

1981 Assembly Bill 936

Date published: May 6, 1982

CHAPTER 374 , Laws of 1981

AN ACT to repeal 144.01 (16), 144.435 (2), 144.441 (3) (g) 1, 144.62 (1), (6) and (11), 144.76 (1) (b), 144.781 (3) (a), 144.782 (1) (intro.) and (a) and 144.97 (title); to renumber 59.97 (9), 144.441 (3) (f), 144.781 (3) (c) to (f), 144.782 (1) (b) to (d), 144.784 (9) and 144.97; to renumber and amend 144.43 (1), 144.435 (1m), 144.441 (2) (a) 1 and 2 and (3) (b) to (e) and (g) 2 to 6, 144.442 and 232.45; to consolidate, renumber and amend 144.62 (2) (intro.) and (a); to amend 20.370 (2) (bj), 25.45, 32.02 (12), 59.51 (17), 59.97 (4) (a), 60.74 (1) (a) 1, 62.23 (7) (a), 66.122 (1), 144.025 (7) (intro.), as renumbered, 144.43 (3) and (5), 144.435 (1), 144.436 (2) (a) and (c), 144.44 (title), (3) (b), (c) and (d) (intro.) and (4) (a), 144.441 (1), (2) (b) to (d), (3) (title) and (a); and (4) (g) (intro.), as renumbered; 144.47 (1) (a) (intro.) and 2, 144.60 (2) (i), 144.61 (3), (9), (13) and (14), 144.62 (5) and (10) (a), 144.63 (intro.), (7) and (9), 144.69, 144.73 (4), 144.76 (2) (a), (3), (5) (a), (7) (b) and (c), (8) and (9) (b), 144.781 (2); 144.782 (2), (3) (intro.) and (4), as renumbered; 144.783 (1), (3), (4) and (5) (a) (intro.), 144.784 (1), (5), (7) and (10), 144.83 (2) (c) 1, 144.85 (5) (a) 1. b, 144.975,

144.98 and 227.22 (2); to repeal and recreate 144.433 (2), 144.44 (1), (2) and (3) (a), 144.445, 144.61 (10) and (12), 144.62 (2) (b), 144.64, 144.70, 144.74 (3) and 144.781 (3) (b); and to create 15.07 (1) (b) 10, 15.101 (14), 15.105 (12), 20.370 (2) (cd), 20.505 (1) (fa), 59.97 (9) (b), 144.01 (4m), 144.43 (1), (2d) to (2t), (4g), (4r), (7g) and (7r), 144.439, 144.44 (1m), (2g), (2r), (3) (title), (ag), (ar), (e) (title), (f) and (g), (4) (title), (b) (title), (d) and (e), (4m), (5) (title), (6) (title), (7) (title), (8) (title) and (9), 144.441 (2) (a) (title), (3) (d) to (f), (4) (title), (g) (title) and (h), (5) and (6) (title), (a), (e) 1 to 4 and (f), 144.442 (2), 144.443, 144.447, 144.465, 144.61 (5m) and (9m), 144.68, 144.725, 144.74 (4), 144.781 (3) (f), 144.7815, 144.782 (1) and (5), 144.783 (1) (d), 144.784 (4m) and (9) (b), 144.965, 227.064 (5), 230.08 (2) (x) and 232.45 (2) of the statutes, relating to solid and hazardous waste management, imposing and revising fees, creating a waste facility siting board, creating a negotiation and arbitration process, providing for studies, granting rule-making authority, providing penalties and making appropriations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.07 (1) (b) 10 of the statutes is created to read:

15.07 (1) (b) 10. Waste facility siting board.

SECTION 2. 15.101 (14) of the statutes is created to read:

15.101 (14) WASTE FACILITY SITING BOARD. The waste facility siting board shall have the program responsibilities specified for the board under s. 144.445.

SECTION 3. 15.105 (12) of the statutes is created to read:

15.105 (12) WASTE FACILITY SITING BOARD. (a) *Creation; membership.* There is created a waste facility siting board, attached to the department of administration under s. 15.03, consisting of the following members:

1. The secretaries of the departments of industry, labor and human relations, transportation, agriculture, trade and consumer protection and development or their formally appointed designees.

2. Two town officials.

3. One county official.

(b) *Terms.* The town officials and the county official shall be appointed for staggered 3-year terms.

(c) *Vacancies.* If a town or county official who is a member leaves office while serving on the board, the member's position on the board is considered vacant until a successor is appointed under s. 15.07 (1) (b).

(d) *Recommendations.* In appointing the town officials and county official to be members under this subsection, the governor shall consider recommendations made by the Wisconsin towns association and the Wisconsin county boards association if these recommendations are submitted within 60 days after a town official or county official position on the board becomes vacant.

(e) *Executive secretary.* The board shall appoint an executive secretary outside the classified service to serve at its pleasure.

(f) *Assistance.* The executive secretary may request any state agency to provide assistance necessary for the board to fulfill its duties.

SECTION 5. 20.005 (2) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

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			1981-82	1982-83
20.370	Natural resources,			
	department of			
(2)	ENVIRONMENT STANDARDS			
(cd)	Solid and hazardous waste management - closure and long-term care; imminent hazard	GPR A	-0-	-0-
20.505	Administration, department of			
(1)	ADMINISTRATIVE SUPERVISION			
	AND MANAGEMENT SERVICES			
(fa)	Waste facility siting board administrative expenses	GPR A	-0-	35,000

SECTION 6. 20.370 (2) (bj) of the statutes is amended to read:

20.370 (2) (bj) (title) *Environmental damage compensation; waste facility closure and long-term care compensation.* All moneys including interest received under s. 147.23 or as a settlement to any action initiated or contemplated under s. 147.23 to remove, terminate or remedy the adverse effects of any discharge or deposit, to restore or develop the water environment for public use or to provide grants under s. 66.365 consistent with any court order issued under s. 147.23 (3) and all moneys received under s. 144.443 (11) (a), less any moneys expended from the appropriation under par. (cd) for a waste facility for which moneys are subsequently received under s. 144.443 (11) (a), for the closure and long-term care of waste facilities under s. 144.443 (11) (b).

