

Chapter NR 680

PLAN REVIEW AND LICENSING

NR 680.01	Purpose (p. 475)	NR 680.24	Advisement of interim license (p. 504)
NR 680.02	Applicability (p. 475)	NR 680.30	Eligibility for an operating license (p. 505)
NR 680.03	Definitions (p. 475)	NR 680.31	Application and requirements for an operating license (p. 506)
NR 680.04	Alternative requirements (p. 475)	NR 680.32	Operating license issuance (p. 506)
NR 680.05	General report and plan submittal requirements (p. 476)	NR 680.40	Effect of a license (p. 507)
NR 680.06	General feasibility report, plan of operation, and feasibility and plan of operation report requirements (p. 479)	NR 680.41	Signatories to license applications (p. 507)
NR 680.07	Facility expansions and modifications of licenses and plan approvals (p. 493)	NR 680.42	Conditions applicable to all licenses (p. 508)
NR 680.08	Construction documentation (p. 498)	NR 680.43	Revocation or denial of licenses (p. 511)
NR 680.09	Construction inspections (p. 499)	NR 680.44	Transfer of licenses (p. 513)
NR 680.10	Retention of records (p. 499)	NR 680.45	License periods and fees (p. 514)
NR 680.20	Eligibility for an interim license (p. 500)	NR 680.50	Variances (p. 519)
NR 680.21	Application for an interim license (p. 500)	NR 680.51	Research, development and demonstration licenses (p. 520)
NR 680.22	Interim license requirements (p. 502)	NR 680.52	Treatability study exemption (p. 521)
NR 680.23	Operation while interim license is pending (p. 504)	NR 680.60	Termination of regulated activity (p. 521)

NR 680.01 Purpose. The purpose of this chapter is to ensure that environmentally acceptable hazardous waste management procedures are practiced in Wisconsin and to establish minimum standards for reports, plan submittals and the issuance of licenses and variances for facilities which recycle, treat, store or dispose of hazardous waste.

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

NR 680.02 Applicability. Except as otherwise provided, this chapter applies to recycling, storage, treatment or disposal facilities that manage hazardous waste. This chapter does not apply to solid waste facilities that manage only non-hazardous solid waste, metallic mining waste resulting from a mining operation as defined in s. 144.81 (5), Stats., or polychlorinated biphenyls (PCBs), except where portions of this chapter are referenced in ch. NR 157.

Note: The provisions of this chapter are consistent with, and in some instances identical to, federal regulations found in 40 CFR parts 124, 260 to 265 and 270, July 1, 1990.

Note: The publication containing the CFR references may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

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

NR 680.03 Definitions. The definitions in s. NR 600.03 apply to this chapter.

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

NR 680.04 Alternative requirements. (1) **GENERAL.** Exemptions from the requirements of chs. NR 600 to 685 may be granted under this sec-

tion by the department for hazardous waste facilities in relation to location, engineering design and operations, except as otherwise provided in those chapters. A person may apply for an exemption by providing the department with a written request and documentation justifying the need for an exemption. A person applying for an exemption has the burden of showing and documenting that the proposed alternative requirement provides the same level of control and protection as the requirements of s. NR 600.04 and chs. NR 630 to 685. Prior to granting an exemption, the department must find that the proposed alternative requirement does not pose an increased threat to human health or the environment, taking into consideration factors such as the quantity, composition and degree of hazard of the waste to be managed, any potential degradation of the environment and potential nuisance conditions. All exemptions pertaining to a hazardous waste facility shall be granted in writing by the department. Exemptions shall be reviewed periodically by the department regarding any potential nuisance, hazard to public health and safety, or potential degradation of the environment.

(2) **FEASIBILITY REPORTS AND FEASIBILITY AND PLAN OF OPERATION REPORTS.** Persons who wish to request an exemption at the time reports and plans for an operating license are submitted shall include the request in the applicant's feasibility report or feasibility and plan of operation report to allow the department to provide sufficient public notice as required by s. 144.44, Stats. Exemptions may only be granted in writing by the department in the final determination of feasibility.

(3) **CERTIFICATION.** Alternative requirements exemption requests shall meet the certification requirements of s. NR 680.05 (1) (c) 1.

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

NR 680.05 General report and plan submittal requirements. (1) **GENERAL REQUIREMENTS.** Unless otherwise specified, all submittals for review and approval of any initial site report, feasibility report, feasibility and plan of operation report, plan of operation, construction observation report, closure plan, groundwater monitoring plan, alternative requirements exemption request, variance, plan modification, recycling exemption or a submittal providing information to demonstrate that a facility meets the locational requirements of s. NR 680.06 (3) (i) 4. b., c. and d. or, if appropriate, a request for an exemption from the requirements of s. NR 680.06 (3) (i) 4. b. according to s. NR 680.04, shall include the following:

(a) *Review fees.* The review fees specified in s. NR 680.45 in check or money order payable to the department, to be sent to the appropriate district or area office of the department.

(b) *Cover letter.* A letter detailing the desired department action or response. If applicable, this letter shall list each participating municipality and specify whether a copy has been submitted to it pursuant to s. NR 680.06 (2).

(c) *Number of copies.* Five copies of the plan or report prepared pursuant to the appropriate rule. Two copies shall be submitted to the appropriate department district or area office and 3 copies shall be submitted to the department's bureau of solid and hazardous waste management. Review time starts when copies are received. The plans and reports and Register, March, 1993, No. 447

all methods and procedures used to prepare them shall conform to the following:

1. Certification. All reports and all plan sheets shall be under the seal of and certified by a registered professional engineer, unless a written exemption is granted by the department. Reports where interpretation of geology or hydrogeology is necessary shall be signed by a hydrogeologist. Modifications and subsequent submittals shall also meet this certification requirement.

Note: Engineering certification may be demonstrated by using the following language:

"I, _____, hereby certify that I am a registered Professional Engineer in the State of Wisconsin in accordance with ch. A-E 4, Wis. Adm. Code and that this report has been prepared in accordance with the Rules Of Professional Conduct in ch. A-E 8, Wis. Adm. Code."

signature, title and P.E. number

P. E. Stamp

Note: Hydrogeologist certification may be demonstrated by using the following language:

"I, _____, hereby certify that I am a hydrogeologist as defined in s. NR 600.03 (98), Wis. Adm. Code, and that to the best of my knowledge all information contained in this document is correct."

signature and title

2. Technical procedures. All technical procedures used to investigate a hazardous waste facility shall be the current standard procedures as specified by the ASTM or the USGS, standard methods for the examination of water or wastewater, or other equivalent or appropriate methods approved by the department. Test procedures used shall be specified. Any deviation from a standard method shall be explained in detail, with reasons provided.

3. Required information. The required technical information as specified in this chapter.

4. Visuals. Maps, figures, photographs and tables, where applicable, to clarify information or conclusions. The visuals shall be legible. All maps, plan sheets, drawings, isometrics, cross-sections and aerial photographs shall meet the following requirements:

a. Be of appropriate scale to show all required details in sufficient clarity.

b. Be numbered, referenced in the narrative, titled, have a legend of all symbols used, contain horizontal and vertical scales where applicable, and specify drafting or origination dates.

c. Use uniform scales as much as practical.

d. Contain a north arrow.

e. Use USGS data as basis for all elevations.

f. Plan sheets showing site construction, operation or closure topography shall also show original topography.

g. Plan sheets for hazardous waste facilities shall indicate a survey grid based on monuments established in the field specifically for that purpose.

h. Plan sheets shall be no smaller than 24 inches x 36 inches. All other documents shall be no larger than 24 inches x 36 inches and no smaller than 8½ inches by 11 inches.

i. All cross-sections shall show survey grid location and be referenced to major plan sheets.

5. Table of contents. A table of contents listing all sections of the submittal.

6. Appendix. An appendix listing names of all references, all necessary data, procedures and calculations.

(2) SIGNATORIES TO REPORTS. All reports required by the department, other than manifests, shall be signed by a person described in this subsection or by a duly authorized representative as designated in par. d.:

(a) For a corporation, by a responsible corporate officer. For the purpose of this paragraph a responsible corporate officer means:

1. A president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, in second-quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: The department does not require specific assignments or delegations of authority to responsible corporate officers identified in subd. 1. The department will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the department to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under subd. 2. rather than to specific individuals.

(b) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(c) For a government or public agency, by either a principal executive officer or ranking elected official. For the purposes of this paragraph, a principal executive officer of a federal agency includes:

1. The chief executive officer of the agency; or

2. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(d) A person is a duly authorized representative if:

1. The authorization is made in writing by the person designated under pars. (a) to (c);

2. The authorization specifies an individual or position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent or position of equivalent responsibility; and

3. The written authorization is submitted to the department.

(e) If an authorization under par. (d) is no longer accurate because a different individual or position has responsibility for the overall operation,

tion of the facility, a new authorization satisfying the requirements of par. (d) shall be submitted to the department prior to or together with any reports to be signed by an authorized representative.

(f) Any person signing a document under sub. (2) shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted, is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; correction in (1) (c) 4. made under s. 13.93 (2m) (b) 7, Stats., Register, March, 1993, No. 447.

NR 680.06 General feasibility report, plan of operation, and feasibility and plan of operation report requirements. (1) **LOCAL APPROVALS.** An applicant proposing to obtain a final operating license for an interim licensed hazardous waste facility or construct a new hazardous waste facility or expand an existing facility shall submit a feasibility report or a feasibility and plan of operation report in accordance with this section and applicable portions of chs. NR 600 to 685. The owner or operator of a hazardous waste disposal facility shall submit a feasibility report followed by a plan of operation. All other hazardous waste treatment and storage facilities shall submit a feasibility and plan of operation report. An applicant shall submit a written request including the standard notice developed under s. 144.44 (1m) (bn), Stats., to each affected municipality for the specification of all applicable local approval requirements under s. 144.44 (1m) (b), Stats. An applicant subject to s. 144.445, Stats., shall apply for all applicable local approvals specified by a municipality under s. 144.44 (1m) (b), Stats., at least 120 days prior to submitting the feasibility and plan of operation report to the department. If the municipality either fails to respond within 15 days after the receipt of the written request from the applicant or indicates that there are no applicable local approval requirements, the applicant may submit the feasibility report or feasibility and plan of operation report 135 days after receipt by the municipality of the written request from the applicant or 120 days after receipt of the response from the municipality indicating that there are no local approval requirements, whichever occurs first. The feasibility report or feasibility and plan of operation report shall contain documentation that this subsection has been complied with.

(2) **SUBMISSION OF REPORTS.** An applicant shall submit a feasibility report or feasibility and plan of operation report to the department in accordance with s. 144.44 (2), Stats. At the same time the applicant shall submit a copy of the feasibility report or feasibility and plan of operation report to each participating municipality under s. 144.445 (6) (b), Stats. The applicant shall notify the department of when and to whom the copies of the feasibility report or feasibility and plan of operation report were submitted.

(3) **GENERAL CONTENTS OF FEASIBILITY REPORT OR FEASIBILITY AND PLAN OF OPERATION REPORT.** Unless otherwise specified, the following information shall be included in any feasibility report or feasibility and

plan of operation report, in addition to the information specified in subs. (4) and (5):

(a) A general description of the facility and a Part A of the application for an EPA hazardous waste permit, completed with the most recent information, as required in s. NR 680.21 (1) (a).

(b) Chemical and physical analyses of the hazardous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store or dispose of the wastes in accordance with chs. NR 600 to 685.

(c) A copy of the waste analysis plan required by s. NR 630.13 (1).

(d) A description of the security procedures and equipment required by s. NR 630.14 or a justification demonstrating the reasons for requesting a waiver of this requirement.

(e) A copy of the general inspection schedule required by s. NR 630.15 (2).

