Endangered Resources Certification Program Guidelines

This document along with the associated forms and web pages clarify the Endangered Resources (ER) certification requirements and policy. These guidelines also enable the Endangered Resources Review Program to more fully and consistently apply both as well as standardize and streamline the Program's procedures for certifying external individuals to use Natural Heritage Inventory data while performing Proposed ER Reviews. Legal interpretations and development of policies have been provided by or made in close consultation with DNR legal services.

Endangered Resources Review Program
Wisconsin Department of Natural Resources

Based on recommendations from the
General ER Certification Program Working Group
Revised: October 2020

Important terms and definitions

Authorized Natural Heritage Inventory (NHI) Data User: An individual who is authorized to use the NHI Data under the terms and conditions of the NHI Data License, with the exception that the individual *is not* authorized to use the NHI data to review proposed projects and land management activities for potential impacts to endangered resources. Examples of how an Authorized NHI Data User could use the NHI data include research and education projects, creating maps for others to use and interpret, identifying sensitive areas within project boundaries that need follow-up field surveys, conducting broad-scale conservation planning, and conducting field surveys for rare species and habitats.

Certified ER Reviewer: An individual who may use the NHI Data under the terms and conditions of an NHI Data License to review proposed projects and land management activities for potential impacts to endangered resources. This process includes making preliminary determinations regarding potential take of endangered resources, and this information is written as a Proposed ER Review Letter. The individual will receive a certificate once certified status is granted, and will be listed on the Department website as a Certified ER Reviewer.

"Department": The Wisconsin Department of Natural Resources (DNR). In most instances in this document, "Department" refers more specifically to the Endangered Resources Review Program within the DNR's Bureau of Natural Heritage Conservation (e.g., "Department-approved ER Review").

Endangered Resources (ER) Review: A Proposed ER Review that has been reviewed and approved by the Department. Also, an ER Review can be requested from and performed directly by the Department.

Endangered Resources (ER) Certification Program: A program that provides training and certification to individuals who would like to use NHI data to review proposed projects for potential impacts to endangered resources (including preliminary determinations regarding potential take of endangered resources).

Natural Heritage Inventory (NHI) Data License: A formal agreement between the Department and a person or organization that authorizes the person or organization to access and use the NHI data and details how and for what purposes the NHI data may be used. The license includes requirements for maintaining the security of the NHI data.

Natural Heritage Inventory (NHI) Program: Part of an international network of NHI programs established by The Nature Conservancy and currently coordinated by [NatureServe](). All NHI programs use a standard methodology for collecting, characterizing, and managing data, making it possible to combine data at various scales to address local, state, regional, and national issues. NHI programs focus on locating and documenting occurrences of rare species and natural communities, including state and federal endangered and threatened species. Species and natural communities tracked by the Wisconsin NHI Program and included in the NHI database can be found on the [NHI Working List]().

Proposed Endangered Resources (ER) Review: Proposed ER Reviews detail the rare species, high-quality natural communities, and other endangered resources likely to be impacted by a specific proposed project along with recommendations for avoiding negative impacts to those resources. All Proposed ER Reviews are drafted in accordance with the requirements in the document 'Conducting Proposed Endangered Resources (ER) Reviews: A Step-by-Step Guide for Certified ER Reviewers'.

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BACKGROUND, PURPOSE, AND ANTICIPATED BENEFITS

Background: The Endangered Resources (ER) Certification Program was created in response to stakeholder requests for a mechanism that would facilitate sharing of detailed Natural Heritage Inventory (NHI) data with a broader group of customers while ensuring the safety, security, and correct interpretation and application of the data.

The Stakeholder Advisory Group for the Redesign of the ER Review Program recommended in Fall 2008 that a certification program be created. The principles for such a program were:

> The certification program should be as simple and straightforward as possible, with clear standards and guidelines, a transparent step-by-step process to certification, a set of attainable goals for applicants, and clear and prompt communication with applicants about exactly what is expected and required of them. Benefits, limitations, and liabilities (perceived, legal, and otherwise) for all parties (DNR, certified individual, employing organization, landowner) need to be clearly identified and addressed at the outset of the program so that all parties have a clear understanding of exactly what the certification program would provide and how it would affect them.

