

NR 680.50 Variances. The department may issue a variance from the requirements of chs. NR 600 to 699 and s. 291.23 or 291.25, Stats., if the application for, or compliance with the terms or conditions of, any license required under chs. NR 600 to 699 would cause undue or unreasonable hardship to any person, and the variance would not result in undue harm to human health or the environment.

(1) **LIMITATIONS.** A variance under this section:

(a) Shall be issued in written form.

(b) May not exceed 5 years in duration.

(c) May be renewed or extended only after opportunity for a public hearing on each variance renewal or extension.

(d) May be revoked by the department at any time if the department determines that the revocation is appropriate to protect human health or the environment.

(e) May require that the person to whom a variance is issued comply with any appropriate requirements of chs. NR 600 to 699, as a condition of issuance, in order to protect human health or the environment.

(f) May not be issued for land treatment facilities.

(2) **VARIANCE REQUEST.** A person who wishes to obtain a variance shall submit to the department the variance fee specified in s. NR 680.45 and the following:

(a) Fees and materials meeting the general report and plan submittal requirements of s. NR 680.05 (1).

(b) A statement explaining the need for a variance and the effects of granting a variance.

1. Explain why application for or compliance with a required license under chs. NR 600 to 699 would cause undue or unreasonable hardship to any person. For purposes of this section, "undue or unreasonable hardship" means a hardship that is a result of unusual circumstances, which are not self-created. The delay, inconvenience or expense which are inherent in the facility approval process under subch. III of ch. 289, Stats., are not considered to be unreasonable.

2. Present the history of events that lead to the current situation, and demonstrate that the hardship results from events beyond the control of the person applying for the variance.

3. Demonstrate that the proposed variance would not result in undue harm to human health or the environment.

(c) General feasibility report and plan of operation information meeting the requirements of ss. NR 680.06 (3).

(d) Specific feasibility report and plan of operation information meeting the informational requirements of:

1. Section NR 640.07 (3) for a hazardous waste small storage facility meeting the characteristics of s. NR 640.07 (1).

2. Section NR 640.06 for a hazardous waste container facility.

3. Section NR 645.06 for a hazardous waste tank system.

4. Section NR 655.06 for a hazardous waste pile.

5. Section NR 665.06 for a hazardous waste incinerator.

6. Sections NR 670.06 and 670.07 for a hazardous waste miscellaneous unit facility.

7. Sections NR 660.09 to 660.15 for a hazardous waste land-fill or surface impoundment.

Note: The applicant is encouraged to contact the department early for assistance in planning the content of a complete application.

(3) **COMPLETENESS.** The department shall advise the applicant in writing of the receipt of any variance request. The department shall determine, in writing, whether the variance application is complete or incomplete within 65 business days after receipt of the variance application. The department may require the applicant to provide additional information to document compliance with s. NR 600.04, and chs. NR 630 to 699.

(4) **FINAL DETERMINATION.** The department shall make a final written determination on the variance request within 65 business days after finding the application complete. The final determina-

tion may require construction inspection and fees under s. NR 680.09.

Note: The use of the variance authority is intended to promote activities such as the cleanup of hazardous waste contamination and the recycling of hazardous waste. For example, in order to clean up a contaminated site, it may be necessary to treat excavated soil that is hazardous. In this situation it may be an undue or unreasonable hardship to delay the cleanup of the contamination while awaiting the issuance of a hazardous waste treatment license. Further, in some situations a hazardous waste recycling activity may be exempt from the requirement to obtain a treatment license but the associated storage is subject to the storage license requirement. The requirement to obtain a storage license may create an undue or unreasonable hardship if it has the effect of precluding the recycling of hazardous waste.

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; correction in (2) (d) 7. made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1993, No. 447; correction in (intro.) and (2) (b) 1., Register, May, 1998, No. 509; correction in (2) (d) 7. made under s. 13.93 (2m) (b) 7., Stats.

NR 680.51 Research, development and demonstration licenses. (1) The department may issue a research, development and demonstration license for any hazardous waste treatment facility whose owner or operator proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which standards are not contained in chs. NR 630 to 670. Licenses issued under this section shall include conditions that will assure protection of human health and the environment. Each license shall:

(a) Provide for the construction of any necessary facility and for operation of the facility for not longer than one year, but the license may be renewed under sub. (5);

(b) Provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the department deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of the technology or process on human health or the environment; and

(c) Include requirements which the department deems necessary to protect human health and the environment, including, but not limited to requirements regarding monitoring, operation, proof of financial responsibility, closure, and remedial action, and requirements which the department deems necessary regarding testing, recordkeeping and reporting information to the department with respect to the operation of the facility.

(2) For the purpose of expediting review and issuance of licenses under this section, the department may, consistent with the protection of human health and the environment, modify or waive license application and issuance requirements in chs. NR 630 to 685 except that it may not modify or waive requirements regarding proof of financial responsibility, including insurance, or waive procedures for public participation.

(3) Research, development and demonstration licensing reports shall be prepared in accordance with the report preparation requirements in ss. NR 680.05 and 680.06.

(4) The department may order an immediate termination of all operations at the facility at any time if the department determines that termination is necessary to protect human health and the environment.

(5) Any license issued under this section may be renewed not more than 3 times. Each renewal shall be for a period of not more than one year.

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91.

NR 680.52 Treatability study exemption. A treatability study of hazardous waste may be conducted without an operating license if the study is performed in accordance with s. NR 605.05 (8), (9), (10) and (11).

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1993, No. 447; correction made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1995, No. 473.

NR 680.60 Termination of a regulated activity. Any person who owns or operates a hazardous waste facility and who wishes or is required to terminate the regulated activity shall submit a closure plan for department approval and implement an

approved closure plan that meets the requirements specified in s. NR 685.05. Any person who owns or operates a disposal facility and who wishes or is required to terminate the regulated activity shall submit a long-term care plan for approval and implement an approved long-term care plan that meets the requirements specified in s. NR 685.06. In accordance with ss. NR 655.10 (2), 660.20 (2) and 660.21 (4), long-term care plans may be required for certain waste piles or surface impoundments or tanks where the department approves in-place disposal of wastes.

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; correction made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1995, No. 473.