SECTION 7. 20.370 (2) (cd) of the statutes is created to read:

20.370 (2) (cd) *Solid and hazardous waste management — closure and long-term care; imminent hazard.* The amounts in the schedule to provide funds for compliance with closure and long-term care requirements which are necessary to prevent an imminent or substantial danger to health or the environment under s. 144.443 (11) (c).

SECTION 8. 20.505 (1) (fa) of the statutes is created to read:

20.505 (1) (fa) *Waste facility siting board administrative expenses.* The amounts in the schedule for administrative expenses, travel, materials, staff salaries and other necessary expenses for the purposes of s. 144.445.

SECTION 9. 25.45 of the statutes is amended to read:

25.45 Waste management fund. There is established a separate nonlapsible trust fund designated as the waste management fund, to consist of all tonnage fees collected imposed under s. 144.441 (3) and waste management base fees imposed under s. 144.441 (5). Moneys in the waste management fund shall be used for the purposes ~~enumerated in~~ specified under s. 144.441 (3) (g) (6) (d) to (f).

SECTION 10. 32.02 (12) of the statutes is amended to read:

32.02 (12) Any person operating a plant which creates waste material which, if released without treatment would cause stream pollution, for the location of treatment facilities. This subsection does not apply to a person licensed under ss. 144.80 to 144.94.

SECTION 11. 59.51 (17) of the statutes is amended to read:

59.51 (17) Record and index writings submitted according to s. 144.44 (4) (b), evidencing that a ~~site for the land disposal of solid waste or a hazardous waste disposal facility~~ will be established on the particular parcel described in the writings.

SECTION 12. 59.97 (4) (a) of the statutes is amended to read:

59.97 (4) (a) The areas within which agriculture, forestry, industry, mining, trades, business and recreation may be conducted.

SECTION 13. 59.97 (9) of the statutes is renumbered 59.97 (9) (a).

SECTION 14. 59.97 (9) (b) of the statutes is created to read:

59.97 (9) (b) This subsection does not apply to land subject to a town zoning ordinance which is purchased by the county for use as a solid or hazardous waste disposal facility or hazardous waste storage or treatment facility, as these terms are defined under s. 144.43.

SECTION 15. 60.74 (1) (a) 1 of the statutes is amended to read:

60.74 (1) (a) 1. Regulate, restrict and determine the areas within which agriculture, forestry, mining and recreation may be conducted, the location of roads, schools, trades and industries, the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, size of yards, courts and other open spaces, the density and distribution of population, and the location of buildings designed for specified uses, and establish districts of such number, shape and area as may be necessary for ~~such~~ these purposes;

SECTION 16. 62.23 (7) (a) of the statutes is amended to read:

62.23 (7) (a) *Grant of power.* For the purpose of promoting health, safety, morals or the general welfare of the community, the council may ~~by ordinance~~ regulate and restrict by ordinance the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, mining, residence or other purposes ~~provided that if there shall be~~ is no discrimination against temporary structures. This subsection and any ordinance, resolution or regulation, ~~heretofore or hereafter~~ enacted or adopted ~~pursuant thereto~~ under this section, shall be liberally construed in favor of the city and as minimum requirements adopted for the purposes stated. ~~It shall~~ This subsection may not be deemed a limitation of any power elsewhere granted elsewhere.

SECTION 17. 66.122 (1) of the statutes is amended to read:

66.122 (1) ~~All (a) Any state, county, city, village and or town officers and their agents and employes, officer, agent or employe~~ charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, including buildings, building premises and building contents, ~~for~~ is deemed a peace officer for the purpose of applying for, obtaining and executing special inspection warrants under s. 66.123 for inspection purposes.

(b) "Inspection purposes" include, without limitation because of enumeration, such purposes as building, housing, electrical, plumbing, heating, gas, fire, health, safety, environmental pollution, water quality, waterways, use of water, food, zoning, property assessment, meter, and weights and measures inspections and investigations, shall be deemed peace officers for the purpose of applying for, obtaining and executing special inspection warrants under s. 66.123 and obtaining data required to be submitted in an initial site report or feasibility report under s. 144.44 or 144.64 or an environmental impact statement related to one of those reports.

SECTION 18. 144.01 (4m) of the statutes is created to read:

144.01 (4m) "Hazardous substance" means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.

SECTION 19. 144.01 (16) of the statutes is repealed.

SECTION 20. 144.43 (1) of the statutes is renumbered 144.43 (1m) and amended to read:

144.43 (1m) "Closing" means the time at which a solid waste or hazardous waste ~~treatment, storage or disposal~~ facility ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site facility for long-term care and to make it suitable for other uses.

SECTION 21. 144.43 (1) of the statutes is created to read:

144.43 (1) "Affected municipality" means:

(a) A town, city, village or county in which all or a portion of a solid waste disposal facility or a hazardous waste facility is or is proposed to be located; and

(b) A town, city, village or county whose boundary is within 1,200 feet of that portion of the facility designated by the applicant for the disposal of solid waste or the treatment, storage or disposal of hazardous waste in the feasibility report under s. 144.44 (2), excluding buffers and similar areas.

SECTION 22. 144.43 (2) of the statutes is repealed and recreated to read:

144.43 (2) "Hazardous waste" means any solid waste identified by the department as hazardous under s. 144.62 (2).

SECTION 23. 144.43 (2d) to (2t) of the statutes are created to read:

144.43 (2d) "Hazardous waste disposal" has the meaning specified for disposal under s. 144.61 (3).

(2h) "Hazardous waste facility" has the meaning specified under s. 144.61 (5m).

(2p) "Hazardous waste storage" has the meaning specified for storage under s. 144.61 (10).

(2t) "Hazardous waste treatment" has the meaning specified for treatment under s. 144.61 (13).

SECTION 24. 144.43 (3) of the statutes is amended to read:

144.43 (3) "Long-term care" means the routine care, maintenance and monitoring of a solid waste or hazardous waste ~~treatment, storage or disposal~~ facility following closing of the facility.

SECTION 25. 144.43 (4g) and (4r) of the statutes are created to read:

144.43 (4g) "Resource conservation and recovery act" means the federal resource conservation and recovery act, 42 USC 6901 to 6987, as amended on the effective date of this subsection (1981).

(4r) "Solid waste disposal" means the discharge, deposit, injection, dumping or placing of any solid waste into or on any land or water in a manner which may permit the solid waste or any constituent of the solid waste to be emitted into the air, to be discharged into any waters of the state or otherwise to enter the environment. This term does not include the transportation, storage or treatment of solid waste.