Purpose: The ER Certification Program is intended to authorize external (non-DNR) individuals to conduct Proposed ER Reviews. Certified ER Reviewers would need to have 1) a documented background in biological science and 2) the specific knowledge and skills needed to conduct Proposed ER Reviews. To ensure that the NHI data are used appropriately and effectively by Certified ER Reviewers, the program requires training and successful completion of an exam demonstrating the skills and knowledge to conduct Proposed ER Reviews under DNR oversight, as well as biennial training updates.

Anticipated Benefits: Professionals can better assist their organization and/or customers in complying with endangered species laws. Certified reviewers may resolve potential conflicts with endangered resources by identifying, addressing, and developing solutions to these conflicts earlier in the planning process. Certified reviewers will be listed on the Certification Program website, which will lead to referrals from customers seeking these services. Those needing an ER Review Letter will be able to seek ER services from many of the same consultants who are already providing planning and services to them. The DNR reviews and approves all Proposed ER Reviews as required by law, but by submitting a Proposed ER Review, the process will be faster and less costly to the applicant. Comprehensive training on how to identify and address ER issues will be provided.

> **Certification and endangered species laws**: It is important that all parties are aware that ER Certification does not exempt the certified individual, his/her clients or organization, or any other party from the requirements of state and federal endangered species laws. Similarly, the fact that a Proposed ER Review has been conducted for a specific proposed project does not exempt the project proponent, landowner, or any other party from the requirements of state and federal endangered species laws, and does not prevent the Department from pursuing enforcement actions under state laws.

Overall, the program should improve on-the-ground conservation of endangered resources across Wisconsin by 1) increasing the number of projects reviewed for endangered resources concerns, and 2) promoting more effective conservation outcomes for those projects by having them reviewed earlier in their

planning stages when solutions to rare species and habitat concerns are more numerous, more economic, more feasible, and more effective.

ER CERTIFICATION OVERVIEW

Certification will be granted to individuals, not to the company or organization for which they work.

Certified ER Reviewers will be authorized to conduct Proposed ER Reviews. <u>Certified ER Reviewers are not authorized to make final determinations about potential take of rare species resulting from land management or land development projects.</u> By law, only DNR staff can make such determinations.

A Proposed ER Review must be submitted to the Department for final review and approval (a step required by Wisconsin's Endangered Species Law) for all land disturbing projects even if there are no endangered species impacts, as well as whenever the proposed project will be funded or approved by the DNR. As such, the landowner/project proponent will receive the best assurance of compliance with state and federal endangered species laws.

Certified ER Reviewers will also be authorized to use the NHI data for other purposes allowed by law (s. 23.27(3)(b), Wis. Stats.) and authorized in the NHI Data License under which they are working. These other purposes may include aiding in siting and planning projects to avoid sensitive sites and habitat types, informing community land-use planning initiatives, and guiding ecological restoration efforts.

*Note that people in the 'Authorized NHI Data User' category may gain access to the detailed NHI data but may **not** conduct Proposed ER Reviews or otherwise make preliminary determinations of whether or not take of a species is likely to occur. The process for becoming an Authorized NHI Data User will involve an application, completing an on-line training, and taking an exam to demonstrate knowledge of the NHI Program, Working List, and data; laws and regulations pertaining to rare species and habitats in Wisconsin; and how to determine if endangered resources are present on a site. Authorized NHI Data Users are not required to have a documented biological background.*

Certified ER Reviewers are required to follow all requirements of the Certification Program as well as all terms and conditions of their NHI Data License.

ELIGIBILITY FOR ER CERTIFICATION

Certification is voluntary. The ER Certification process is for external (non-DNR) individuals and will allow these professionals to better assist their organizations or customers in complying with endangered species laws. A relatively broad group of individuals may wish to become Certified ER Reviewers including staff from non-profit conservation organizations; staff from county, regional and local units of government; environmental consultants; consulting foresters; county foresters; and others.

