



MEMORANDUM

DRAFT—WISCONSIN IS IN THE PROCESS OF REVISING THEIR ADMINISTRATIVE CODE AFTER WHICH WE WILL CONCLUDE CONSULTATION AND COORDINATION WITH WISCONSIN DNR TO FINALIZE THIS DRAFT

INTRODUCING FEDERAL NATIONAL ENVIRONMENTAL POLICY ACT PRACTITIONERS TO THE WISCONSIN ENVIRONMENTAL POLICY ACT PROCESS

This fact sheet is designed to familiarize Federal [National Environmental Policy Act](#) (NEPA) practitioners with the [Wisconsin Environmental Policy Act](#) (WEPA). When a proposed NEPA action also requires compliance with WEPA, it is critical that these practitioners familiarize themselves with WEPA and understand how WEPA compares to and contrasts with NEPA.

Both statutes are designed to facilitate informed decision-making and environmental review. WEPA requires environmental review for major State actions that would have a significant impact on the environment. This fact sheet compares WEPA, [Section 1.11, Wis. Stats.](#), and the [Wisconsin Department of Natural Resources Administrative Code \(NR\) 150](#) with CEQ's regulations for implementing the procedural provisions of NEPA, [40 CFR Parts 1500-1508](#).

This fact sheet only provides basic information and is intended to serve as a springboard for discussion with Wisconsin Department of Natural Resources (DNR) staff when proposed projects trigger both Federal and State environmental review requirements. Project proponents are strongly encouraged to contact DNR or another interested State agency in the early stages of project planning so that Federal and State environmental review processes, if applicable, can be appropriately aligned.

Introduction

WEPA requires State agencies to consider the impact of governmental actions on the environment. Since 1971, WEPA has mandated the completion of a “detailed statement” known as an environmental impact statement (EIS) for each major State action that would significantly impact the environment and is not statutorily excluded from WEPA compliance. [Section 1.11\(2\), Wis. Stats.](#); see [NR 150.20\(4\)](#) (DNR EIS actions and projects). The DNR administrative code lists three categories of DNR actions besides EIS actions and projects that are subject to WEPA: (1) “minor actions” (e.g., real estate purchase or sale) that do not require environmental analysis, although they may receive environmental review if warranted ([NR 150.20 \(1m\)\(a-L\)](#)); (2) “equivalent analysis actions” (e.g., county forest planning) that require a WEPA compliance determination but do not require additional environmental analysis because detailed environmental analysis and public disclosure are completed in a DNR programmatic procedure ([NR 150.20\(2\)](#)); and (3) “prior compliance actions” that require a WEPA compliance determination but do not require additional environmental analysis because they are similar in kind, scale, and environmental setting to prior actions covered by existing environmental analysis documents ([NR 150.20\(3\)](#)).



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Key Points of Comparison

The table below compares NEPA terms and procedural requirements to WEPA terms and procedural requirements set forth by the WDNR.

NEPA	NR 150 (DNR Administrative Code for WEPA)
Categorical Exclusion, 40 CFR 1508.4 , 40 CFR 1507.3	N/A
Environmental Assessment (EA), 40 CFR 1508.9 , 40 CFR 1501.3	N/A
Finding of No Significant Impact (FONSI), 40 CFR 1508.13	N/A
Notice of Intent, 40 CFR 1508.22	Public Announcement, 150.30(1)(am)
Draft Environmental Impact Statement (DEIS), 40 CFR 1502 , 40 CFR 1508.11	Draft Environmental Impact Statement, NR 150.20(4) and NR 150.30(1)-(3)
Final Environmental Impact Statement (FEIS), 40 CFR 1502 , 40 CFR 1508.11	Final Environmental Impact Statement, NR 150.30(4)
Record of Decision, 40 CFR 1505.2	WEPA Compliance Determination, NR 150.35(1) and (1m)

The bullets below provide a general comparison of processes:

- Under WEPA, DNR does not have processes similar to categorical exclusions ([40 CFR 1508.4](#)), but it does have a list of minor actions that do not require environmental analysis under WEPA due to their limited impact. [NR 150.20\(1m\)](#); see [NR 150.03\(15\)](#).
- WEPA requires that an EIS be made available to agencies with jurisdiction or special expertise with respect to any environmental impact and to the public. The statute does not expressly require draft and final versions of an EIS or specify a comment period. However, the statute does require a public hearing on an EIS for every proposal other than legislation. [Section 1.11\(2\)\(d\), Wis. Stats.](#) By requiring public hearings, WEPA highlights the importance of public engagement to its process.
- The DNR administrative code requires a minimum 30-day public comment period and a hearing on a DEIS. [NR 150.30\(3\)\(c\)](#). NEPA requires a 45-day public comment period on a DEIS and requires a public hearing if there is significant public interest. [40 CFR 1506.10\(c\)](#) and [40 CFR 1506.6\(c\)](#).
- State agencies that must comply with NEPA may not need to complete an additional process for WEPA. If a Federal EIS has been prepared under NEPA, DNR may adopt the NEPA EIS as a WEPA EIS if the environmental analysis substantially meets all applicable requirements. [NR 150.40\(2\)\(b\)](#). However, other State agencies may have different rules in this regard.
- While this fact sheet highlights DNR WEPA rules, other Wisconsin State agencies have their own administrative codes for WEPA compliance. It is important that NEPA practitioners identify all of the State agencies that have an interest in a proposed action and consult those agencies' administrative codes to facilitate efficient compliance.



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Contact Information and Resources

- James Pardee, Wisconsin Environmental Policy Act Coordinator
Bureau of Environmental Analysis and Sustainability
Wisconsin Department of Natural Resources
Phone: (608) 266-0426 or (608) 316-0999
Email: james.pardee@wisconsin.gov
- DNR Office:
101 S. Webster Street
Madison, WI 53707
- Wisconsin DNR Website: www.dnr.wi.gov
- Other Resources:
WEPA: <https://docs.legis.wisconsin.gov/1971/related/acts/274.pdf>
[Governmental Consideration of Environmental Impact:
http://docs.legis.wisconsin.gov/statutes/statutes/1/11](http://docs.legis.wisconsin.gov/statutes/statutes/1/11)
Wisconsin DNR Environmental Analysis and Review Procedures:
http://docs.legis.wisconsin.gov/code/admin_code/nr/100/150.pdf