(f) A description of procedures, structures or equipment used at the facility to:

1. Prevent hazards in unloading operations through the use of equipment such as ramps, special forklifts;

2. Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding such as berms, dikes, trenches;

3. Prevent contamination of water supplies;

4. Mitigate effects of equipment failure and power outages; and

5. Prevent undue exposure of personnel to hazardous waste.

Note: An example of a method to prevent undue exposure of personnel is protective clothing.

(g) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive or incompatible wastes as required to demonstrate compliance with s. NR 630.17 including documentation demonstrating compliance with s. NR 630.17 (3).

(h) A description of vicinity and site traffic patterns, estimated volume and controls. If applicable, show turns across traffic lanes and stacking lanes, describe access road and bearing capacity and traffic control signals.

(i) Facility location information:

1. Owners and operators of all facilities shall identify whether the facility is located within a 100-year floodplain. This identification shall indicate the source of data for the determination and include a copy of the relevant federal insurance administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors, such as wave action, which shall be considered in designing, constructing, operating or maintaining the facility to withstand washout from a 100-year flood.

2. Owners and operators of facilities operating under an interim license, variance or waiver located in the 100-year floodplain shall prepare and provide to the department the following information:

a. Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a 100-year flood.

b. Structural or other engineering studies showing the design of operational units and flood protection devices such as floodwalls and dikes at the facility and how these will prevent washout.

c. If applicable, and in lieu of subpars. a. and b., a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

1) Timing of movement relative to flood levels, including estimated time to move the waste, to show that the movement can be completed before floodwaters reach the facility.

2) A description of the location to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the requirements of chs. NR 600 to 685.

3) The planned procedures, equipment, and personnel to be used and the means to ensure that resources will be available in time for use.

4) The potential for accidental discharges of the waste during movement.

3. Owners and operators of facilities operating under an interim license, variance or waiver and which are not in compliance with subd. 2. shall provide a plan and schedule demonstrating how the facility will come into compliance with the requirements of subd. 2.

4. Information to demonstrate that the facility meets the following locational requirements or, if appropriate, a request for an exemption from these requirements according to s. NR 680.04:

a. Except as provided in this paragraph for facilities operating under an interim license, a hazardous waste facility may not be located in a floodplain.

b. A hazardous waste facility may not be located in a wetland.

c. A hazardous waste facility may not be located in a habitat determined by the department to be critical to the continued existence of any endangered species listed in ch. NR 27.

d. The department may require that active portions of a facility be located up to 200 feet away from the property line of the facility.

(j) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the facility in a safe manner as required to demonstrate compliance with s. NR 630.16 and a brief description of how training will be designed to meet actual job tasks in accordance with requirements in s. NR 630.16 (1) (b).

(k) For facilities or units where hazardous wastes were disposed of before the submittal of the feasibility report, a copy of the survey plat

and record of the type, location and quantity of those wastes, and documentation that this was submitted to the register of deeds, as required by s. NR 685.06 (8).

(1) An existing site condition topographic plan sheet which meets the requirements of s. NR 660.09 (2).

(4) **FACILITY SPECIFIC REQUIREMENTS.** Depending upon the facility type, the applicant shall also specifically address the following in the feasibility and plan of operation report:

(a) The feasibility and plan of operation report requirements of s. NR 640.06 in addition to the other requirements of ch. NR 640 for containers.

(b) The feasibility and plan of operation report requirements of s. NR 645.06 in addition to the other requirements of ch. NR 645 for tank systems.

(c) The feasibility and plan of operation report requirements of s. NR 655.06 in addition to the other requirements of ch. NR 655 for waste piles.

(d) The feasibility and plan of operation report requirements of s. NR 665.06 in addition to the other requirements of ch. NR 665 for incinerators.

(e) The feasibility and plan of operation report requirements of s. NR 670.06 in addition to the other requirements of ch. NR 670 for miscellaneous units.

(5) **LANDFILL AND SURFACE IMPOUNDMENT REQUIREMENTS.** (a) In addition to the requirements found in sub. (3), when siting a landfill or surface impoundment, the applicant shall also specifically address the location criteria requirements of s. NR 660.06, the initial site inspection requirements of s. NR 660.07, the initial site report requirements of s. NR 660.08, and the feasibility report requirements of ss. NR 660.09 to 660.095. A separate plan of operation shall be prepared addressing the requirements of ss. NR 660.10 to 660.107 in addition to the other landfill and surface impoundment requirements of ch. NR 660.

Note: A person applying for approval of a landfill or surface impoundment may submit the feasibility report and plan of operation at the same time, however, the department may not be able to review the plan of operation portion until after a favorable feasibility determination is made.

(b) 1. Any feasibility report for a landfill or surface impoundment that stores, treats or disposes of hazardous waste shall include information on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the hazardous waste unit. At a minimum, this information shall address:

a. Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the hazardous waste unit;

b. The potential pathways of human exposure to hazardous waste or constituents as a result of releases described under subpar. a.; and

c. The potential magnitude and nature of human exposure as a result of releases.

2. By March 1, 1991, all owners or operators of a landfill or surface impoundment shall submit the information required in subd. 1. b. as supplemental information to their feasibility reports.

(6) **ENVIRONMENTAL REVIEW.** To aid the department in determining the need for an environmental impact report or environmental impact statement, the feasibility report or feasibility and plan of operation report shall include an environmental assessment section. This assessment shall address the following items:

(a) *Project summary.* A brief summary of the project shall be included. Particular attention shall be given the following areas:

1. The purpose and need for the proposed project including the history and background on the project.

2. A listing of the statutory authority and other relevant local, state and federal permits or approvals required as well as a discussion of the need for exemptions, zoning changes and any other special permits.

3. The estimated cost and funding source for the project.

(b) *Proposed physical changes.* A brief description of the proposed physical changes including:

1. The changes in terrestrial resources. This discussion shall cover the quantity of material to be excavated and the lateral extent of soil removal; the quantity and source of materials to be imported for construction of the liner, final cover system, drainage blanket and perimeter berms. Any other significant terrestrial modifications such as soil placement necessary to reach the proposed sub-base grades, construction of access roads, surface water drainage features and sedimentation controls shall also be outlined.

2. The changes in aquatic resources including the potential impacts to streams, wetlands, lakes and flowages. This discussion shall include discharge rates and volumes for groundwater control structures, leachate collection systems and surface water runoff under existing conditions as well as that anticipated during active operations and following closure.

3. Buildings, treatment units, roads and other structures to be constructed in conjunction with the facility. This discussion shall include the size of the facilities and the number of miles of road to be constructed.

4. Emissions and discharges such as dust, diesel exhaust, odors, gases, leachate, surface water runoff and collected groundwater associated with facility preparation, construction, operation, closure and following closure of the facility.

5. Other changes anticipated with facility development.

6. Maps, plans and other descriptive material to clarify the discussion such as a county map showing the general area of the project, a USGS topographic map, a plat map, zoning map, county wetlands map and a facility development plan.

(c) *Existing environment.* A brief description of the existing environment that may be affected shall be included. At a minimum this shall contain:

1. A description of the physical environment including the regional and local topography, geology, surface water drainage features, hydrogeologic conditions, air, wetlands and earth borrow sources as well as an evaluation of the groundwater quality data and overall performance of any existing solid or hazardous waste units.

2. The dominant aquatic and terrestrial plant and animal species and habitats found in the area including threatened or endangered species and amount, type and hydraulic value of wetlands.

3. Land use including dominant features and zoning in the area.

4. Social and economic conditions including any ethnic or cultural groups.

5. Other special resources such as archaeological, historical, state natural areas and prime agricultural lands.

(d) *Environmental consequences.* A brief discussion of the probable adverse and beneficial impacts including primary, indirect and secondary impacts shall include:

1. The physical impacts which would be associated with facility design, construction and operation, including visual impacts, if applicable.

2. The biological impacts including destruction and creation of habitat, alteration of the physical environment and any impacts to endangered or threatened species.

3. The impacts on land use.

4. The social and economic impacts to local residents and cultural groups and the communities and industries served by the facility.

5. Other special resources such as archaeological, historical, state natural areas and prime agricultural lands.

6. Probable adverse impacts that cannot be avoided including groundwater and surface water impacts, modifications of topography and any borrow source limitations on development around the facility, any loss of agricultural or forest land, displacement of wildlife and adverse aesthetic impacts for people in and around the facility.

(e) *Alternatives.* Identify, describe and discuss feasible alternatives including taking no action; enlargement, reduction or modification of the project; other facilities, locations or methods to the proposed action and their impacts. Particular attention shall be given to alternatives which might avoid some or all adverse environmental impacts, including proposed and existing hazardous waste treatment, storage or disposal, recycling and incineration facilities that may serve to handle the waste expected to be disposed of at the proposed facility, taking into account the economics of waste collection, transportation and disposal.

(7) **SMALL STORAGE FACILITIES.** Small storage facilities are exempt from the requirements of sub. (6) if they have the following characteristics:

- (a) Hazardous waste storage is entirely in an enclosed and roofed structure having access limited or restricted to employees or other authorized personnel;

(b) Hazardous waste storage is confined to a floor area of 1500 sq. ft. or less;

(c) Hazardous waste storage does not exceed 10,000 gallons at any time;

(d) Hazardous waste is stored generally for the purpose of accumulating a sufficient quantity for a more economical transfer for treatment or disposal; and

(e) All hazardous waste is stored in either containers or above ground tanks.

(8) **NEEDS.** The feasibility report or feasibility and plan of operation report shall contain an evaluation to justify the need for the proposed facility in accordance with s. 144.44 (2) (nm), Stats., unless the facility is exempt under s. 144.44 (2) (nr), Stats.

(9) **COMPLETENESS.** (a) Within 60 days after a feasibility and plan of operation report for a storage or treatment facility is submitted, the department shall determine whether or not the report is complete. If the report is complete, the department shall publish a class I public notice in accordance with s. 144.44 (2) (k), Stats., and issue a preliminary determination stating whether or not an environmental impact statement is required. If the report is incomplete, the department shall notify the applicant in writing and specify the information which must be submitted to complete the report. The department shall determine the completeness of the report by determining whether or not the minimum requirements of this chapter have been met. The department may require the applicant to submit additional information after determining that the report is complete if the department establishes that the feasibility of the facility cannot be determined without the additional information.

(b) For hazardous waste disposal facilities feasibility report and plan of operation completeness and decision making requirements found in subs. (11) and (12) apply in lieu of the requirements found in par. (a) and sub. (10).

(10) **ADDITIONAL FEASIBILITY AND PLAN OF OPERATION REPORT PUBLIC PARTICIPATION PROCEDURES.** This subsection applies to the feasibility and plan of operation report stage of the approval process under s. 144.44, Stats., for expansions of existing hazardous waste treatment or storage facilities under s. NR 680.07 (1) and for new hazardous waste treatment or storage facilities.

(a) *Preliminary determination and notice.* 1. Immediately after determining that a complete feasibility and plan of operation report has been submitted and issuing a preliminary determination that an environmental impact statement is not required or, if it is required, immediately after the department issues the environmental impact statement, the department shall, at the same time it issues the notice required by s. 144.44 (2) (k), Stats., issue its preliminary determination to approve, conditionally approve or disapprove the report. If the preliminary determination is to approve or conditionally approve a report for a new facility or an expansion or to disapprove a report for a new facility, it shall include but need not be limited to the information required to be contained in RCRA draft permits under 40 CFR 124.6 (d) as of July 1, 1990.

2. If the preliminary determination is to approve or conditionally approve a report for a new facility or an expansion or to disapprove a report for a new facility, the notice required by s. 144.44 (2) (k), Stats., shall also provide notice of the department's preliminary determination on the report and shall include the information required to be contained in RCRA notices under 40 CFR 124.10 (d) as of July 1, 1990.