To be eligible to apply for the ER Certification Program, individuals need to meet minimum criteria for **education, training, and experience** relevant to the interpretation of endangered resources data as well as the formulation of measures to avoid and minimize disturbance to these resources. We recognize that applicants come from diverse educational backgrounds and have a broad range of technical specialties. In light of this, we have developed the following minimum criteria for education, training, and/or experience needed to be eligible for Certification:

1. Completion of the educational requirements leading to a Bachelor of Science, Bachelor of Arts, or equivalent or higher degree from an accredited college or university in one of the following programs of study:

a. Biological Sciences (Ecology, Botany, Limnology, Wildlife Biology, Fisheries Biology, Forestry, Zoology, Conservation Biology, etc.); or

b. Other related programs, which may include but are not limited to Natural Resource Management, Water Resources Management, Environmental Studies, Physical Sciences, Geology, Urban and Regional Planning, Landscape Architecture, or Agriculture, provided the applicant submits documentation of a minimum of 30 total credit hours (on a semester basis) of coursework in the biological sciences (e.g., botany, biology, forestry, fisheries, ecology). Coursework includes introductory and mid-level or advanced courses.

-OR-

2. Completion of a combination of education, training and experience equivalent to a major course of study in biological sciences, natural resource management, or a related discipline as listed above.

a. If using work experience to meet the minimum requirement, two years of full-time work in one or a combination of the areas specified in (a) above are required.

b. If using training to meet the minimum requirement, training equivalent to 30 credit hours (on a semester basis) in one or a combination of the areas specified in (a) above are required. Examples of education/training include coursework at an accredited institution of higher education, short or summer courses held at university field stations, and professional development courses offered through professional organizations, educational institutions, or government agencies.

Submitting a resume is easiest way to provide information. Only submit a transcript if you need to show eligibility based on the minimum 30 credit hours.

SCHEDULE OF FEES

Total cost for initial certification (application and exams): $960

	Application	*Exam 1*	*Exam 2*
Certified ER Reviewer	$140	$360	$460
Biennial Update Fee (Year 2, 4, 6, etc.)	$180		
DNR sign off of Proposed ER Reviews	Minimum $75 for the first hour and $75 incrementally for each additional hour **		

The application and exam fees can be paid by invoice (this allows for payment by credit card) or by a check written to *Bureau of Natural Heritage Conservation*. This can be done as a lump sum before or after the training. Please note that in addition to the fees above a company should also take into consideration the cost of an annual data sharing agreement which is needed to obtain NHI information and write Proposed ER Reviews.

**This includes utility or energy projects submitted to the DNR-Office of Energy with the exception of utilities that are party to the 2003 Wisconsin Act 89 agreement with the Public Service Commission and the DNR-Office of Energy.

HOW TO APPLY FOR AND BECOME A CERTIFIED ER REVIEWER

To become a Certified ER Reviewer, an individual must do the following:

1. Complete the **Endangered Resources Certification Application** and submit it per the instructions on the form. The $140 application fee can be invoiced at a later date.

2. Along with the application, **submit documentation** to verify the individual's education, training, and/or work experience relevant to interpretation of data on rare species and habitats.

   a. Submitting a resume is easiest way to provide information. Only submit a transcript if you need to show eligibility based on the minimum 30 credit hours outlined in the "Eligibility for ER

> **A note on timelines for notification**
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> It is our intent to provide feedback to applicants as quickly as possible. The time periods indicated in this document are intended to be maximum periods within which feedback will be provided or within which tests must be taken/submitted to keep the certification process moving forward. We anticipate that the actual time which most applicants will have to wait for feedback will be substantially shorter than the time periods indicated in the document. However, if the Department is unable to provide notification within these time frames, the applicant will be notified as soon as possible and will be provided with a new response time.