SECTION 26. 144.43 (5) of the statutes is amended to read:

144.43 (5) "~~Solid waste disposal sites and facilities include facility~~ means a facility for solid waste treatment, solid waste storage or solid waste disposal, and includes commercial and, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, auto junk yards, scrap metal salvage yards, transfer stations, storage facilities, collection and transportation services and other establishments or operations for the storage, collection, transportation, transfer, processing, treatment, and recovery or disposal of solid waste. ~~Solid waste disposal sites and facilities. This term includes the land where the facility is located. This term does not include a site or facility for the processing of scrap iron, steel or nonferrous metal using large machines to produce a~~

principal product of scrap metal for sale or use for remelting purposes; ~~nor does the~~. This term does not include a ~~site or facility~~ which uses large machines to sort, grade, compact or bale clean wastepaper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes. This term does not include an auto junk yard or scrap metal salvage yard.

SECTION 27. 144.43 (7g) and (7r) of the statutes are created to read:

144.43 (7g) "Solid waste storage" means the holding of solid waste for a temporary period, at the end of which period the solid waste is to be treated or disposed.

(7r) "Solid waste treatment" means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

SECTION 28. 144.433 (2) of the statutes is repealed and recreated to read:

144.433 (2) CONFIDENTIAL RECORDS. (a) *Application*. An owner or operator of a solid waste facility may seek confidential treatment of any records or other information furnished to or obtained by the department in the administration of ss. 144.43 to 144.47 and 144.96.

(b) *Standards for granting confidential status*. Except as provided under par. (c), the department shall grant confidential status for any records or information received by the department and certified by the owner or operator of the solid waste facility as relating to production or sales figures or to processes or production unique to the owner or operator of the solid waste facility or which would tend to adversely affect the competitive position of the owner or operator if made public.

(c) *Emission data; analyses and summaries*. The department may not grant confidential status for emission data. Nothing in this subsection prevents the department from using records and other information in compiling or publishing analyses or summaries relating to the general condition of the environment if the analyses or summaries do not identify a specific owner or operator or the analyses or summaries do not reveal records or other information granted confidential status.

(d) *Use of confidential records*. Except as provided under par. (c) and this paragraph, the department may use records and other information granted confidential status under this subsection only in the administration of ss. 144.43 to 144.47 and 144.96. The department may release for general distribution records and other information granted confidential status under this subsection if the owner or operator expressly agrees to the release. The department may release on a limited basis records and other information granted confidential status under this subsection if the department is directed to take this action by a judge or hearing examiner under an order which protects the confidentiality of the records or other information. The department may release to the U.S. environmental protection agency, or its authorized representative, records and other information granted confidential status under this subsection if the department includes in each release of records or other information a request to the U.S. environmental protection agency, or its authorized representative, to protect the confidentiality of the records or other information.

SECTION 29. 144.435 (1) of the statutes is amended to read:

144.435 (1) The department shall ~~prepare and adopt~~ promulgate rules establishing minimum standards for the location, design, construction, sanitation, operation and maintenance of solid waste ~~disposal sites and facilities and shall, following~~. Following a public hearing, adopt ~~such~~ the department shall promulgate rules relating to the operation and maintenance of solid waste ~~disposal sites and facilities~~ as it deems necessary to ensure compliance and consistency with the purposes of and standards established under the resource conservation and recovery act of 1976, P.L. 94-580, except that ~~such~~ the rules relating to open burning shall be consistent with s. 144.436. ~~The standards and rules~~

adopted promulgated under this subsection shall conform to the rules adopted promulgated under sub. ~~(1m)~~ (2).

SECTION 30. 144.435 (1m) of the statutes, as affected by chapter 86, laws of 1981, is renumbered 144.435 (2) and amended to read:

144.435 (2) ~~No later than 24 months after May 21, 1978, the department shall adopt, with~~ With the advice and comment of the metallic mining council, the department shall promulgate rules for the identification and regulation of metallic mining wastes. The rules adopted promulgated to identify metallic mining wastes and to regulate the location, design, construction and, operation and maintenance of ~~the sites and~~ facilities for the disposal of metallic mining wastes shall be adopted in accordance with any or all of the following provisions under chs. 30, 144 and 147. The rules shall take into consideration the special requirements of metallic mining operations in the location, design, construction and, operation and maintenance of ~~sites and~~ facilities for the disposal of metallic mining wastes as well as any special environmental concerns that will arise as a result of the disposal of metallic mining wastes. ~~In adopting promulgating the rules, consideration also be given~~ the department shall give consideration to research, studies, data and recommendations of the U.S. environmental protection agency on the subject of metallic mining wastes arising from the agency's efforts to implement the resource conservation and recovery act of 1976, P.L. 94-580.

SECTION 31. 144.435 (2) of the statutes is repealed.

SECTION 31m. 144.436 (2) (a) of the statutes is amended to read:

144.436 (2) (a) The open burning operation serves a population equivalent of less than ~~2,500~~ 10,000 or, if the operation is controlled by more than one municipality, a population equivalent of less than 2,500 for each ~~such~~ additional controlling municipality. The department shall give consideration to seasonal variations in population in granting partial yearly burning exemptions.

SECTION 31s. 144.436 (2) (c) of the statutes is amended to read:

144.436 (2) (c) The open burning does not include the burning of wet combustible rubbish, garbage, oily substances, asphalt, plastic or rubber products and, if the open burning operation serves a population equivalent of more than 2,500, the open burning includes only wood and paper which is separated from other solid waste.

SECTION 32. 144.439 of the statutes is created to read:

144.439 Solid waste storage. No person may store or cause the storage of solid waste in a manner which causes environmental pollution.

SECTION 33. 144.44 (title) of the statutes is amended to read:

144.44 (title) Approval process; operating license.

SECTION 34. 144.44 (1) of the statutes is repealed and recreated to read:

144.44 (1) DEFINITIONS. As used in this section:

(a) "Class 1 proceeding" has the meaning specified under s. 227.01 (2) (a).

(b) "Contested case" has the meaning specified under s. 227.01 (2).

(c) "Informational hearing" means a hearing conducted under s. 227.022.

