



FDM 20-5-1 Major Laws, Regulations and Agreement Documents

March 16, 2018

1.1 Introduction

The purpose of this section is to provide a reference to the laws, policies, regulations and agreements that affect federal and state transportation actions. Only the major laws and agreements affecting WisDOT projects will be outlined here.

The major state and federal laws WisDOT is obligated to follow are the Wisconsin Environmental Policy Act (WEPA) and for projects with federal funding or permitting, the National Environmental Policy Act (NEPA). These are considered umbrella laws since they pull together the numerous other state and federal laws and regulations related to transportation and the environment. NEPA and WEPA require WisDOT to document the process used to study and obtain input from agencies and the public on potential effects of proposed actions, and to disclose and consider these effects when making project decisions.

There are many federal and state environmental laws, regulations and policies that determine how a transportation action can be initiated, evaluated and implemented. These laws, regulations and policies strive to provide a balance between transportation development and protection of the human environment (which is made up of the natural and physical environments) by guiding agencies toward using a systematic, interdisciplinary approach that involves early and meaningful agency and public involvement. Agency coordination is discussed in FDM Chapter 5 and public involvement is discussed in FDM Chapter 6.

Due to the myriad of laws and regulations that fall under the NEPA/WEPA umbrella and the ever-changing nature of them, this section will only focus on the laws, regulations, policies and agreements that most impact WisDOT projects. Many of the additional laws are discussed in more detail in other areas of the FDM Chapters (FDM Chapters 5, 7, 10, 21, 22, 23, 24, 25 and 26) and will require consultation with the Region Environmental Coordinator (REC), Local Program Management Consultant (LPMC) or the Bureau of Technical Services, Environmental Process and Document Section (BTS-EPDS) or Environmental Services Section (BTS-ESS) staff for more detail.

The user is further advised that not all laws, regulations, policies and agreements will apply to all actions so again it is advised to consult with the appropriate environmental staff throughout project development.

FDM 20-5-5 Major Federal Law and Regulations

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5.1 National Environmental Policy Act

The National Environmental Policy Act (NEPA) sets forth broad national policy relating to the environment and establishes implementing procedures through the Council on Environmental Quality (CEQ). NEPA was passed in 1969 and signed into law in 1970 and is codified in 42 U.S.C. 4331; implementing regulations are located at 40 CFR 1500-1508. All federal agencies must interpret and administer their policies, regulations and laws in accordance with Section 102 of NEPA and their implementing regulations. FHWA interprets and administers the policies, regulations and laws for WisDOT's projects receiving federal funding or requiring federal approvals. FHWA's NEPA implementing regulations are located at 23 CFR 771. Additional detail is included in [FDM 20-15](#).

FDM 20-5-10 State Law and Administrative Code

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10.1 Wisconsin Environmental Policy Act (WEPA) (1.11 Wis. Status)

The Wisconsin Environmental Policy Act (WEPA) is a state law passed in 1972 and details the state's environmental policy requiring state agencies to consider the impact of governmental actions on the environment. This act applies only to state agencies. It does not apply to local governments or private parties unless their actions involve state agency regulation or funding.

WEPA requires WisDOT and other state agencies to consider the environmental effects of their policies and actions. This act requires WisDOT and other state agencies to gather relevant environmental information and consider it in their decision-making under their other statutory authorities. Agencies must also look at appropriate alternatives to the course of action they are proposing. The principle for broad citizen participation as part of environmental decision-making was also established by WEPA.

WEPA is intended to primarily mirror NEPA while not being more restrictive.

10.5 Wisconsin Administrative Code - Chapter Trans 400

Trans 400 is the state transportation administrative rule which interprets state statutes relating to WEPA. The purpose of Trans 400 is to implement WEPA by establishing the department policy for considering the environmental effects of its undertakings on the quality of the human environment when there is no Federal involvement in the project. Trans 400 spells out how:

- WisDOT identifies department undertakings that have the potential to affect the quality of the human environment
- WisDOT determines the appropriate level of environmental analysis necessary
- WisDOT documents each action

FDM 20-5-15 Major State Agreement Documents

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15.1 Wisconsin Department of Transportation (WisDOT) and Wisconsin Department of Natural Resources (WDNR) Cooperative Agreement, 1995

In 1995, WisDOT and WDNR established a cooperative agreement to encourage cooperation between the agencies on transportation projects that have the potential to impact the environment. The agreement established basic guidance and policy direction for the liaison procedure for coordination on transportation projects as well as larger scale policy and planning efforts by either agency, recognizing each agency's statutory responsibilities and the shared responsibility to serve the public interest. The agreement outlines the liaison procedure, applicability, and roles and responsibilities of each agency.

The agreement was updated in 2002, and amended several times to add guidance and procedures covering various resources, including: compensatory wetland mitigation, endangered and threatened species consultation, erosion control and storm water management, floodplain encroachment and visual impacts to the Lower Wisconsin State Riverway.

A copy of the agreement can be found here:

<https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrces/environment/formsandtools.aspx>