Certification" section on pages 5 and 6.

    b. Documentation of education needs to simply state the biological degree received. If a degree hasn't been completed then provide detailed biological sciences education credit hours through a transcript.

    c. Documentation of training needs to include title and dates of course, number of hours, sponsoring institution, and topics covered.

    d. Documentation of work experience needs to include dates of employment, job duties and approximate percent of time associated with each job duty/responsibility. Submitting a resume would be an easy way to provide this information.

The applicant will receive notification of whether he/she meets the required eligibility criteria upon receipt of his/her application and documentation materials. If the criteria are met, the applicant will be enrolled in the next available training session.

3. **Complete the necessary training**.

The in-person training provides detailed guidance and information on understanding and interpreting NHI data, measures for avoiding and minimizing impacts to rare species and habitats, how to use the NHI Portal, guidance for when to contact species experts, and how to write a Proposed ER Review. The training acknowledges and addresses that in many cases 'correct' interpretation and application of NHI data is complex and variable. It provides applicants with the skills and tools they need to develop recommendations for avoiding impacts to endangered resources associated with land disturbance, management and development activities.

4. **Take Part 1 of the ER Certification exam**. The exam will be timed and consists of randomly selected multiple choice and true/false questions. A passing score is defined as achieving 70% or greater in each of the individual sections of the exam. If the applicant does not pass Part 1 of the exam, the applicant will be notified regarding which sections of the exam he/she did not pass and will be able to retake a different version of the exam.

Upon passing Part 1, the applicant will be provided with instructions on how to take Part 2 of the Certification exam.

5. **Take Part 2 of the ER Certification exam**. Part 2 is an 'open book' exam and consists of preparing two Proposed ER Reviews for example projects or 'case studies', which will be provided by the Department. Although the exam is 'open book', individuals will be expected to write the Proposed ER Reviews independently, with the exception of specific project- and species-related questions directed to the ER Review Program. The Proposed ER Reviews will cover a diversity of species, habitat types, and proposed projects.

The applicant should submit to the Department Part 2 of the Certification Exam within 30 days of receipt of the exam, and can expect to be notified within a few days of receipt of the completed exam whether he/she has passed Part 2 of the Certification exam.

Proposed ER Reviews will be scored as either 'acceptable' or 'unacceptable.' Successful completion of the Proposed ER Reviews will demonstrate the applicant's ability to access, understand and interpret NHI data and apply those data to specific, on-the-ground scenarios, including formulating recommendations for avoiding negative impacts to rare species, high-quality natural communities, and other endangered resources. If both Proposed ER Reviews are scored 'acceptable', ER Certification will be granted.

If any of the Proposed ER Reviews are scored as 'unacceptable', the individual will be able to work with review staff to correct the errors or omissions identified by the Department. Proposed ER Reviews with identified errors or omissions must be corrected and returned to the ER Review Program within 30 days of notification. Once the errors or omissions are corrected in a manner acceptable to the Department, ER Reviewer Certification will be granted.

6. Upon completing all requirements, the individual will sign the 'Endangered Resources Certification Program Agreement', receive a Certification Certificate, and be added to the list of Certified ER Reviewers maintained on the Review web site.

HOW TO MAINTAIN ER CERTIFICATION

To maintain ER Certification status, the Certified ER Reviewer must do the following:

1. Prepare Proposed ER Reviews in a manner consistent with Department guidelines and directives, including information provided during training as well as the document 'Conducting Proposed Endangered Resources (ER) Reviews: A Step-by-Step Guide for Certified ER Reviewers.' To help ensure consistency in follow-up actions, certified individuals must prepare Proposed ER Reviews using standard language provided by the Department, modified as appropriate to fit the circumstances of each specific proposed project.

> **Unforeseen Circumstances**
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> If unforeseen circumstances (e.g., military service, medical issues) prevent a certified individual from maintaining his/her ER Certification, the individual may submit a written request and justification for an extension or alternate solution. The request will be reviewed and approved by the ER Certification Program Coordinator as well as the advisory committee.