Note: The publication containing the CFR references may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

3. In addition to distributing the notice to the persons specified under s. 144.44 (4m), Stats., if the department proposes to approve or conditionally approve a report for a new facility or an expansion or to disapprove a report for a new facility, it shall also publish the notice by broadcast over local radio stations and it shall also distribute the notice by mailing a copy of it to the applicant, the U. S. environmental protection agency, the U. S. fish and wildlife service, the advisory council on historic preservation, other state agencies having any authority with respect to the construction or operation of the facility, and persons on a mailing list. The mailing list shall be developed by including those who request in writing to be on the list, by soliciting persons for "area lists" from participants in past approval proceedings in that area and by notifying the public of the opportunity to be put on the mailing list. In addition, the department may distribute the notice by any other method likely to give actual notice to persons potentially affected by it.

4. Notice of a preliminary determination to disapprove a report for an expansion need not be issued to anyone other than the persons specified in s. 144.44 (4m), Stats.

5. Notice of a preliminary determination to approve or conditionally approve a report for a new facility or an expansion or to disapprove a report for a new facility shall invite the submission of written comments by any person within 45 days after the notice is published and shall describe the method by which an informational hearing under par. (c) 3. may be requested by any person as well as describing the methods by which a hearing may be requested under s. 144.44 (2) (l) and (m), Stats.

(b) *Fact sheet.* The department shall prepare a fact sheet that briefly sets forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing a proposed approval or conditional approval of a report for a new facility or an expansion or disapproval of a report for a new facility. The department shall send the fact sheet to the applicant and, on request, to any other person. The fact sheet shall include:

1. A brief description of the type of facility or activity which is the subject of the preliminary determination;

2. The type and quantity of wastes which are being or are proposed to be treated or stored;

3. A brief summary of the basis for the proposed conditions of approval including references to applicable statutory or administrative code provisions and appropriate supporting references to the administrative record required by par. (e);

4. Reasons why any requested variances or alternatives to required standards do or do not appear justified;

5. A description of the procedures for reaching a final determination including:

a. The beginning and ending dates of the comment period under par. (a) 5.,

b. The address where comments will be received,

c. Procedures for requesting a hearing and the nature of the hearing,

d. Any other procedures by which the public may participate in the final determination; and

6. The name and telephone number of a person to contact for additional information.

(c) *Informational hearing.* 1. Under s. 227.42 (5), Stats., informational hearings under this paragraph are not contested cases. Hearings under this paragraph are held as part of the process for approving a feasibility report, plan of operation or license under s. 144.44 or 144.64, Stats., and are therefore exempt from s. 227.42 (1), Stats.

2. The department shall hold an informational hearing whenever it finds, on the basis of requests, a significant degree of public interest in a preliminary determination to approve or conditionally approve a report for a new facility or an expansion or to disapprove a report for a new facility.

3. Unless the department holds an informational hearing under s. 144.44 (2g), Stats., the department shall hold an informational hearing under this subdivision if during the 45 day written comment period the department receives written notice of opposition to the application and its proposed approval or conditional approval of a report for a new facility or an expansion or disapproval of a report for a new facility accompanied by a request for an informational hearing. Requests for a hearing shall be in writing and state the nature of the issues to be raised in the hearing. Hearings under this subdivision shall be held after at least 30 days notice but no sooner than 30 days after the issuance of the notice under par. (a) and no later than 45 days after the close of the written comment period. The hearing shall be held in the area where the facility is or is proposed to be located.

4. Notwithstanding s. NR 2.135, the conduct of hearings under this paragraph shall be governed by the procedures of this subdivision. At a hearing held under this paragraph, the presiding officer shall open the hearing and make a concise statement of its scope and purposes. Appearances may be entered on the record. Persons entering an appearance may make statements, present arguments or opinions, offer evidence and ask questions concerning the matter being heard, but the presiding officer may limit oral presentations if the hearing would be unduly lengthened by repetitious testimony. The presiding officer may continue the hearing on another date if it appears there will not be enough time for all who wish to speak. Statements may be submitted in oral or written form. Any person may submit a written statement within the time period allowed by the presiding officer. Statements need not be made under oath. The

hearing shall be recorded by use of an electronic recording device. The recording is a public record under s. 19.35, Stats.

(d) *Response to comments.* The department shall issue a response to comments received during the written comment period and at any informational hearing. The department shall indicate any provisions in its preliminary determination that were changed in the final determination and the reason for the change and it shall briefly describe and respond to all significant comments.

(e) *Administrative record; final determination to consider comments and response.* 1. If a contested case hearing under s. 144.44 (2r), Stats., is not held, the department's final determination shall be based on an administrative record which includes the feasibility and plan of operation report and any supporting data furnished by the applicant; the preliminary determination; the fact sheet; all documents cited in the fact sheet; other documents contained in the supporting file for the preliminary determination; the notice; all comments received during the written comment period and at any informational hearing; the department's response to comments; and any other information which the department considered.

2. If a contested case hearing under s. 144.44 (2r), Stats., is held on a feasibility and plan of operation report, the department's determination shall consider all comments received during the written comment period and at any informational hearing, including an informational hearing held under par. (c) 2. or 3., and shall consider the department's response to comments.

(11) **FEASIBILITY REPORT PUBLIC PARTICIPATION PROCEDURES.** This subsection applies to the feasibility report stage of the approval process under s. 144.44, Stats., for expansions of existing hazardous waste disposal facilities under s. NR 680.07 (1) and for new hazardous waste disposal facilities.

(a) *Preliminary determination and notice for feasibility reports.* 1. Immediately after determining that a complete feasibility report has been submitted and issuing a preliminary determination that an environmental impact statement is not required or, if it is required, immediately after the department issues the environmental impact statement, the department shall issue the notice required by s. 144.44 (2) (k), Stats.

2. The notice shall be published by the department as a class 1 notice under ch. 985, Stats., in the official newspaper designated under s. 985.04 or 985.05, Stats., or, if none exists in a newspaper likely to give notice in the area of the proposed facility.

3. Copies of the notice shall also be mailed to:

a. The clerk of each affected municipality.

b. The main public library in each affected municipality.

c. The applicant if the notice is not required to be distributed by the applicant.

4. The notice shall state that the feasibility report and environmental impact statement process are complete and shall invite the submission of written comments by any person within 45 days after the notice is published. The notice shall also describe the methods by which a hearing may be requested under pars. (c) and (d).

(b) *Fact sheet.* The department shall prepare a fact sheet that briefly sets forth the principal facts and the significant factual, legal, methodological and policy questions considered in a determination of feasibility. The department shall send the fact sheet to the applicant and, on request, to any other person. The fact sheet shall include:

1. A brief description of the type of facility or activity which is the subject of the proposed determination,

2. The type and quantity of wastes which are being or are proposed to be disposed of,

3. A brief summary of the basis for the proposed conditions of approval including references to applicable statutory or administrative code provisions and appropriate supporting references to the administrative record required by par. (i),

4. Reasons why any requested variances or alternatives to required standards do or do not appear justified;

5. A description of the procedures for reaching a final determination including:

a. The beginning and ending dates of the comment period under par. (a) 4.,

b. The address where comments will be received,

c. Procedures for requesting a hearing and the nature of the hearing,

d. Any other procedures by which the public may participate in the final determination; and

6. The name and telephone number of a person to contact for additional information.

(c) *Request for an informational hearing.* Within 45 days after the notice under par. (a) is published, any county, city, village or town, the applicant or any 6 or more persons may file a written request for an informational hearing on the matter with the department. The request shall indicate the interests of the municipality or persons who file the request and state the reasons why the hearing is requested.

(d) *Request for treatment as a contested case.* Within 45 days after the notice under par. (a) is published, any county, city, village or town, the applicant or any 6 or more persons may request that the hearing under par. (c) be treated as a contested case, as provided under s. 227.42, Stats. A hearing may be treated as a contested case only if:

a. A substantial interest of the person requesting the treatment of the hearing as a contested case is injured in fact or threatened with injury by the department's action or inaction on the matter;

2. The injury to the person requesting the treatment of the hearing as a contested case is different in kind or degree from injury to the general public caused by the department's action or inaction on the matter; and

3. There is a dispute of material fact.

(e) *Issuance of final determination of feasibility.* If no hearing is conducted under par. (f) or (g), the department shall issue the final determi-

nation of feasibility within 60 days after the 45 day period under par. (d) has expired.

(f) *Informational hearing.* This paragraph applies if no request for the treatment of a hearing as a contested case is granted and if an informational hearing is requested under par. (c) within the 45 day period, or if no hearing is requested under par. (c) within the 45 day period but the department determines there is substantial public interest in holding a hearing.

1. The department shall conduct the informational hearing within 60 days after the expiration of the 45 day period under par. (c). The hearing shall be conducted in an appropriate place designated by the department in a county, city, village or town which would be substantially affected by the operation of the proposed facility.

2. The department shall issue a final determination of feasibility within 60 days after the informational hearing under this paragraph is adjourned.

(g) *Hearing conducted as a contested case.* This paragraph applies only if a person or party requests the treatment of the hearing as a contested case under par. (d) within the 45 day period and has a right to a hearing under that paragraph. Any denial of a request for treatment of the hearing as a contested case received within the 45 day period under par. (d) shall be in writing, shall state the reasons for denial and is an order reviewable under ch. 227, Stats. If the department does not enter an order granting or denying the request for the treatment of the hearing as a contested case within 20 days after the written request is filed, the request is deemed denied.

1. The division of hearings and appeals in the department of administration shall schedule the hearing to be held within 120 days after the expiration of the 45 day period under par. (d).

2. The final determination of feasibility shall be issued within 90 days after the hearing is adjourned.

3. If a contested case hearing is conducted under this paragraph, the secretary shall issue any decision concerning the determination of need, notwithstanding s. 227.46 (2) to (4), Stats. The secretary shall direct the hearing examiner to certify the record of the contested case hearing to him or her without an intervening proposed decision. The secretary may assign responsibility for reviewing this record and making recommendations concerning the decision to any employee of the department.

(h) *Response to comments.* The department shall issue a response to comments received during the written comment period and at any informational hearing. The department shall indicate any provisions in its preliminary determination that were changed in the final determination and the reason for the change and the department shall briefly describe and respond to all significant comments.

(i) *Determination based on administrative record.* The department's final determination shall be based on an administrative record which includes the feasibility report and any supporting data furnished by the applicant; the preliminary determination; the fact sheet; all documents cited in the fact sheet; other documents contained in the supporting file for the preliminary determination; the notice; all comments received during the

written comment period and at any informational hearing; the department's response to comments; and any other information which the department considered.

(12) **PLAN OF OPERATION APPROVAL AND PUBLIC PARTICIPATION PROCEDURES.** This subsection applies to the plan of operation stage of the approval process under s. 144.44 Stats., for expansions of existing hazardous waste disposal facilities under s. NR 680.07 (1) and for new hazardous waste disposal facilities.

(a) *Preliminary determination and notice.* 1. Upon determining that a complete plan of operation has been submitted, the department shall issue its preliminary determination to approve, conditionally approve or disapprove the plan. If the preliminary determination is to approve or conditionally approve a plan for a new facility or an expansion or to disapprove a plan for a new facility it shall include but need not be limited to the information required to be contained in RCRA draft permits under 40 CFR 124.6 (d) as of July 1, 1990.

2. Upon issuing its preliminary determination, the department shall also issue notice of its preliminary determination.

3. If the preliminary determination is to approve or conditionally approve a plan for a new facility or an expansion or to disapprove a plan for a new facility the notice shall include but need not be limited to the information required to be contained in RCRA notices under 40 CFR 124.10 (d) as of July 1, 1990.