SECTION 35. 144.44 (1m) of the statutes is created to read:

144.44 (1m) LOCAL APPROVAL. (a) *Definition.* As used in this subsection, "local approval" has the meaning specified under s. 144.445 (3) (d).

(b) *Application for local approvals required.* Within 15 days after the receipt of a request from the applicant, a municipality shall specify all local approvals for which applications are required or issue a statement that there are no applicable local approvals. Prior to constructing a solid waste disposal facility or a hazardous waste facility, the

applicant shall apply for each local approval required to construct the waste handling portion of the facility.

(c) *Attempts to obtain local approvals required.* Following applications for local approvals under par. (b) and prior to submitting a feasibility report, the applicant shall undertake all reasonable procedural steps necessary to obtain each local approval required to construct the waste handling portion of the facility except that the applicant is not required to seek judicial review of decisions of the local unit of government.

(d) *Waiver of local approvals.* If a local approval precludes or inhibits the ability of the applicant to obtain data required to be submitted in a feasibility report or environmental impact report, the applicant may petition the department to waive the applicability of the local approval to the applicant. If a petition is received, the department shall promptly schedule a hearing on the matter and notify the local government of the hearing. If the department determines at the hearing that the local approval is unreasonable, the department shall waive the applicability of the local approval to the applicant.

(e) *Compliance required.* Except as provided under par. (d), no person may construct a solid waste disposal facility or a hazardous waste facility unless the person complies with the requirements of pars. (b) and (c).

SECTION 36. 144.44 (2) of the statutes, as affected by chapter 86, laws of 1981, is repealed and recreated to read:

144.44 (2) FEASIBILITY REPORT. (a) *Feasibility report required.* Prior to constructing a solid waste disposal facility or a hazardous waste facility the person who seeks to construct the facility shall submit to the department a feasibility report.

(b) *Local approval application prerequisite.* Except as provided under par. (c), no person may submit a feasibility report until the latest of the following periods:

1. At least 120 days after the person submits applications for all applicable local approvals specified as required by the municipality under sub. (1m) (b).
2. At least 120 days after the receipt by the applicant of a statement by the municipality that there are no applicable local approvals.
3. At least 120 days after the deadline for the municipal response under sub. (1m) (b) if the municipality does not respond within that time limit.

(c) *No prerequisite for certain mining facilities.* An operator engaged in mining, as defined under s. 144.81 (5), on May 21, 1978, may, but is not required to, submit a feasibility report for any solid waste disposal facility for waste resulting from those mining operations.

(d) *Compliance required.* No person may construct a solid waste disposal facility or a hazardous waste facility unless the person complies with the requirements of this subsection.

(e) *Notification of proposed facility.* Immediately upon receipt of a feasibility report the department shall send a notice to the persons specified under sub. (4m) containing a brief description of the proposed facility and a statement that the applicant is required to send a copy of the feasibility report after it is determined to be complete by the department.

(f) *Contents of feasibility reports; preparation.* The department shall specify by rule the minimum contents of a feasibility report and no report is complete unless the specified information is provided by the applicant. The rules may specify special requirements for a feasibility report relating to a hazardous waste facility. A feasibility report shall include a general summary of the site characteristics as well as any specific data the department requires by rule regarding the site's topography, soils, geology, groundwaters and surface waters and other features of the site and surrounding area. A feasibility report shall include preliminary engineering design concepts including the proposed design capacity of the facility and an indication of the quantities and characteristics of the wastes to be

treated, stored or disposed. A feasibility report shall describe how the proposed facility relates to any applicable county solid waste management plan approved under s. 144.437. A feasibility report shall describe the advisory process undertaken by the applicant prior to submittal of the feasibility report to provide information to the public and affected municipalities and to solicit public opinion on the proposed facility. A feasibility report shall specify the proposed date of closure for the facility. The department may require a feasibility report to be prepared by a registered professional engineer.

(g) *Determination if a feasibility report is complete.* Within 60 days after a feasibility report is submitted, the department either shall determine that the feasibility report is complete or shall notify the applicant in writing that the feasibility report is not complete and specify the information which is required to be submitted before the feasibility report is complete.

(h) *Distribution of feasibility report.* Immediately after the applicant receives notification of the department's determination that the feasibility report is complete, the applicant shall distribute copies of the feasibility report to the persons specified under sub. (4m).

(i) *Preliminary determination if environmental impact statement is required.* Immediately after the department determines that the feasibility report is complete, the department shall issue a preliminary determination on whether an environmental impact statement is required under s. 1.11 prior to the determination of feasibility. If the department determines after review of the feasibility report that a determination of feasibility cannot be made without an environmental impact statement or if the department intends to require an environmental impact report under s. 23.11 (5), the department shall notify the applicant in writing within the 60-day period of these decisions and shall commence the process required under s. 1.11 or 23.11 (5).

(j) *Environmental impact statement process.* If an environmental impact statement is required, the department shall conduct the hearing required under s. 1.11 (2) (d) in an appropriate place it designates in a county, city, village or town which would be substantially affected by the operation of the proposed facility. The hearing on the environmental impact statement is not a contested case. The department shall issue its determination of the adequacy of the environmental impact statement within 30 days after the close of the hearing. Except as provided under s. 144.836, the department shall complete any environmental impact statement process required under s. 1.11 before proceeding with the feasibility report review process under par. (k) and subs. (2g) and (2r).

(k) *Notification on feasibility report and preliminary environmental impact statement decisions.* Immediately after the department issues 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 publish a class 1 notice under ch. 985 in the official newspaper designated under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give notice in the area of the proposed facility. The notice shall include a statement that the feasibility report and the environmental impact statement process are complete. The notice shall invite the submission of written comments by any person within 30 days after the notice is published. The notice shall describe the methods by which a hearing may be requested under pars. (L) and (m). The department shall distribute copies of the notice to the persons specified under sub. (4m).

(L) *Request for an informational hearing.* Within 30 days after the notice under par. (k) 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.

(m) *Request for treatment as a contested case.* Within 30 days after the notice under par. (k) is published, any county, city, village or town, the applicant or any 6 or more persons may file a written request that the hearing under par. (L) be treated as a contested case, as provided under s. 227.064. A county, city, village or town, the applicant or any 6 or more persons have a right to have the hearing treated as a contested case only if:

1. 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.