2. Prepare at least two Department-approved Proposed ER Reviews every two years. If this hasn't been done then case studies can be made available for the individual to use in conducting the two Proposed ER Reviews (similar to the Exam 2 projects).

3. Complete a minimum of eight hours of training/continuing education every two years. The goal of the continuing education is to build knowledge and skills relevant to interpretation and application of NHI data. The eight hours can involve classroom time and/or field-based classes. An example list of courses to satisfy this requirement can be found in the Certified Toolkit under Maintenance Materials.

4. Submit an annual report. The Certification Coordinator will send an email reminder. The purpose of the annual report is to provide a mechanism for reporting on training and activities required to maintain certification (1-3 above), and provide an opportunity for the individual to provide feedback on the certification program.

If critical training needs arise between biennial updates, the advisory committee will determine if an extra training will be required for all certified individuals. Critical training will be required even if the individual has already completed his/her eight hours.

REVOCATION OF ER CERTIFICATION

ER Certification may be revoked if an individual fails to meet any of the ER Certification maintenance requirements. The decision to revoke ER Reviewer Certification may have serious consequences for the individual in question. Thus, the Certification Coordinator and ER Review Specialists require guidance and a defined process to follow before reaching the ultimate decision to recommend revocation. The document, 'Revocation of ER Certification', is available to all Certified Reviewers in their Toolkit or can be made available upon request.

DATA SECURITY AND SHARING

Data Security and Land Ownership Consideration in Sharing of Detailed Natural Heritage Inventory (NHI) Data

Per s. 23.27 3(b), Wis. Stats., the Department shares NHI information with any individual or public or private agency for several specific purposes. The statute also exempts detailed NHI data from the Wisconsin Open Records Law, because of the sensitivity of the data as well as other concerns. Because of the sensitivity of the data and the Department's commitment to maintaining the privacy and rights of private landowners, the ERRP considers land ownership carefully when sharing detailed NHI data.

Often, users of detailed NHI data at an organization need to present or distribute the data to other parties *within* the licensed organization as part of their work. This is permitted, provided that these other parties are informed of and directed to comply with the conditions of the Certification Program, NHI Data License or Sublicense, *and* products such as printouts, maps and tables developed for internal use that contain detailed NHI data include a clearly visible confidentiality notice.

If an organization wishes to communicate NHI data to parties *outside* of the organization (external partners, clients, the general public, etc.), the organization must have express permission from the ERRP to release detailed NHI data, or the NHI data must be generalized. The NHI data may be generalized in one of two ways: 1) by generalizing the element's *location* to a precision no finer than the Public Land Survey System (PLSS) township level, or 2) by generalizing the element's *identity* to taxonomic group at the section level. For example, an organization could either say that [*name of rare bird species*] is present in a certain township, or that *a rare bird species* is present in a certain section. The exception to these two ways of generalizing NHI data is for elements determined by the NHI Program to be especially vulnerable to disturbance or collection. These elements must only be presented to a level described in the document *'Sensitive Species, Natural Communities & Natural Features on the Wisconsin Natural Heritage Inventory Working List*.'

Mutual Data Sharing

It is the expectation of the ER Review Program when sharing detailed NHI data that any new or updated records of rare species, natural communities or natural features obtained using the NHI data be provided back to Wisconsin's NHI program. This mutual data sharing helps ensure the continued accuracy and completeness of Wisconsin's NHI database.

LAWS RELATED TO THE ER REVIEW PROGRAM AND ER CERTIFICATION

s. 29.604, Wis. Stats., Wisconsin Endangered Species Law
http://www.legis.state.wi.us/statutes/Stat0029.pdf

ss. 19.31-19.39, Wis. Stats., Wisconsin Open Records Law
http://www.legis.state.wi.us/statutes/Stat0019.pdf

Ch. NR 27, Wis. Admin. Code, Endangered and Threatened Species
http://www.legis.state.wi.us/rsb/code/nr/nr027.pdf

Ch. NR 29, Wis. Admin. Code, Endangered Resources Information Fees
http://www.legis.state.wi.us/rsb/code/nr/nr029.pdf