Note: The publication containing the CFR references may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

4. Notice of a preliminary determination to approve or conditionally approve a plan for a new facility or an expansion or to disapprove a plan for a new facility shall be published by the department as a class I notice under ch. 985, Stats., in the official newspaper designated under s. 985.04 or 985.05, Stats., if one exists, in a major local newspaper of general circulation in the area of the facility and by broadcast over local radio stations and it shall distribute the notice by mailing a copy of it to the applicant, the U.S. environmental protection agency, the U.S. fish and wildlife service, the advisory council on historic preservation, other state agencies having any authority with respect to the construction or operation of this facility, the clerk of each affected municipality, the main public library in each affected municipality and persons on a mailing list, which shall be developed by including those who request in writing to be on the list, by soliciting persons for "area lists" from participants in past approval proceedings in that area and by notifying the public of the opportunity to be put on the mailing list. In addition, the department may distribute the notice by any other method likely to give actual notice to persons potentially affected by it.

5. Notice of a preliminary determination to disapprove a plan for an expansion need not be issued to anyone other than the applicant.

6. Notice of a preliminary determination to approve or conditionally approve a plan for a new facility or an expansion or to disapprove a plan for a new facility shall invite the submission of written comments by any person within 45 days after the notice is published and shall describe the

method by which an informational hearing under par. (c) 3. may be requested by any person.

(b) *Fact sheet.* The department shall prepare a fact sheet that briefly sets forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing a proposed approval or conditional approval of a plan for a new facility or an expansion and a disapproval of a plan for a new facility. The department shall send the fact sheet to the applicant and, on request, to any other person. The fact sheet shall include:

1. A brief description of the type of facility or activity which is the subject of the proposed determination;

2. The type and quantity of wastes which are being or are proposed to be disposed of;

3. A brief summary of the basis for the proposed conditions of approval including references to applicable statutory or administrative code provisions and appropriate supporting references to the administrative record required by par. (e);

4. Reasons why any requested variances or alternatives to required standards do or do not appear justified;

5. A description of the procedures for reaching a final determination including:

a. The beginning and ending dates of the comment period under par. (a) 6.;

b. The address where comments will be received;

c. Procedures for requesting a hearing and the nature of the hearing;

d. Any other procedures by which the public may participate in the final determination; and

6. The name and telephone number of a person to contact for additional information.

(c) *Informational hearing.* 1. Under s. 227.42 (5), Stats., informational hearings under this paragraph are not contested cases. Hearings under this paragraph are held as part of the process for approving a feasibility report, plan of operation or license under s. 144.44 or 144.64, Stats., and are therefore exempt from s. 227.42 (1), Stats.

2. The department shall hold an informational hearing whenever it finds, on the basis of requests, a significant degree of public interest in a preliminary determination to approve or conditionally approve a plan for a new facility or an expansion or to disapprove a plan for a new facility.

3. If, during the 45 day written comment period the department receives written notice of opposition to the application and its proposed approval or conditional approval of a plan for a new facility or an expansion or disapproval of a plan for a new facility accompanied by a request for an informational hearing, it shall hold an informational hearing on the preliminary determination. Requests for a hearing shall be in writing and state the nature of the issues to be raised in the hearing. Hearings under this subdivision shall be held after at least 30 days notice but no

sooner than 30 days after the close of the written comment period. The hearing shall be held in the area where the facility is or is proposed to be located.

4. Notwithstanding s. NR 2.135, the conduct of hearings under this paragraph shall be governed by the procedures of this subdivision. At a hearing held under this paragraph, the presiding officer will open the hearing and make a concise statement of its scope and purposes. Appearances may be entered on the record. Persons entering an appearance may make statements, present arguments or opinions, offer evidence or ask questions concerning the matter being heard, but the presiding officer may limit oral presentations if the hearing would be unduly lengthened by repetitious testimony. The presiding officer may continue the hearing on another date if it appears there will not be enough time for all who wish to speak. Statements may be submitted in oral or written form. Any person may submit a written statement within the time period allowed by the presiding officer. Statements need not be under oath. The hearing shall be recorded by use of an electronic recording device. The recording is a public record under s. 19.35, Stats.

(d) *Response to comments.* The department shall issue a response to comments received during the written comment period and at any informational hearing. The department shall indicate any provisions in its preliminary determination that were changed in the final determination and the reason for the change and it shall briefly describe and respond to all significant comments.

(e) *Determination based on administrative record.* The department's final determination shall be based on an administrative record which includes the plan of operation and any supporting data furnished by the applicant; the preliminary determination; the fact sheet; all documents cited in the fact sheet; other documents contained in the supporting file for the preliminary determination; the notice; all comments received during the written comment period and at any informational hearing; the department's response to comments and any other information which the department considered.

(13) **TIMING OF RADIO ANNOUNCEMENT PRIOR TO ISSUANCE OF INITIAL OPERATING LICENSES.** The department shall arrange for the radio broadcast required by s. 144.44 (4) (c) 2., Stats., to be made at least 45 days prior to license issuance.

(14) **RESPONSE TO COMMENTS UPON ISSUANCE OF INITIAL OPERATING LICENSE.** The department shall issue a response to comments it receives following issuance of the notice of intent to issue an initial operating license under s. 144.44 (4) (c), Stats.

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; am. (10) (a) 1., 2., (12) (a) 1. and 3., Register, August, 1992, No. 440, eff. 9-1-92; correction in (3) (l) and (5) (a) made under s. 13.93 (2m) (b) 7, Stats., Register, August, 1992, No. 440; correction in (5) (a) made under s. 13.93 (2m) (b) 7, Stats., Register, March, 1993, No. 447.

NR 680.07 Facility expansions and modification of licenses and plan approvals. Pursuant to s. NR 680.42 (5) the department shall advise the owner or operator of an existing facility, in writing, of the receipt of and the department's findings on any request for a determination of whether a proposed change at a facility or in a license or plan of operation constitutes an expansion, major modification or minor modification. The department shall advise the owner or operator, in writing, of whether the

request is complete within 65 business days after receiving it. The department shall advise the owner or operator of its determination within 65 business days after finding the request complete. Expansions of existing facilities under sub. (1) are subject to the public participation procedures of s. NR 680.06 (10) for storage or treatment facilities or s. NR 680.06 (11) and (12) for disposal facilities. Major modifications of licenses and plan approvals under sub. (2) and minor modifications of licenses and plan approvals under subs. (3) and (4) are subject to the procedures of sub. (5).

(1) **EXPANSIONS.** No person may expand a hazardous waste facility without first obtaining written approval of the necessary plans and reports required in s. NR 680.06. All changes which do not constitute expansion are modifications. Changes that are expansions include the following:

(a) Material and substantial alterations or additions to a facility or activity, including the addition of any new treatment, storage or disposal process or unit.

(b) Increases in the design capacity of any treatment, storage or disposal process or unit.

(c) Any addition of any new hazardous waste to the list of hazardous wastes that the facility is authorized by the department to manage. This change may not be considered an expansion if the department determines that the new waste to be managed is not substantially different than any of the wastes which the facility is already authorized to manage, and the addition of the new waste will not significantly affect the facility's operation any other way.

(d) Increases in the maximum inventory of waste specified in the facility's closure plan, if the increase causes an increase in the design capacity of any treatment, storage or disposal process or unit.

(e) Reconstruction. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50% of the capital cost of a comparable entirely new hazardous waste facility.

(2) **MAJOR MODIFICATIONS.** Major modifications of licenses and plan approvals include only those changes for facilities with operating licenses which are made for the following reasons, but do not include changes which are also minor modifications under sub. (3):

(a) The owner or operator proposes to change the facility's operation in such a way so as to not constitute an expansion.

(b) The department determines that good cause exists for modification of a compliance schedule at the licensee's request, such as an act of God, strike, flood, or materials shortage or other events over which the licensee has little or no control and for which there is no reasonably available remedy.

(c) The department has established that one or more of the conditions in s. 144.44 (3) (d), Stats., exists, necessitating a modification of the design or construction requirements of the facility's plan approval.

(d) The operational requirements on which the license, plan approval or interim license were based have been changed by statute through promulgation of amendments or revisions to chs. NR 600 to 685, or by judicial decision after the license, plan approval or interim license was issued.

(e) The department has received new information that was not available previously, such as information revealed in monitoring results, reports, plans, submittals, records and inspection results, if the cause specified in par. (f) also exists.

(f) The department determines that a modification is necessary in order for the licensee to meet the conditions of the facility's plan approval, the requirements of chs. NR 600 to 685, or any of the additional requirements specified in s. NR 680.42 (5).

(g) Notwithstanding any other provisions of this chapter, when a plan submittal or license renewal application is received by the department in accordance with s. NR 680.45 (8), the department shall condition the plan approval or operating license as necessary to ensure that the facility continues to comply with all applicable requirements of chs. NR 600 to 685.

(3) MINOR MODIFICATIONS FOR FACILITIES WITH OPERATING LICENSES. Minor modifications of licenses and plan approvals may be made only with the consent of the owner or operator if the change is for a facility which has an operating license issued under this chapter. If the owner or operator of a facility with an operating license does not consent to a plan approval or license change listed in this paragraph, the change shall be treated as a major modification under sub. (2). For facilities with operating licenses, minor modifications may only:

(a) Correct typographical errors,

(b) Require more frequent monitoring or reporting by the owner or operator,

(c) Change an interim compliance date in a schedule of compliance, if new date is not more than 120 days after the date specified in the existing license or plan approval and the change does not interfere with attainment of the final compliance date requirement,

(d) Allow for a change in ownership or operational control of a facility where the department determines that no other change in the license or plan approval is necessary, if a written agreement containing a specific date for transfer of license or plan approval responsibility, coverage and liability between the current and new owner or operator has been submitted to the department,

(e) Change the lists of facility emergency coordinators or equipment in the owner or operator's contingency plan,

(f) Change estimates of maximum inventory under s. NR 685.05 (2) (c),

(g) Change estimates of expected year of closure or schedules for final closure under s. NR 685.05 (3) (b),

(h) Approve periods longer than 90 days or 180 days under s. NR 685.05 (6) and (7),

(i) Change the operating requirements in the license or plan approval for conducting a trial burn, if the change is not significant, or

(j) Change the ranges of the operating requirements in the license or plan approval to reflect the results of a trial burn, if the change is not significant,

(k) Grant one extension of the time period for determining operational readiness following completion of construction, for up to 720 hours operating time for treatment of hazardous waste.

(4) **MINOR MODIFICATIONS FOR FACILITIES WITHOUT OPERATING LICENSES.** Minor modifications of interim licenses and plan approvals may be made by the department if the change is for a facility which does not have an operating license issued under this chapter. For facilities without an operating license, minor modifications may authorize or require any change at the facility if the change is not an expansion under sub. (1).

(5) **PROCEDURE.** In addition to any procedures required or authorized by ss. 144.431 (2) (a) and 144.44, Stats., for modification of licenses or plan approvals, the procedures of this subsection apply.

(a) *Requests and time for department response.* Licenses, including interim licenses, and plan approvals may be modified either at the request of any interested person, including the licensee, or upon the department's initiative. All requests shall be in writing and shall contain facts or reasons supporting the request. The department shall determine if a request is complete within 30 business days after receiving the request. The department shall review and approve, conditionally approve or deny a request and issue its final determination within 105 business days after receiving a complete request. The department shall advise, in writing, the requestor and the owner or operator if the owner or operator is a different person, of the receipt of the request and its determination on the request.

(b) *Preliminary determination and notice.* 1. Upon determining that a request is complete or upon initiating a modification, the department shall issue its preliminary determination on the modification. If the department initiates or proposes to approve or conditionally approve a major modification the preliminary determination shall include but need not be limited to the information required to be contained in RCRA draft permits under 40 CFR 124.6 (d) as of July 1, 1990.

