criteria used to discard certain alternatives from additional study.

cfid A description of the human environment that will likely be affected by the proposed project and alternatives to the proposed project.

cgd An evaluation of the probable positive and negative direct, secondary and cumulative effects of the proposed project, and alternatives to the proposed project, on the human environment, including all the following:

1. Effects on scarce resources such as: archeological, historic or cultural resources, scenic and recreational resources, prime farm lands, threatened or endangered species, and ecologically critical areas.
2. A summary of the adverse environmental effects which cannot be avoided.
3. Consistency with plans or policies of local, state, federal, or tribal governments.
4. The relationship between short-term uses of the environment and the maintenance and enhancement of long-term pro-

ductivity, and any irreversible and irretrievable commitments of resources.

5. The potential to establish a precedent for future actions or to foreclose future options.

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

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

chd Identification of information that is incomplete or unavailable and a description of the relevance of such information.

cid Sources of information or verbiage.

c3d DRAFT EIS — PUBLIC REVIEW. cad *Document publication.* The department shall publicly announce that the draft EIS is available for public comment and shall make the draft EIS available in a manner determined by the department and as required under s. 1.11 c2d cdd, Stats., and s. NR 150.50. Copies of the draft EIS shall be provided to any individual or group requesting a copy. A charge may be assessed to cover reproduction and handling costs for requests for copies of documents. The announcement also may be distributed to the following entities:

1. All local and regional units of government which have jurisdiction over the area that may be affected by the proposed project or reasonable alternatives to the proposed project.

2. Information outlets accessible in the local, regional, or statewide areas affected by the proposed project.

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

4. All participants in the scoping process not listed in subds. 1 to 3.

cbd *Public announcement content.* The public announcement shall include: a brief description of the proposed project, a brief description of the administrative procedures to be followed under this chapter, the date by which public comments on the draft EIS are to be submitted to the department, the name and address of a contact within the department who will receive comments and respond to questions, and the locations where copies of the draft EIS are available for review.

ccd *Public comment period.* 1. Unless otherwise provided by law, the department shall provide a minimum of 30 days after the date the draft EIS is publicly announced to receive comments from other agencies and the public.

2. Unless otherwise provided by law, the department may grant reasonable requests from any person to extend the comment period for the draft EIS.

3. The public comment period may be extended for a minimum of 7 days after the date the hearing is held pursuant to par. cdd.

cdd *Hearing.* Pursuant to s. 1.11 c2d cdd, Stats., a public hearing shall be held on the draft EIS and proposed action. Holding a public hearing as required by another statute fulfills the hearing requirement. Any hearing held pursuant to this paragraph shall be publicly announced and noticed in a manner consistent with s. 1.11 c2d cdd, Stats.

Note: Pursuant to s. 1.11 c2d cdd, Stats., Xnotice of the hearing shall be given by publishing a class 1 notice, under ch. 985, at least 15 days prior to the hearing in a newspaper covering the affected area. If the proposal has statewide significance, notice shall be published in the official state newspaper.Y

Note: A public hearing required by another statute fulfills s. 1.11 c2d cdd, Stats.

c4d FINAL EIS. cad *Preparation.* Following the public review period on the draft EIS, the department shall prepare a final EIS.

cbd *Content.* The final EIS shall include the draft EIS, a summary of the comments received on the draft EIS and the department[s] response to the comments. The final EIS may include revisions to draft EIS text or figures and may vary from the draft EIS in scope based on comments received on the draft EIS or other pertinent information that becomes known to the department.

ccd *Final EIS publication.* The final EIS shall be made publicly available under s. NR 150.50. Copies of the final EIS shall be provided to any individual or group requesting a copy. A charge may be assessed to cover reproduction and handling costs for requests for copies of documents.

History: CR 13-022: cr. Register March 2014 No. 699, eff. 4-1-14; correction in numbering in c1d, c4d made under s. 13.92 c4d cbd 1., Stats., c1d cad titled, c4d cad titled added under s. 13.92 c4d cbd 2., Stats., Register March 2014 No. 699; EmR1517: emerg. am. c1d cgd, c3d ccd 3., cdd, eff. 6-10-15; CR 15-037: am. c1d cgd, c2d cbd, c3d ccd 3., cdd Register December 2015 No. 720, eff. 1-1-16.

NR 150.35 WEPA Compliance determination. c1d Actions under s. NR 150.20 c2d to c4d may not be taken until a determination is publicly announced or noticed regarding compliance with this chapter unless statutory deadlines preclude compliance with the procedural requirements of this chapter. Actions under s. NR 150.20 c1md are compliant with WEPA and do not require a determination prior to the action being taken.

c1md For any EIS under s. NR 150.20 c4d and determination under s. NR 150.20 c2d cbd and c3d cbd, the department shall publicly announce findings of fact, conclusions of law and a determination that summarizes the procedures and process steps used to achieve compliance with this chapter.

c2d For actions under s. NR 150.20 c2d cad and c3d cad, the department may publicly announce the WEPA determination or provide notice in accordance with the public notification requirements for the proposed permit or approval document.

History: CR 13-022: cr. Register March 2014 No. 699, eff. 4-1-14; correction in numbering in c1d, c1md made under s. 13.92 c4d cbd 1., Stats., Register March 2014 No. 699; EmR1517: emerg. am., eff. 6-10-15; CR 15-037: am. Register December 2015 No. 720, eff. 1-1-16.

NR 150.40 Cooperation with other agencies. c1d REVIEW OF OTHER AGENCY ENVIRONMENTAL ANALYSES. The department may comment on the environmental analyses prepared by other state and federal agencies for WEPA or NEPA compliance. To the extent possible, the department shall review and comment on each relevant environmental analysis 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 environmental analysis.

c2d INTERAGENCY PROCEDURES ON PROPOSED ACTIONS INVOLVING NEPA OR WEPA. cad 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 and may be determined by law, interagency consultation or written agreement.

cbd The department may adopt an environmental analysis prepared by another agency as the department[s] EIS on the proposed action if the environmental analysis substantially meets the requirements of s. NR 150.30. The department shall comply with the public review requirements in s. NR 150.30 c3d, publish a determination on the proposed action under s. NR 150.35, and make all associated documents available to the public under s. NR 150.50.

History: CR 13-022: cr. Register March 2014 No. 699, eff. 4-1-14.

NR 150.50 Document retention and management. The department shall maintain a publicly accessible and searchable record system to provide public access to public announce-

ments, strategic analyses, EIS analyses, and WEPA compliance determinations prepared by the department in compliance with this chapter. The record system shall be maintained in a manner consistent with the department[s record retention policy.

History: CR 13-022: cr. Register March 2014 No. 699, eff. 4-1-14.