(n) *Criteria for determination of feasibility; environmental impact.* 1. A determination of feasibility shall be based only on ss. 144.43 to 144.47 and 144.60 to 144.74 and rules promulgated under those sections. A determination of feasibility for a facility for the disposal of metallic mining waste shall be based only on ss. 144.43 to 144.47 and 144.60 to 144.74 and rules promulgated under those sections with special consideration given to s. 144.435 (2) and rules promulgated under that section.

2. If there is a negotiated agreement or an arbitration award prior to issuance of the determination of feasibility, the final determination of feasibility may not include any item which is less stringent than a corresponding item in the negotiated agreement or arbitration award.

3. The department may receive into evidence at a hearing conducted under sub. (2g) or (2r) any environmental impact assessment or environmental impact statement for the facility prepared under s. 1.11 and any environmental impact report prepared under s. 23.11 (5). The adequacy of the environmental impact assessment, environmental impact statement or environmental impact report is not subject to challenge at that hearing.

(o) *Contents of final determination of feasibility.* The department shall issue a final determination of feasibility which the findings of fact and conclusions of law upon which it is based. The department may condition the issuance of the final determination of feasibility upon special design, operational or other requirements to be submitted with the plan of operation under sub. (3). The final determination of feasibility shall specify the design capacity of the proposed facility. The issuance of a favorable final determination of feasibility constitutes approval of the facility for the purpose stated in the application but does not guarantee plan approval under sub. (3) or licensure under sub. (4).

(p) *Issuance of final determination of feasibility.* Except as provided under par. (q), if no hearing is conducted under sub. (2g) or (2r), the department shall issue the final determination of feasibility within 60 days after the 30-day period under par. (m) has expired.

(q) *Issuance of final determination of feasibility in certain situations involving utilities and mining.* If a determination of feasibility is required under s. 196.491 (2m), the issuance of a final determination of feasibility is subject to the time limits under s. 196.491 (3) (f) and (ff). If a determination of feasibility is required under s. 144.836, the issuance of a final determination of feasibility is subject to the time limits under s. 144.84 (3) or 144.85 (5), whichever is applicable.

SECTION 37. 144.44 (2g) and (2r) of the statutes are created to read:

144.44 (2g) INFORMATIONAL HEARING. (a) *Applicability.* This subsection applies if no request for the treatment of the hearing as a contested case is granted and if:

1. An informational hearing is requested under sub. (2) (L) within the 30-day period;
or

2. No hearing is requested under sub. (2) (L) within the 30-day time period but the department determines that there is substantial public interest in holding a hearing.

(b) *Nonapplicability; hearing conducted as a part of certain mining hearings.* Notwithstanding par. (a) this subsection does not apply if a hearing on the feasibility report is conducted as a part of a hearing under s. 144.836 and the time limits, notice and hearing provisions in that section supersede the time limits, notice and hearing provisions under sub. (2) (j) to (m) and this subsection.

(c) *Informational hearing.* The department shall conduct the informational hearing within 60 days after the expiration of the 30-day period under sub. (2) (L). The department shall conduct the informational hearing 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.

(e) *Issuance of final determination of feasibility.* Except as provided under sub. (2) (q), the department shall issue a final determination of feasibility within 60 days after the informational hearing under this subsection is adjourned.

(2r) HEARING CONDUCTED AS A CONTESTED CASE. (a) *Applicability.* This subsection applies only if a person requests the treatment of the hearing as a contested case under sub. (2) (m) within the 30-day period and has a right to a hearing under that subsection. Any denial of a request for the treatment of the hearing as a contested case received within the 30-day period under sub. (2) (m) shall be in writing, shall state the reasons for denial and is an order reviewable under ch. 227. 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.

(b) *Nonapplicability.* Notwithstanding par. (a), this section does not apply if a hearing on the feasibility report is conducted as a part of a hearing under s. 144.836 and the time limits, notice and hearing provisions under that section supersede the time limits, notice and hearing provisions under sub. (2) (j) to (m) and this subsection.

(d) *Time limits.* Except as provided under sub. (2) (q):

1. The division of natural resources hearings in the department of administration shall schedule the hearing to be held within 120 days after the expiration of the 30-day period under sub. (2) (m).

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

SECTION 38. 144.44 (3) (title) of the statutes is created to read:

144.44 (3) (title) PLAN OF OPERATION.

SECTION 39. 144.44 (3) (a) of the statutes is repealed and recreated to read:

144.44 (3) (a) *Plan of operation required.* Prior to constructing a solid waste disposal facility or a hazardous waste facility, the applicant shall submit to the department a plan of operation for the facility.

SECTION 40. 144.44 (3) (ag) and (ar) of the statutes are created to read:

144.44 (3) (ag) *Feasibility report prerequisite.* Except as provided under par. (ar), no person may submit a plan of operation for a facility prior to the time the person submits a feasibility report for that facility. A person may submit a plan of operation with the feasibility report or at any time after the feasibility report is submitted. If a person submits the plan of operation prior to the final determination of feasibility, the plan of operation is not subject to review at any hearing conducted under sub. (2), (2g) or (2r) and is not subject to judicial review under ss. 227.15 to 227.21 in the review of any decision under sub. (2), (2g) or (2r).

(ar) *Feasibility report prerequisite; exception.* The owner or operator of a licensed solid waste disposal facility in existence on May 21, 1978, may, but is not required to, submit a plan of operation for that facility and seek approval under this subsection. An operator engaged in mining, as defined under s. 144.81 (5), on May 21, 1978, may, but is not required to, submit a plan of operation for any solid waste disposal facility for waste resulting from those mining operations and seek approval for that plan of operation under this subsection.