2. Upon issuing its preliminary determination on a modification, the department shall also issue a notice of its preliminary determination.

3. If the department initiates or proposes to approve or conditionally approve a major modification, the notice shall include but need not be limited to, the information required to be contained in RCRA notices under 40 CFR 124.10 (d) as of July 1, 1990.

Note: The publication containing the CFR references may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

4. Notice of a preliminary determination to disapprove a request need not be issued to anyone other than the requestor and the owner or operator. If the department initiates or proposes to approve or conditionally approve a major modification, it shall publish a class I notice under ch. 985, Stats., in the official newspaper designated under s. 985.04 or 985.05, Stats., if one exists, in a major local newspaper of general circulation in Register, August, 1992, No. 440

the area of the facility and by broadcast over local radio stations and it shall distribute the notice by mailing a copy of it to the requestor, the owner or operator of the facility, the U. S. environmental protection agency, the U. S. fish and wildlife service, the advisory council on historic preservation, other state agencies having any authority with respect to the construction or operation of the facility, the clerk of each affected municipality, the main library in each affected municipality and persons on a mailing list which shall be developed by including those who request in writing to be on the list, by soliciting persons for "area lists" from participants in past approval proceedings in that area, and by notifying the public of the opportunity to be put on the mailing list. In addition, the department may distribute the notice by any other method likely to give actual notice to persons potentially affected by it.

5. If the department initiates or proposes to approve or conditionally approve a major modification, the notice shall invite the submission of written comments by any person within 45 days after the notice is published and shall describe the method by which an informational hearing under par. (d) 3. may be requested by any person.

6. The department may disapprove major modifications and make minor modifications of licenses and plan approvals without inviting written comment or offering an opportunity for a public informational hearing. Notice of preliminary determinations on minor modifications and on disapprovals of major modifications shall be sent by first class mail to the owner or operator and the requestor.

(c) *Fact sheet.* The department shall prepare a fact sheet that briefly sets forth the principal facts and the significant factual, legal, methodological and policy questions considered in initiating or preparing the proposed approval or conditional approval of a major modification. The department shall send the fact sheet to the requestor, the owner or operator and, on request, to any other person. The fact sheet shall include:

1. A brief description of the type of facility or activity which is the subject of the preliminary determination;

2. The type and quantity of wastes which are being or are proposed to be treated, stored or disposed of;

3. A brief summary of the basis for the proposed conditions of approval including references to applicable statutory or administrative code provisions and appropriate supporting references to the administrative record required by par. (f);

4. Reasons why any requested variances or alternatives to required standards do or do not appear justified;

5. A description of the procedures for reaching a final determination including the beginning and ending dates of the comment period under par. (b) 5., the address where comments shall be received, procedures for requesting a hearing and the nature of the hearing, and any other procedures by which the public may participate in the final determination; and

6. The name and telephone number of a person to contact for additional information.

(d) *Informational hearing.* 1. Under s. 227.42 (5), Stats., informational hearings under this paragraph are not contested cases. Hearings under

this subdivision are held as part of the process for approving a feasibility report, plan of operation or license under s. 144.44 or 144.64, Stats., and are therefore exempt from s. 227.42 (1), Stats.

2. The department shall hold an informational hearing whenever it finds, on the basis of requests, a significant degree of public interest in a proposed major modification of a license or plan approval.

3. If, during the 45 day written comment period the department receives written notice of opposition to a major modification initiated by the department or to a request for a major modification and its proposed approval or conditional approval accompanied by a request for an informational hearing, it shall hold an informational hearing on the proposed major modification of the license or plan approval. Requests for a hearing shall be in writing and state the nature of the issues to be raised in the hearing. Hearings under this subdivision shall be held after at least 30 days notice but no sooner than 30 days after the issuance of the notice under par. (b) 2., and no later than 45 days after the close of the written comment period. The hearing shall be held in the area where the facility is located.

4. Notwithstanding s. NR 2.135, the conduct of hearings under this paragraph shall be governed by the procedures of this subdivision. At a hearing held under this paragraph, the presiding officer shall open the hearing and make a concise statement of its scope and purposes. Appearances may be entered on the record. Persons entering an appearance may make statements, present arguments or opinions, offer evidence or ask questions concerning the matter being heard, but the presiding officer may limit oral presentations if the hearing would be unduly lengthened by repetitious testimony. The presiding officer may continue the hearing on another date if it appears there will not be enough time for all who wish to speak. Statements may be submitted in oral or written form. Any person may submit a written statement within the time period allowed by the presiding officer. Statements need not be made under oath. The hearing shall be recorded by use of an electronic recording device. The recording is a public record under s. 19.35, Stats.

(e) *Response to comments.* The department shall issue a response to comments received during the written comment period and at any informational hearing. The department shall indicate any provisions in its preliminary determination that were changed in the final determination and the reason for the change and it shall briefly describe and respond to all significant comments.

(f) *Determination based on administrative record.* The department's final determination shall be based on an administrative record which includes the request and any supporting data furnished by the requestor; the preliminary determination; the fact sheet; all documents cited in the fact sheet; other documents contained in the supporting file for the preliminary determination; the notice; all comments received during the written comment period and at any informational hearing; the department's response to comments; and any other information which the department considered.

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; am. (5) (b) 1. and 3., Register, August, 1992, No. 440, eff. 9-1-92.

NR 680.08 Construction documentation. (1) The department may require a license applicant to submit a construction observation report Register, August, 1992, No. 440

under s. NR 680.05. Factors that the department will consider before requiring the submission of a construction observation report include the types and quantities of hazardous wastes to be stored, treated, recycled or disposed of, the methods of storage, treatment, recycling or disposal and the potential for degradation of the environment and possible adverse human health effects should a discharge of hazardous waste occur.

(2) A registered professional engineer shall document facility construction and render an opinion whether the facility has been constructed in substantial conformity with the plan of operation. The department shall review, and approve, deny or deem incomplete the request for approval of facility construction documentation within 65 business days after receiving the request. Operation of the facility may not commence until the construction documentation report is approved by the department, and, if necessary, a license to operate the facility has been issued by the department.

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

NR 680.09 Construction inspections. (1) **NEW LANDFILLS AND SURFACE IMPOUNDMENTS.** All new landfill and surface impoundment facilities and expansions of existing landfill and surface impoundment facilities for which the plan of operation was not approved prior to March 1, 1991, shall be continuously inspected by a registered professional engineer employed by the department at all times critical construction is ongoing at the facility. Critical construction includes items such as liner and final cover placement, leachate collection system construction, leachate storage and transfer device construction, drainage material placement, gas collection and control device installation, clay borrow source excavation and any other construction items deemed appropriate by the department. In addition, the drilling of all borings, the installation and development of all wells and all infield hydraulic conductivity tests shall be inspected by a hydrogeologist employed by the department. The owner or operator shall pay inspection fees under sub. (3) (a).

(2) **OTHER FACILITIES.** The department may require as a condition of the approval of a feasibility and plan of operation report, groundwater monitoring plan, closure plan, closure and long term care plan or any report dealing with investigation or remedial actions at solid waste management units, or as a modification to any approval that critical construction steps be inspected by the department. The owner or operator shall pay the inspection fee under sub. (3) (b).

(3) **CONSTRUCTION INSPECTION FEES.** (a) The owner or operator of a facility subject to sub. (1) shall pay an inspection fee of \$50.00 per hour for each hour of time incurred by the department technical staff in conducting inspections and any associated work. Payment shall be made within 60 days of receipt of an itemized statement documenting the time spent and work performed.

(b) A construction inspection fee of \$500.00 per inspection required under sub. (2) shall be paid to the department by the owner or operator at the time a construction documentation report is submitted or as specified in the plan approval.

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

NR 680.10 Retention of records. Any person who submits any report or plan under this chapter shall keep records of all data used to complete the

report or plan and any supplemental information submitted for a period of at least 3 years from the date the report or plan is signed under s. NR 680.05 (2), sealed under s. NR 680.05 (1) (c) 1., or submitted to the department, or for the duration of the time period in which the license, variance or approval is in force, whichever is longer.

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

NR 680.20 Eligibility for an interim license. (1) **GENERAL.** Any person who operates a hazardous waste facility which may be authorized by the department, under s. 144.64 (2) (c), Stats., to receive hazardous waste pending the issuance of a hazardous waste facility operating license, and which was in existence on November 19, 1980, or on a later date which is the original effective date of the statute or rule which first required the facility to obtain an operating license, may continue the regulated activity prior to the issuance of an operating license only if an interim license application was submitted to the department within 3 months after the original effective date of a statute or rule that first rendered the facility subject to the requirement to obtain an operating license.

(2) **LATE APPLICATIONS.** The department may, by granting a written exemption under par. (b), allow a person who did not terminate a regulated activity under s. NR 680.60 and did not complete, sign or submit an interim license application to the department by the date referred to in sub. (1) to complete, sign and submit an interim license application to the department after the date referred to in sub. (1), if:

(a) The facility for which the application is prepared was in existence on November 19, 1980; and

(b) 1. The owner and operator of the facility for which the application is prepared have submitted, to the EPA, part A of the application for an EPA hazardous waste permit, as required under the resource conservation and recovery act and have qualified for interim status, or have been allowed to continue to operate by a compliance order issued by EPA under 42 USC 6928 (a);

Note: The publication containing Title 42 of the United States Code may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

2. The facility for which the application is prepared is exempt from permitting or has a final permit under the resource conservation and recovery act; or

3. The requirements of s. NR 680.21 (3) are met.

(3) Subsection (1) does not apply to any facility which has been previously denied a hazardous waste operating license or if authority to operate the facility under this chapter has been previously terminated.

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

NR 680.21 Application for an interim license. (1) An interim license application shall contain the following:

(a) Two current part A forms of the application for an EPA hazardous waste permit, as required under the resource conservation and recovery act, including all the required maps, drawings and photographs.

Register, August, 1992, No. 440

Note: The part A application form and instructions may be obtained from the department of natural resources district offices at no charge.

(b) Two copies of the facility's closure plan as required in s. NR 685.05 and the most recent closure cost estimate as required in s. NR 685.07 (2), (3) (a) and (4) (a).

(c) Two copies of the facility's long-term care plan as required in s. NR 685.06 and the most recent long-term care cost estimate as required in s. NR 685.07 (2).

(d) Two copies of the facility's contingency plan as required in ss. NR 630.21 and 630.22 (1) and (2).

(e) The required fee as specified in s. NR 680.45.

(f) The department may require that the owner or operator submit copies of all available drawings, specifications, any prior plan approval letters, any applicable solid waste licenses and license applications, monitoring data, including groundwater monitoring, waste analysis, waste analysis plans and any other existing information which is necessary to complete the interim license application. The department shall request information in writing at the time the application is requested under s. NR 680.21, or after the application is received. The department shall specify a reasonable amount of time for the owner or operator to submit the information.

(g) The department may require that the interim license application include a description of how the facility meets the interim license requirements of s. NR 680.22. The department may also gather the necessary information to determine how the facility complies through an inspection.

(h) The application shall be submitted under the signature of the owner and operator as specified in s. NR 680.05 (2).

(2) The department shall grant or deny any request for an exemption under s. NR 680.20 (2) within 45 business days of receipt of a request. If the department denies the exemption request under s. NR 680.20 (2), the owner or operator of the facility shall terminate the regulated activity in accordance with ss. NR 680.60 and 685.04. If the department grants the exemption under s. NR 680.20 (2), the owner and operator of the exempted facility shall complete, sign and submit an interim license application to the department, in accordance with sub. (1), within 30 days after the owner or operator is notified that the exemption is granted, and the owner or operator of the exempted facility shall:

(a) Submit to the department proof of financial responsibility for closure, and if applicable, long-term care, as required by s. NR 685.07, within 60 days after the owner or operator is notified that the exemption is granted;

(b) Submit to the department a signed duplicate original of the hazardous waste facility liability endorsement or a certificate of liability insurance, for each insurance policy, as required by s. NR 685.08, within 180 days after the owner or operator is notified that the exemption is granted.

(3) Facilities which do not meet the conditions of s. NR 680.20 (1) and (2) shall submit the reports and plans needed for the issuance of an oper-

ating license as specified in ss. NR 680.05 and 680.31 according to a compliance schedule established by the department as a condition of an interim license, if the interim license application submitted under s. NR 680.21 is approved.

(4) **PROOF OF FINANCIAL RESPONSIBILITY.** An owner or operator who submits an interim license application to the department shall submit to the department proof of financial responsibility for closure, and if applicable, long-term care, as required by s. NR 685.07.

(5) **LIABILITY INSURANCE.** An owner or operator who has submitted an interim license application to the department shall submit to the department a signed duplicate original of the hazardous waste facility liability endorsement or a certificate of liability insurance, for each insurance policy, as required by s. NR 685.08, or within the time periods specified in s. NR 660.19 (4) for surface impoundments with discharges regulated under ch. 147, Stats.

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

NR 680.22 Interim license requirements. No person may operate or maintain a hazardous waste facility after an interim license application has been submitted to the department in accordance with s. NR 680.21, or after an interim license has been granted to the facility under s. NR 680.24, unless the facility meets the requirements of this section which apply until an operating license under s. NR 680.32 is issued, where applicable to the type of hazardous waste management that takes place at the facility:

- (1) Environmental and health standards in s. NR 630.05.
- (2) Underground injection and land treatment requirements in s. NR 600.04.
- (3) Identification number requirements in s. NR 630.11.
- (4) Notice requirements in s. NR 630.10.
- (5) General waste analysis requirements in s. NR 630.12.
- (6) Waste analysis plan requirements in s. NR 630.13 (1).
- (7) Open burning and detonation requirements in s. NR 630.20 (1).
- (8) Generation and removal requirements in s. NR 630.20 (4).
- (9) Closure of noncomplying portions requirement in s. NR 630.20 (5).
- (10) General requirements for ignitable, reactive or incompatible wastes in s. NR 630.17 except s. NR 630.17 (3).
- (11) General site selection requirements in s. NR 630.18.
- (12) Security requirements in s. NR 630.14.
- (13) Contingency plan requirements in ss. NR 630.21 and 630.22 (1) and (2).
- (14) Personnel training requirements in s. NR 630.16.
- (15) Manifest, recordkeeping and reporting requirements in ss. NR 630.30, 630.31 and 630.40, except s. NR 630.31 (1) (j).

Register, August, 1992, No. 440

(16) General inspection requirements in s. NR 630.15.

(17) Closure requirements in ss. NR 640.16 (2), 645.17 (1) and (2), 655.11 (2), 660.15 (3), 660.16 (5), 660.19 (14), 665.10, 670.09 and 685.05.

(18) Long-term care requirements in ss. NR 660.17, 660.19 (15) and 685.06.

(19) Proof of financial responsibility for closure, and if applicable, long-term care requirements in s. NR 685.07, except as provided in s. NR 680.21 (4).

(20) Facility liability requirements in s. NR 685.08, except as provided in s. NR 680.21 (5).

(21) General storage standards in ss. NR 640.11 (1), 640.12 (1), 640.13 (2) and (3), 640.15 (2) and 640.16 (2).

(22) Tank storage and treatment standards in ch. NR 645.

Note: An interim license application that includes a request for a variance from the secondary containment requirements of s. NR 645.09 shall include the information required by s. NR 645.09 (9) and the applicant shall follow the procedures required by s. NR 645.09 (10).

(23) Container storage and treatment standards in ss. NR 640.09, 640.11 (2) and (3), 640.14, 640.15 (1), (2), (a) and (b) and 640.10.

(24) Waste pile storage standards in ch. NR 655 except s. NR 655.05 (2) and, notwithstanding this exception, s. NR 660.13 (3).

(25) Landfill and surface impoundment operational requirements in ss. NR 660.12 and 660.13, except as provided under ch. 147, Stats. In addition, landfills and surface impoundments are not required to comply with s. NR 660.13 (10), (27), (35) and (36) except landfills and surface impoundments shall comply with s. NR 660.13 (10) for each new unit, replacement of an existing unit or lateral expansion of an existing unit.

(26) Landfill and surface impoundment closure requirements in ss. NR 660.15 and 660.16.

(27) Landfill and surface impoundment long-term care requirements in s. NR 660.17.

(28) Landfill and surface impoundment groundwater, leachate and other monitoring requirements in ch. NR 635. Pursuant to s. NR 600.07, the department may require the owner or operator of other hazardous waste facilities, including treatment and storage facilities, to comply with all or part of the requirements of ch. NR 635.

(29) Incinerator operational requirements in s. NR 665.09 (3), (4), (5), (13) (b), (16), (17) and (11) (d).

(30) Treatment facility operational requirements in s. NR 640.06 and ss. NR 645.10 and 670.08. For the purpose of this section, these treatment facility operational requirements shall apply to incinerators.

(31) For surface impoundments with discharges regulated under ch. 147, Stats., surface impoundment operational requirements in s. NR 660.19 (4), (10) and (11), except (11) (b). In addition, the facilities are not required to comply with s. NR 660.13 (5) to (16) and (23) to (25).

(32) For owners or operators of facilities which treat, store or dispose of the hazardous wastes in ch. NR 675, the ch. NR 675 requirements.

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; am. (23), cr. (32), Register, August, 1992, No. 440, eff. 9-1-92.

NR 680.23 Operation while interim license is pending. The timely submission of an interim license application to the department allows an existing hazardous waste facility to continue to operate until the applicant is advised that the interim license application has been approved or disapproved. The facility may not treat, store or dispose of hazardous waste not specified in the interim license application; employ processes not specified in the interim license application; or exceed the design capacities specified in the interim license application.

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

NR 680.24 Advisement of interim license. (1) The department shall advise the applicant of the receipt of a complete interim license application within 20 business days and shall notify the applicant that the application has been approved or disapproved within 130 business days of the date on which a complete application is received by the department.

(2) Advisement of the approval of an interim license application shall signify the beginning of the interim license period, and shall, unless the interim license is later revoked, allow an operator of an existing hazardous waste facility or operational unit within a facility to operate the facility until a final determination on the issuance of an operating license under s. NR 680.32 is made by the department. The owner or operator of a hazardous waste facility or operational unit within a facility shall terminate the regulated activity and close the facility or operational unit in accordance with ss. NR 680.60 and 685.04 if its interim license application is disapproved, if its interim license is revoked prior to the issuance of an operating license under s. NR 680.32, if any of the reports or plans required under s. NR 680.21 (3) or 680.22 are disapproved or an application for an operating license is denied. The department may issue an interim license for one or more operational units within a facility without affecting the license status of any other operational unit within that facility.

(3) The owner or operator of a hazardous waste disposal facility operating under an interim license shall pay to the department waste management fund fees under s. NR 685.09.

(4) Except as provided in s. NR 680.21 (3), dates for the submission of reports and plans needed for the issuance of an operating license as specified in ss. NR 680.05 and 680.06 may be established by the department in a compliance schedule at any time during the interim license period. However, the department shall provide at least 6 months notice for the submission of all plans and reports required in the compliance schedule.

(5) The owner or operator of a hazardous waste facility operating under an interim license shall submit to the department a signed duplicate original of the hazardous waste facility liability endorsement or a certificate of liability insurance, for each insurance policy, as required by s. NR 685.08, by December 28, 1985, or within the time periods specified in s. NR 660.19 (4) for surface impoundments with discharges regulated under ch. 147, Stats.

Register, August, 1992, No. 440

(6) Prior to approving an interim license application from an owner or operator of a storage or treatment tank system who is seeking a variance under s. NR 645.09 (9) from secondary containment requirements, the department shall:

(a) Inform the public, through a newspaper notice, of the availability of the demonstration in support of a variance, as allowed by s. NR 645.09 (9) and (10). The notice shall be placed in a daily or weekly major local newspaper of general circulation and shall provide at least 30 days from the date of the notice for the public to review and comment upon the demonstration in support of a variance. The department also may hold a public hearing, in response to a request or at its own discretion, whenever a hearing might clarify one or more issues concerning the demonstration in support of a variance. Notice of the hearing shall be given at least 30 days prior to the date of the hearing and may be given at the same time as the notice of the opportunity to review and comment upon the demonstration. These 2 notices may be combined.

(b) Approve or disapprove the request for a variance within 65 business days of receipt of the demonstration from the owner or operator and shall notify in writing the owner or operator and each person who submitted written comments or requested notice of the variance decision. If the demonstration for a variance is incomplete or does not include sufficient information, the 65 business day period begins when the department receives a complete demonstration, including all information necessary to make a final determination. If the public comment period in par. (a) is extended, the 65 business day period will be similarly extended.

(7) The owner or operator of a facility which has not obtained an interim license due to the withdrawal or denial of the interim license application or which no longer has an interim license or a variance and has not received a written determination from the department that closure was completed in accordance with ss. NR 680.60 and 685.04 shall either:

(a) Submit the signed duplicate original of the hazardous waste facility liability endorsement or the certificate of liability insurance, by December 28, 1985, or within the time periods specified in s. NR 660.19 (4) for surface impoundments with discharges regulated under ch. 147, Stats.; or

(b) Apply for department authorization to cancel the liability insurance requirement in accordance with s. NR 685.08 (4), if that closure has been completed in accordance with ss. NR 680.60 and 685.04 by December 28, 1985.

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

NR 680.30 Eligibility for an operating license. For a new facility, the applicant may not commence treatment, storage or disposal of hazardous waste, and for a facility being modified or expanded the licensee may not treat, store or dispose of hazardous waste in the modified or expanded portion of the facility, until the licensee has received written approval from the department in the form of an operating license. Changes in the types of hazardous wastes handled or changes in the processes used to treat, store or dispose of hazardous wastes may constitute a facility modification or expansion. The owner or operator shall give prior written notice to the department of any plans to change facility operation so the

department can determine whether a change constitutes a facility modification or expansion. The licensee may not treat, store or dispose of hazardous waste in any newly constructed, modified or expanded portion of a facility, if the department has determined that the construction requires submittal of a plan report and subsequent approval, until:

(1) The requirements of s. NR 680.31 are met for a newly constructed facility;

(2) The licensee has submitted to the department, by certified mail or hand delivery, a construction observation report signed by the licensee and sealed by a registered professional engineer, documenting that the construction is in compliance with the license and any department plan approval; and

(3) (a) The department has inspected the newly constructed, modified or expanded portion of the facility and finds it in compliance with the license and any department plan approval; or

(b) The department has notified the licensee in writing that the inspection requirement under par. (a) is waived.

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

NR 680.31 Application and requirements for an operating license. (1) The initial operating license for a facility or hazardous waste management unit within a facility may not be issued until all of the plans, reports and requirements of chs. NR 600 to 685 have been satisfied and approved by the department. Plans, reports and requirements include, but are not limited to, items such as initial site reports, feasibility reports, plans of operation, construction observation reports, closure and long-term care plans, contingency plans and emergency procedures, financial requirements for closure and long-term care and facility liability requirements. The department may issue an initial operating license for one or more operational units within a facility without affecting the license status of any other operational unit within that facility.

(2) An application for an operating license shall be submitted on forms available from by the department and shall be accompanied by the fee specified in s. NR 680.45.