SECTION 41. 144.44 (3) (b), (c) and (d) (intro.) of the statutes are amended to read:

144.44 (3) (b) (title) *Preparation; contents.* The proposed plan of operation shall be ~~submitted~~ prepared by a registered professional engineer and shall include at a minimum a description of the manner of solid waste disposal or hazardous waste treatment, storage or disposal and a statement setting forth the proposed development, daily operation, closing and long-term care of the site facility. For a hazardous waste disposal facility, the report shall include a register of residents within one-half mile of the facility. The proposed plan of operation shall specify whether the owner's responsibility for long-term care of the site facility will terminate 30 years after closing as provided in s. 144.441 (2) (b) or 20 years after closing as provided in s. 144.441 (2) (c). The department shall, ~~by rule,~~ specify by rule the minimum contents of a plan of operation submitted for approval under this subsection and no plan ~~may be deemed~~ is complete unless the information is supplied. The rules may specify special standards for plans of operation relating to ~~sites or facilities for the treatment, storage or disposal of hazardous waste facilities.~~ Within 30 days after a plan of operation is submitted or, if the plan of operation is submitted with the feasibility report under par. (ag), within 30 days after the department issues notice that the feasibility report is complete, the department shall notify the applicant in writing if the plan is not complete, specifying the information which must is required to be submitted before the report is complete. If no notice is given, the report ~~shall be~~ is deemed complete on the date of its submission.

(c) (title) *Approval; disapproval.* ~~Within 90 days after~~ The department may not approve or disapprove a plan of operation until a favorable determination of feasibility has been issued for the facility. Upon the submission of a complete plan of operation is submitted, the department shall either approve or disapprove the plan in writing within 90 days or within 60 days after a favorable determination of feasibility is issued for the facility, whichever is later. The determination of the department shall be based upon compliance with the standards established under s. 144.435 or, in the case of hazardous waste ~~treatment, storage or disposal sites~~ facilities, with the rules and standards established under s. 144.62. ~~No plan for a site or facility for the disposal of solid or hazardous waste may be approved unless the applicant submits a bond, deposit, proof of an established escrow account or other proof of financial responsibility satisfactory to the department ensuring that the applicant and any successor in interest will comply with the closure and long-term care requirements of the plan.~~ An approval may be conditioned upon any requirements necessary to comply with the standards. Any approval may be modified by the department upon application of the licensee if newly discovered information indicates that the modification would not inhibit compliance with the standards adopted under s. 144.435 or, if applicable, s. 144.62. No plan of operation for a solid or hazardous waste facility may be approved unless the applicant submits technical and financial information required under ss. 144.441 and 144.443.

(cm) (title) *No environmental impact statement required.* A determination under this subsection does not constitute a major state action under s. 1.11 (2).

(d) (title) *Approval.* (intro.) Approval under par. (c) ~~shall entitle~~ entitles the applicant to construct and operate the site facility in accordance with the approved plan for not less than the design capacity specified in the determination of site feasibility, unless the department establishes by a clear preponderance of the credible evidence that:

SECTION 42. 144.44 (3) (e) (title) of the statutes is created to read:

144.44 (3) (e) (title) *Failure to comply with plan of operation.*

SECTION 43. 144.44 (3) (f) of the statutes is created to read:

144.44 (3) (f) *Feasibility report not subject to review.* In any judicial review under ss. 227.15 to 227.21 of the department's decision to approve or disapprove a plan of operation, no element of the feasibility report, as approved by the department, is subject to judicial review.

SECTION 44. 144.44 (3) (g) of the statutes is created to read:

144.44 (3) (g) *No right to hearing.* There is no statutory right to a hearing before the department concerning the plan of operation but the department may grant a hearing on the plan of operation under s. 144.431 (2) (a).

SECTION 45. 144.44 (4) (title) of the statutes is created to read:

144.44 (4) (title) OPERATING LICENSE.

SECTION 46. 144.44 (4) (a) of the statutes is amended to read:

144.44 (4) (a) (title) *License requirement.* No person may ~~maintain or operate a site or facility for the disposal of solid waste facility or the treatment, storage or disposal of, hazardous waste facility~~ unless the person obtains an operating license from the department. The department shall issue an operating license with a duration of one year or more except that the department may issue an initial license with a duration of less than one year. The department may deny, suspend or revoke an operating license for failure to pay the fees required under ~~s. 144.441 (3)~~ ss. 144.43 to 144.47 or for grievous and continuous failure to comply with the approved plan of operation under sub. (3) or, if no plan of operation exists with regard to the ~~site or~~ facility, for grievous and continuous failure to comply with the standards adopted under s. 144.435. If the license application is for a ~~site for the solid waste disposal of facility~~ for solid waste resulting from mining operations in existence on May 21, 1978, the department shall make any determination with respect to whether disposal is being undertaken in an environmentally sound manner and shall administer compliance with the licensing requirement of this subsection in a manner which, with respect to nonhazardous solid waste, does not require substantial structural modification of the existing ~~site facility~~, expenditure which is not appropriate for the nonhazardous nature of the waste or interruption of the mining operation.

(am) (title) *Environmental impact statement not required.* A determination under this subsection does not constitute a major state action under s. 1.11 (2).

SECTION 47. 144.44 (4) (b) (title), (d) and (e) of the statutes are created to read:

144.44 (4) (b) (title) *Issuance of initial license.*

(d) *Feasibility report and plan of operation not subject to review.* In any judicial review under ss. 227.15 to 227.21 of the department's decision to issue or deny an operating license, no element of either the feasibility report or the plan of operation, as approved by the department, is subject to judicial review.

(e) *No right to hearing.* There is no statutory right to a hearing before the department concerning the license but the department may grant a hearing on the license under s. 144.431 (2) (a).

SECTION 48. 144.44 (4m) of the statutes is created to read:

144.44 (4m) DISTRIBUTION. One copy of the notice or documents required to be distributed under this section shall 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 or document is not required to be distributed by the applicant.

SECTION 49. 144.44 (5) (title), (6) (title), (7) (title) and (8) (title) of the statutes are created to read:

144.44 (5) (title) FEES.

(6) (title) CLOSURE.

(7) (title) WAIVER; EXEMPTIONS; APPLICABILITY.

(8) (title) ENFORCEMENT PROCEDURES FOR OLDER FACILITIES.

SECTION 50. 144.44 (9) of the statutes is created to read:

144.44 (9) COMMERCIAL PCB WASTE STORAGE AND TREATMENT FACILITIES. (a) *Definitions*. As used in this subsection:

1. "Commercial" means providing services to persons other than the owner or operator.

2. "PCBs" has the meaning specified under s. 144.79 (1).

3. "PCB waste" means any product containing PCBs, as defined under s. 144.79 (1) (c), which is subject to regulation under s. 144.79 after the product becomes a solid waste. This term also means any material which is contaminated by the discharge, as defined under s. 144.76 (1) (a), of a substance containing PCBs subject to regulation under s. 144.76.