Note: Application forms for licenses may be obtained from the Department of Natural Resources, Bureau of Solid and Hazardous Waste Management, 101 S. Webster St., P.O. Box 8094, Madison, Wisconsin 53708, at no charge.

(3) The license application shall be signed in accordance with s. NR 680.41.

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

NR 680.32 Operating license issuance. (1) The issuance of an operating license for a facility engaged in the treatment, storage or disposal of hazardous waste is regulated by ss. 144.44 (4) and 144.64 (2), Stats.

(2) The owner or operator of facility engaged in the treatment, storage or disposal of hazardous waste may not operate the facility prior to receiving a final license unless the facility is operating under an interim license, variance or waiver, or is exempt from licensing.

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91.
Register, March, 1993, No. 447

NR 680.40 Effect of a license. (1) The issuance of a license does not authorize any injury to persons or private property, any invasion of other private rights, or any infringement of federal, state or local law.

(2) Compliance with a license during its term constitutes compliance with ss. 144.60 to 144.74, Stats., except for those requirements not included in the license which become effective by statute, or which are set out in chs. NR 600 to 699 restricting the placement of hazardous wastes in or on the land.

Note: A license may be revoked during its term or its renewal may be denied for any of the reasons set forth in s. NR 680.43 (1) and (3). A license or a plan approval may be modified for cause, as set forth in s. NR 680.07 (3).

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

NR 680.41 Signatories to license applications. (1) All license applications including interim license applications, shall be signed as follows, by both the operator and the owner where a facility is operated by one person and owned by another:

(a) For a corporation, by a responsible corporate officer. For the purpose of this paragraph a responsible corporate officer means:

1. A president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

2. The manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, in second-quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: The department does not require specific assignments or delegations of authority to responsible corporate officers identified in par. (a) 1. The department will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the department to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under par. (a) 2. rather than to specific individuals.

(b) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(c) For a government or public agency, by either a principal executive officer or ranking elected official. For the purposes of this paragraph, a principal executive officer of a federal agency includes:

1. The chief executive officer of the agency; or

2. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(2) Any person signing a document under sub. (1) shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted, is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations.”

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

NR 680.42 Conditions applicable to all licenses. All of the conditions applicable to a license shall be incorporated into the license either expressly or by reference. The following conditions shall apply to all licenses, including interim licenses:

(1) The licensee shall comply with all conditions of the license, the provisions of ch. 144, Stats., the applicable requirements of chs. NR 600 to 685, any plan approval and modifications thereof and any special order and modifications thereof issued by the department, except as otherwise authorized by the department under ss. NR 680.50 and 680.51.

(2) If a licensee wishes to continue an activity regulated by a license after the expiration date of the license, the licensee shall apply for a new license. Section 227.51 (2), Stats., provides: “When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally acted upon by the agency, and, if the application is denied or the terms of the new license are limited, until the last day for seeking review of the agency decision or a later date fixed by order of the reviewing court.”

(3) It is not a defense for a licensee in an enforcement action that it would have been necessary to halt or reduce the licensed activity in order to maintain compliance with the conditions of the license.

(4) All renewal applications, and all reports or other information submitted to the department by the licensee shall be signed and certified as specified in s. NR 680.41.

(5) For a new facility, the licensee may not commence treatment, storage or disposal of hazardous waste, and for a facility being modified or expanded the licensee may not treat, store or dispose of hazardous waste in the modified or expanded portion of the facility, until the licensee has received written approval from the department. Changes in the types of hazardous wastes handled or changes in the processes used to treat, store or dispose of hazardous wastes may constitute a facility modification or expansion. The owner or operator shall give prior written notice to the department of any plans to change facility operation so the department can determine whether the change constitutes a facility modification or expansion. The licensee may not treat, store or dispose of hazardous waste in any newly constructed, modified or expanded portion of a facility, if the department has determined that the construction requires a plan or report submittal and subsequent approval, until:

(a) The requirements of s. NR 680.31 are met for a newly constructed facility;

(b) The licensee has submitted to the department, by certified mail or hand delivery, a construction observation report signed by the licensee and sealed by a registered professional engineer, documenting that the construction is in compliance with the license and any department plan approval; and

(c) 1. The department has inspected the newly constructed, modified or expanded portion of the facility and finds it in compliance with the license and any department plan approval; or

2. The department has notified the licensee in writing that the inspection requirement under subd. 1. is waived.

(6) The licensee shall at all times maintain in good working order and operate efficiently all facilities and systems of treatment or control and related appurtenances which are installed or used by the licensee to achieve compliance with the terms and conditions of the license. Proper operation and maintenance includes, but is not limited to, effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

(7) The licensee shall, upon the request of any officer or employe of the department, allow departmental personnel, at reasonable times and with notice no later than upon arrival, to:

(a) Enter the licensee's premises where a regulated facility or activity is located or conducted or where hazardous waste records are kept;

(b) Have access to, and copy at reasonable times, records or labels that are being kept;

(c) Inspect at reasonable times any facility's equipment, including monitoring equipment, or operations regulated under the license; and

(d) Sample or monitor any substance or parameters at any location where a regulated facility or activity is located or conducted, in compliance with the requirements of s. 144.69, Stats.

(8) The licensee shall report to the department any noncompliance which may endanger human health or the environment. The information which is required to be included in a written report under this subsection shall be provided orally to the appropriate district office of the department within 24 hours from the time the licensee becomes aware of the circumstances. A written report shall be submitted within 5 days of the time the licensee becomes aware of the circumstances. The department may allow the licensee up to 15 days to submit a written report if an extension is requested by the licensee. The written report shall contain:

(a) Name, address and telephone number of the owner or operator.

(b) Name, address and telephone number of the facility.

(c) A description of the noncompliance and the period of noncompliance, including exact date and time, and if the noncompliance has not been corrected, the anticipated time the noncompliance is expected to continue.

(d) Name and quantity of material involved.

(e) The extent of injuries, if any.

(f) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable, including information concerning the release of any substance which may cause contamination of a drinking water supply.

(g) Estimated quantity and disposition of recovered material that resulted from the incident.

(h) The known or suspected causes of the noncompliance and a statement describing the measures taken to investigate the noncompliance to determine its cause.

(i) Steps taken, or planned, to reduce or eliminate and prevent recurrence of the noncompliance.

(9) The licensee shall notify the division of emergency government and comply with the requirements of s. NR 630.22 (2), s. 144.76, Stats., and ch. NR 158 if a discharge of hazardous waste or hazardous substance, or a fire or explosion occurs at the licensed facility.

(10) In the event of noncompliance with the license, the licensee shall take all necessary steps to minimize discharges to the environment, and shall take all necessary steps to minimize any adverse impacts on human health or the environment.

(11) (a) Monitoring results shall be reported at the intervals and format specified in the approved plan of operation or license and in accordance with s. NR 630.40.

(b) The licensee shall meet all requirements specified in the plan of operation or license concerning the proper use, maintenance and installation, when appropriate, of monitoring equipment or methods, including biological monitoring methods, when appropriate.

(c) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(d) The licensee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the license, records of all data used to complete the application for the license, and, except for facilities operating under an interim license, the waste minimization certification required by s. NR 630.31 (1) (j), for a period of at least 3 years from the date of the sample, measurement, report, application or certification. This period may be extended by request of the department at any time. The licensee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the long-term care period as well.

(e) Records for monitoring information shall include;

1. The date, exact place and time of sampling or measurements;
2. The individuals who performed the sampling or measurements;
3. The dates analyses were performed;
4. The individuals who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of the analyses.

(f) The licensee shall report, at the time monitoring results are submitted, all instances of noncompliance not reported under sub. (8). Reports shall contain the information required in sub. (8) (a) to (i).

(12) Reports of compliance with, and any progress on, interim and final requirements contained in any compliance schedule under the license shall be submitted no later than 14 days following each schedule date.

(13) The licensee shall within a reasonable time furnish information to the department needed to determine whether cause exists to modify, suspend or revoke the license or to determine compliance with the license. The licensee shall also furnish to the department, upon request, copies of records required by the license.

(14) The license does not convey any property rights of any sort, or any exclusive privilege.

(15) The following reports shall be submitted to the department:

(a) *Manifest discrepancy report.* If a significant discrepancy in a manifest as explained in s. NR 630.30 (6) is discovered, the licensee shall attempt to reconcile the discrepancy. If not resolved within 15 days, the licensee shall submit a report, including a copy of the manifest, to the department as required by s. NR 630.30 (6).

(b) *Unmanifested waste report.* An unmanifested waste report shall be submitted to the department within 15 days of receipt of unmanifested waste as required by s. NR 630.40 (2).

(c) *Annual report.* An annual report shall be submitted covering facility activities during the previous calendar year as specified in s. NR 630.40 (1).

(d) *Additional reports.* Additional reports as specified in s. NR 630.40 (3) shall be submitted if necessary.

(16) The licensee shall submit required documentation and take any action necessary to ensure protection of human health and the environment. The department may require documentation or action after inspecting the facility or reviewing any submittals, reports or plans.

(17) The license may be modified, suspended or revoked for the reasons outlined in ss. NR 680.43 and 680.45. The submittal of a request by the licensee for license modification, suspension or revocation or a notification of planned changes or anticipated noncompliance, does not stay the effectiveness of any license condition.

(18) Where the licensee becomes aware that there was a failure to submit relevant facts in any reports, plans or other information submittal, or that incorrect information was submitted, the licensee shall promptly submit the facts or information to the department.

(19) In addition to the conditions required for all licenses, the department may establish conditions, as required on a case-by-case basis, to ensure compliance with chs. NR 600 to 685.

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

NR 680.43 Revocation or denial of licenses. (1) A hazardous waste facility operating license may be revoked during its term, or its renewal may be denied, for any one of the following reasons:

(a) Failure of the licensee to pay the waste management fees specified in s. NR 685.09 or the license fees specified in s. NR 680.45.

(b) Failure to operate the facility in accordance with the facility's approved plan of operation.

(c) Failure to comply with chs. NR 600 to 685.

(d) Failure to disclose fully all relevant facts in a feasibility report, plan of operation or license application or in a review of a feasibility report, plan of operation or license.

(e) Misrepresentation of any relevant fact at any time.

(f) Operation of the facility in a way that endangers human health or the environment to the extent that revocation of the license is the only way to provide an acceptable level of protection.

(2) An interim license may be revoked during its term for any of the following reasons:

(a) Failure to comply with the applicable interim license requirements set forth in s. NR 680.22.

(b) Failure to submit complete plans or reports required by a compliance schedule within 14 days following the date on which they are due under the schedule.

(c) Failure to pay the waste management fund fees specified in s. NR 685.09.

(d) Failure to disclose fully all relevant facts in a feasibility report, plan of operation or license application or in a review of a feasibility report, plan of operation or license.

(e) Misrepresentation of any relevant fact at any time.

(f) Operation of the facility in a way that endangers human health or the environment to the extent that revocation of the license is the only way to provide an acceptable level of protection.

(3) An interim license for a land disposal facility is revoked and authority to operate a hazardous waste facility under it terminates 12 months after the date on which the facility first becomes subject to the requirement to have a hazardous waste operating license unless the owner or operator:

(a) Submits a feasibility report and plan of operation for a hazardous waste operating license for the facility; and

(b) Certifies that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(4) An interim license is revoked and authority to operate a hazardous waste facility under it terminates for any facility other than incineration and land disposal on November 8, 1992, unless the owner or operator of the facility has submitted a feasibility report and plan of operation or a feasibility and plan of operation report for a hazardous waste operating license for the facility by November 8, 1988.

(5) Any person who owns or operates a hazardous waste facility which has had its operating license or interim license denied or revoked under Register, August, 1992, No. 440

subs. (1), (2), (3) or (4) shall close the facility in accordance with ss. NR 680.60 and 685.04.