(b) *Feasibility report and related provisions*. Except as provided under par. (f), no person may establish or construct a commercial PCB waste storage or treatment facility unless the person complies with the requirement under subs. (2) to (2r) in the same manner as if the facility were a solid waste disposal facility including each of the following:

1. Submitting a feasibility report under sub. (2) (a) to determine whether the site has potential for use in establishing a PCB waste storage or treatment facility.

2. Complying with requirements for the preparation and contents of a feasibility report under sub. (2) (f) including any special requirements for PCB waste storage or treatment facilities.

3. Following the notice, hearing, procedure and other requirements under subs. (2) to (2r) including any environmental impact requirements.

(c) *Plan of operation and related provisions*. Except as provided under par. (f), no person may establish, construct or operate a commercial PCB waste storage or treatment facility unless the person complies with the requirements under sub. (3) as if the facility were a solid waste disposal facility including all of the following:

1. Submitting a plan of operation which complies with requirements for preparation and contents specified under sub. (3) (b) including any special requirements for PCB waste storage or treatment facilities except the department may waive any requirement for the specification of long-term care responsibility.

2. Constructing the facility in accordance with an approved plan of operation as required under sub. (3) (d).

3. Operating the facility in accordance with the approved plan of operation subject to the sanctions under sub. (3) (e).

(d) *Financial responsibility requirements*. Except as provided under par. (f), no person may establish or construct a commercial PCB waste storage or treatment facility unless the person complies with s. 144.443.

(e) *License requirement*. Except as provided under par. (f), no person may operate a commercial PCB waste storage or treatment facility unless the person obtains an operating license under sub. (4).

(f) *Exceptions.* The department may exempt a person establishing, constructing or operating certain categories of facilities which store or treat PCB waste or which store or treat certain types, amounts or concentrations of PCB waste from the provisions of this subsection.

(g) *Applicability.* The subsection applies to any facility which is not otherwise subject to this section.

SECTION 51. 144.441 (1) of the statutes is amended to read:

144.441 (1) STANDARDS. The department shall prescribe by rule ~~minimal~~ minimum standards for closing, long-term care and termination of ~~sites for the solid waste disposal of facilities or hazardous waste or the land disposal of solid waste facilities.~~ facilities. The standards, and any additional ~~site-specific~~ facility-specific requirements designated by the department, shall be incorporated into the plan of operation prepared under s. 144.44 (3). The long-term care provisions in an approved plan of operation may be modified under s. 144.44 (3) (d) 3.

SECTION 52. 144.441 (2) (a) (title) of the statutes is created to read:

144.441 (2) (a) (title) *Definitions.*

SECTION 53. 144.441 (2) (a) 1 of the statutes, as created by chapter 86, laws of 1981, is renumbered 144.441 (2) (a) 2 and amended to read:

144.441 (2) (a) 2. ~~“Mining waste site”~~ “Approved mining waste facility” means ~~that an approved waste facility which is part of a mining site, as defined under s. 144.81 (8), used for the disposal of waste resulting from mining, as defined under s. 144.81 (5), or prospecting, as defined under s. 144.81 (12).~~ an approved mining waste facility

SECTION 54. 144.441 (2) (a) 2 of the statutes, as affected by chapter 86, laws of 1981, is renumbered 144.441 (2) (a) 1 and amended to read:

144.441 (2) (a) 1. ~~“Site”~~ “Approved facility” means only a ~~site for the disposal of solid or hazardous waste or the land disposal of solid waste facility~~ site with an approved plan of operation under s. 144.44 (3) or a ~~site for the land disposal of solid waste disposal facility~~ site initially licensed within 3 years prior to May 21, 1978, whose owner successfully applies, within 2 years after May 21, 1978, for a determination by the department that the ~~site's facility's~~ site's design and plan of operation comply substantially with the requirements necessary for plan approval under s. 144.44 (3).

SECTION 55. 144.441 (2) (b) to (d) of the statutes, as affected by chapter 86, laws of 1981, are amended to read:

144.441 (2) (b) (title) *Long-term care responsibility; 30-year.* The owner of a ~~an approved mining waste site facility~~ site is responsible for the long-term care of the ~~site facility~~ site for 30 years after ~~the closing of the site facility~~ the closing of the site unless the responsibility is terminated earlier under par. (d). The owner of any ~~site approved facility~~ site except a ~~an approved mining waste site facility~~ site is responsible for the long-term care of the ~~site facility~~ site for 30 years after ~~the closing of the site facility~~ the closing of the site unless the responsibility is terminated earlier under par. (c) or (d).

(c) (title) *Long-term care responsibility; 20-year.* If the ~~approved~~ approved plan of operation for a ~~site~~ site ~~an approved facility~~ an approved facility indicates or if the owner of a ~~site~~ site ~~an approved facility~~ an approved facility requests and the department approves, the owner's responsibility for long-term care of the ~~site facility~~ site terminates 20 years after ~~the closing of the site facility~~ the closing of the site unless the owner's responsibility is terminated ~~sooner~~ earlier under par. (d). This paragraph does not apply to the owner's responsibility for the long-term care of a mining waste ~~site facility~~ site.

(d) (title) *Long-term care responsibility; early release.* The owner of a ~~site~~ site ~~an approved facility~~ an approved facility may apply to the department for termination of the owner's responsibility for long-term care at any time ~~at least 10 years~~ at least 10 years after the ~~site has been closed for at least 10 years~~ closing of the facility. Upon receipt of this application ~~the department, and~~ and using

the procedure applicable to feasibility reports under s. 144.44 (2) ~~(d)~~, ~~(k)~~, the department shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site owner's responsibility for the long-term care of the facility. In this proceeding the burden is on the applicant to prove by a preponderance of the evidence that additional long-term care is not necessary for adequate protection of public health or the environment. Within 120 days after posting notice of the pending termination or within 60 days after any hearing is adjourned, whichever is later, the department shall determine either that long-term care of the site facility is no longer required, in which case the applicant is relieved of this responsibility or that additional long-term care of the site facility as specified in the plan of operation is still required, in which case further application under this subsection is not permitted until at least 5 years have elapsed since the previous application. The department may establish separate procedures and requirements in terminating an owner's responsibility for the long-term care of a an approved mining waste site facility under this paragraph.