(6) The department may deny or revoke a license, including an interim license for one or more operational units within a facility, without affecting the license status of other operational units.

(7) The department shall review each license, other than interim licenses, every 2 years to determine whether the license shall be revoked for one or more of the reasons listed in sub. (1).

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

NR 680.44 Transfer of licenses. (1) Whenever rights of ownership, possession or operation in a licensed hazardous waste facility, including facilities with interim licenses, are transferred, licensing shall be in accordance with s. 144.444, Stats.

(a) Written documentation of the acquisition of rights and a written agreement containing a specific date of transfer of responsibility shall be submitted to the department by the new owner or operator. Prior to the transfer of a license, including an interim license, the new owner or operator shall submit 2 revised part A forms in accordance with s. NR 680.21 (1) (a) and the required notifications to comply with s. NR 600.05, within 90 days prior to the scheduled transfer of responsibility.

(b) For facilities with operating licenses, the new owner or operator shall submit an application for an operating license within 90 days prior to scheduled transfer of responsibility, on a form available from the department.

(2) Transfer of responsibility requests shall be submitted to the department by the licensee as a request to modify a license or plan approval under s. NR 680.07 (5) (a). The previous owner shall be responsible for compliance with the closure, long-term care, financial responsibility and liability coverage requirements for the facility specified in s. NR 600.05 and chs. NR 630 to 685, including ss. NR 685.05, 685.06, 685.07 and 685.08, until the person acquiring the rights of ownership, possession or operation has demonstrated compliance with the closure, long-term care, financial responsibility and liability requirements for the facility specified in s. NR 600.05 and chs. NR 630 to 685, including ss. NR 685.05, 685.06, 685.07 and 685.08, to the department, and the department notifies the previous owner, in writing, that an adequate demonstration has been made.

(3) The person acquiring the rights of ownership, possession or operation shall demonstrate to the department compliance with the closure, long-term care, financial responsibility and liability coverage requirements in s. NR 600.05 and chs. NR 630 to 685, including ss. NR 685.05, 685.06, 685.07 and 685.08 within 6 months after the transfer of responsibility. The previous owner shall continue to be responsible for compliance with the closure, long-term care, financial responsibility and liability coverage requirements in s. NR 600.05 and chs. NR 630 to 685, including ss. NR 685.05, 685.06, 685.07 and 685.08, if the person acquiring the rights of ownership, possession or operation fails to demonstrate compliance with those requirements.

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

Register, August, 1992, No. 440

NR 680.45 License periods and fees. (1) FEES. (a) The plan review fee or license fee specified in Tables XII or XIII shall accompany all license applications, plans, reports and other documents submitted to the department for approval. Plan review fees and license fees are not transferable, prorable or refundable.

(b) Applicants who fail to submit an application for renewal of an operating license by the deadline specified on the application form shall pay a late processing fee of \$150.00 in addition to the renewal fee.

(2) **LICENSE DURATION.** (a) Except as provided in par. (b), initial operating licenses and transportation service licenses are valid from October 1 or the date of issuance, whichever is later, until September 30, and operating licenses are valid from October 1 until September 30.

(b) The department may deny, suspend or revoke an operating license, including an initial operating license, under s. NR 680.23 or s. 144.64 (2) (e), Stats., and may deny, suspend or revoke a transportation service license under s. NR 620.15 (4) or s. 144.64 (1) (c), Stats.

(3) **APPLICATIONS FOR RENEWAL.** The owner or operator of a storage, treatment or disposal facility shall submit an application to the department for renewal of the operating license by June 1 preceding the license period being applied for. Applications for initial operating licenses and for renewal of operating licenses shall be submitted to the department on forms available from the department.

(4) **ACTION ON APPLICATIONS.** (a) The department shall review and approve or deny an application for renewal of an operating license within 90 days after receiving the request or by the date of expiration of the current license, whichever occurs later.

(5) **CLOSURE AND LONG TERM CARE LICENSE REQUIRED.** The owner or operator or any successor in interest shall have a license during the closure and long-term care period in accordance with s. 144.441, Stats. The license fees are specified in Tables XII or XIII.

(6) **EFFECTIVE PERIOD.** Except as provided in subs. (7) and (8), plan approvals and licenses shall be effective for purposes of annual license renewal, for a fixed period of up to 10 years from the date of the initial operating license issuance. If the licensee chooses to operate or maintain a hazardous waste facility after the effective period ends, then the licensee shall submit, at least 180 days before the end of the effective period, all of the plans and reports which are required before an application for a new operating license may be submitted, as specified in ss. NR 680.31 (1) and 600.05 and the applicable chapters of chs. NR 600 to 685.

(b) The department may modify a license to change the date that the necessary reports are due under s. NR 680.07 (2) and (3).

(c) The department may issue a plan approval or license with an effective period that is less than the 10 year maximum effective period specified in sub. (6).

(7) **EXTENSION OF EFFECTIVE PERIOD OF LICENSE.** (a) The department may modify a license to extend its effective period if the licensee has submitted, in a timely and complete manner, all of the reports and plans specified in sub. (6). The terms and conditions of the license shall remain in force during the extension period.

(8) **PERIODIC REVIEW.** Each plan approval for a land disposal facility shall be reviewed by the department 5 years after issuance of the initial operating license and at 5 year intervals thereafter while the facility remains licensed. The plan approval and license may be modified as necessary under s. NR 680.07.

WISCONSIN ADMINISTRATIVE CODE

TABLE XII
FEE SCHEDULE - ALL FACILITIES EXCEPT LANDFILLS AND SURFACE IMPOUNDMENTS

Plan Review Fees (1) (2)

License Fees (3) (8)

ADM CODE	Facility Type	License Required	Plan Review Required	Interim License Report	Variance Report	Feasibility and Plan of Operation Rpt. (5)	Const Inspect	Site Const Doc	Closure Plan (6)	Major Plan Mod. (4)	Minor Plan Mod. (4)	Corr. Action (7)	Commercial Fac. Commercial Fac. (10) (11)			
													Variance and Final License	Interim License (9)	Variance and Final License	Interim License (9)
620	Transporters	Yes	No										250		250	
625	Recycling	No	Yes									1,000				
640	Container	Yes	Yes	500	1,000	2,500	500	250	1,000	1,000	250	1,000	2,000	4,000	500	1,000
645	Tanks	Yes	Yes	500	1,000	4,000	500	500	1,500	1,000	250	1,000	2,000	4,000	500	1,000
655	Waste Piles	Yes	Yes	500	1,000	4,000	500	500	2,000	1,500	250	1,000	3,000	6,000	1,500	3,000
665	Incinerators	Yes	Yes	500	2,500	12,500	500	1,000	2,000	2,000	250	1,000	4,000	8,000	2,000	4,000
670	Miscellaneous	Yes	Yes	500	1,000	2,500	500	250	1,000	1,000	250	1,000	2,000	4,000	500	1,000

(1) In accordance with s. NR 680.05, all reports and plan sheets shall be made under the seal of a registered professional engineer. Reports where interpretation of geology or hydrogeology is necessary shall be signed by a hydrogeologist.

(2) The plan review fees specified in Table XII cover the department's review from initial submittal through approval or denial of a report or plan. An applicant may revise or supplement a report or plan deemed incomplete and resubmit it without paying an additional review fee. The applicant shall pay a plan review fee as specified in Table XII for resubmittal of a plan which has been previously denied or withdrawn after having been determined to be complete. The department may waive any plan review fee if it determines that the total review time is not likely to exceed 4 hours.

(3) A facility must have a separate license for each hazardous waste management activity it conducts. Final licenses and variances must be renewed annually.

(4) A plan modification, as referred to in Table XII, is a submittal which proposes to modify a license, variance, or plan previously approved by the department.

(5) Certain small storage facilities may not be required to submit a feasibility and plan of operation report in accordance with s. NR 640.07.

(6) Applicants submitting a closure plan as part of a plan of operation or a feasibility and plan of operation report may not be required to pay the closure plan review fee.

- (7) The owner or operator of the facility shall pay a total of \$1,000 plan review fee for each phase of the corrective action program. The phases are facility investigation; selection of alternatives; and remedial design and operation.
- (8) Any facility which cannot clean close will be required to obtain a closure and long-term care license and will be required to pay a \$5,000 Closure and Long-Term Care License Fee. This is a one-time only fee to cover the entire 30-year long-term care period. Transportation services and recycling facilities are exempt from this requirement.
- (9) This fee is a one-time only payment to cover the interim license period until a final determination on the issuance of an operating license is made by the department.
- (10) A commercial facility has the definition in s. NR 600.03 (37).
- (11) A non-commercial facility has the definition in s. NR 600.03 (144).

**TABLE XIII
FEE SCHEDULE - LANDFILLS AND SURFACE IMPOUNDMENTS**

ADM CODE	Facility Type	License Req'd	Plan Review Fees (1) (2)										License Fees (3)			
			Plan Review Req'd	Interim License Report	Initial Site Report	Feas. Report	Plan of Operation Report	Const Inspect	Site Const Doc	Closure Plan (5)	Major Plan Mod. (4)	Minor Plan Mod. (4)	Corr. Action (7)	Final License	Interim License (9)	Closure and Long-Term Care License (8)
660	Commercial Landfills & Surf Imp (10)	Yes	Yes	1,000	10,000	75,000	25,000	(6)	2,500	15,000	2,500	500	5,000	25,000	50,000	50,000
660	Non-Commercial Landfills & Surf Imp (11)	Yes	Yes	500	3,000	20,000	7,000	(6)	1,000	5,000	1,500	150	1,000	7,000	14,000	20,000

- (1) In accordance with s. NR 680.05, all reports and plan sheets shall be made under the seal of a registered professional engineer. Reports where interpretation of geology or hydrogeology is necessary shall be signed by a hydrogeologist.
- (2) The plan review fees specified in Table XIII cover the department's review from initial submittal through approval or denial of a report or plan. An applicant may revise or supplement a report or plan deemed incomplete and resubmit it without paying an additional review fee. The applicant shall pay a plan review fee as specified in Table

XIII for resubmittal of a plan which has been previously denied or withdrawn after having been determined to be complete. The department may waive any plan review fee if it determines that the total review time is not likely to exceed 4 hours.

- (3) A facility must have a separate license for each hazardous waste management activity it conducts. Final licenses must be renewed annually.
- (4) A plan modification, as referred to in Table XIII, is a submittal which proposes to modify a license, variance, or plan previously approved by the department.
- (5) Applicants submitting a closure plan with a feasibility and plan of operation report may not be required to pay the closure plan review fee.
- (6) The owner or operator shall pay a construction inspection fee as required by s. NR 680.09.
- (7) The owner or operator of the facility shall pay a total of \$5000 plan review fee for each phase of the corrective action program. The phases are facility investigation; selection of alternatives; and remedial design and operation.
- (8) Facilities which clean close are not required to obtain a closure and long-term care license. This is a one-time only fee to cover the entire 30-year long-term care period. All facilities subject to this requirement must pay this one-time fee even if they previously obtained a long-term care license.
- (9) This fee is a one-time only payment to cover the interim license period until a final determination on the issuance of an operating license is made by the Department.
- (10) A commercial facility has the definition in s. NR 600.03 (37).
- (11) A non-commercial facility has the definition in s. NR 600.03 (144).

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; reprinted to correct Tables XII and XIII, Register, May, 1992, No. 437.

NR 680.50 Variances. The department may issue a variance from the requirements of chs. NR 600 to 699 and s. 144.64, 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 s. 144.44, 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 660.107 for a hazardous waste landfill 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 determination 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.

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, Register, March, 1993, No. 447

sibility, 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 (4), (4h), (4p) and (5).

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.

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), 660.15 (2) and 660.16 (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.