SECTION 56. 144.441 (3) (title) of the statutes is amended to read:

144.441 (3) (title) IMPOSITION OF TONNAGE FEE; EXCEPTION; USE.

SECTION 57. 144.441 (3) (a) of the statutes is amended to read:

144.441 (3) (a) (title) *Imposition of tonnage fee*. Each ~~Except as provided under~~ Except as provided under ~~par. (b) to (d)~~, the owner or operator of a licensed site for the land disposal of solid waste or the disposal of hazardous waste disposal facility shall ~~periodically~~ pay periodically to the department a tonnage fee for each ton, or equivalent volume ~~as determined by rule of the department~~, of solid or hazardous waste received and disposed of at the site facility during the preceding reporting period. The department may determine by rule the volume which is equivalent to a ton of waste.

(b) (title) *Exemption from tonnage fees; certain materials used in the operation of the facility*. Solid waste materials approved by the department for lining or capping or for constructing berms, dikes or roads within a site for the land disposal of solid waste disposal facility are not subject to the tonnage fee imposed under ~~this paragraph~~. ~~The fees shall be paid into the waste management fund to be used for the purposes specified in par. (g)~~ (a).

(c) (title) *Exemption from tonnage fees; when waste management fund exceeds maximum*. Whenever the investment board certifies to the department that the balance in the waste management fund exceeds \$15,000,000, ~~this paragraph shall not apply to any site~~ the solid or hazardous waste received by a facility which is operating under its 6th or subsequent annual license year subject to licensing is not subject to the tonnage fee imposed under par. (a) until the investment board certifies to the department that the balance in the waste management fund is less than \$12,000,000.

SECTION 58. 144.441 (3) (b) of the statutes is renumbered 144.441 (4) (a) and amended to read:

144.441 (4) (a) (title) *Tonnage fee; solid waste*. Except as provided ~~in~~ under ~~par. (d) to (f)~~ par. (d) to (h), the tonnage fee imposed by ~~par. sub. (3) (a)~~ par. sub. (3) (a) ~~shall be~~ is 1.5 cents per ton for solid waste ~~and for any hazardous wastes which are excepted from the fee specified in par. (c)~~.

SECTION 59. 144.441 (3) (c) of the statutes is renumbered 144.441 (4) (b) and amended to read:

144.441 (4) (b) (title) *Tonnage fee; certain hazardous waste*. Except as provided ~~in~~ under ~~par. (d) to (f)~~ par. (d) to (h), the tonnage fee imposed by ~~par. sub. (3) (a)~~ par. sub. (3) (a) ~~shall be~~ is 15 cents per ton for hazardous wastes other than waste specified under par. (c).

(c) (title) *Tonnage fee; other waste*. Except as provided under par. (d) to (h), the tonnage fee imposed by sub. (3) (a) is 1.5 cents per ton for waste consisting of ashes and sludges from electric and process steam generating facilities, sludges produced by waste

treatment or manufacturing processes at pulp or paper mills, manufacturing process solid wastes from foundries, ~~or~~ and sludges produced by municipal wastewater treatment facilities.

SECTION 60. 144.441 (3) (d) of the statutes is renumbered 144.441 (4) (d) and amended to read:

144.441 (4) (d) (title) *Tonnage fee; solid waste; 20-year responsibility.* With respect to a site facility under sub. (2) (c), the tonnage fee imposed under ~~par. sub. (3) (a)~~ is 3.5 cents per ton for solid waste ~~and for any hazardous wastes which are excluded from the fee specified under par. (e).~~

SECTION 61. 144.441 (3) (d) of the statutes is created to read:

144.441 (3) (d) *Exemption from tonnage fees; if waste management base fee exceeds total tonnage fees.* If the total annual tonnage fees for all solid and hazardous waste received by a facility would be less than or equal to the waste management base fee for that year, the solid or hazardous waste received by the facility is exempt from the tonnage fee imposed under par. (a) for that year. The department shall establish methods by rule for estimating the total annual tonnages for all solid and hazardous waste received by a facility. If an estimate reveals that total annual tonnage fees for a facility for a certain year are unlikely to exceed the waste management base fee for that year, the department shall grant an exemption under this paragraph without requiring the calculation of the actual total annual tonnage fees.

SECTION 62. 144.441 (3) (e) of the statutes is renumbered 144.441 (4) (e) and amended to read:

144.441 (4) (e) (title) *Tonnage fee; certain hazardous waste; 20-year responsibility.* With respect to a site facility under sub. (2) (c), the tonnage fee imposed under ~~par. sub. (3) (a)~~ is 35 cents per ton for hazardous wastes other than waste specified under par. (f).

(f) (title) Tonnage fee; other waste; 20-year responsibility. With respect to a facility under sub. (2) (c), the tonnage fee imposed under sub. (3) (a) is 3.5 cents per ton for waste consisting of ashes and sludges from electric and process steam generating facilities, sludges produced by waste treatment or manufacturing processes at pulp or paper mills, manufacturing process solid wastes from foundries, or sludges produced by municipal wastewater treatment facilities.

SECTION 63. 144.441 (3) (e) of the statutes is created to read:

144.441 (3) (e) *Reduction of tonnage fee by the amount of the waste management base fee.* If the total annual tonnage fees for all solid and hazardous waste received by a facility would exceed the waste management base fee for that year, the total annual tonnage fees imposed on that facility shall be reduced by the amount of the waste management base fee imposed for the same year.

SECTION 64. 144.441 (3) (f) of the statutes is renumbered 144.441 (4) (g), and 144.441 (4) (g) (intro.), as renumbered, is amended to read:

144.441 (4) (g) (intro.) Notwithstanding pars. (b) to ~~(e)~~ (f), with respect to prospecting or mining waste, the tonnage fee imposed under ~~par. sub. (3) (a)~~ is:

SECTION 65. 144.441 (3) (f) of the statutes is created to read:

144.441 (3) (f) *Use of tonnage fees.* Tonnage fees shall be paid into the waste management fund to be used for the purposes specified under sub. (6) (d) to (f).

SECTION 66. 144.441 (3) (g) 1 of the statutes, as affected by chapter 86, laws of 1981, is repealed.

SECTION 67. 144.441 (3) (g) 2 to 4 of the statutes, as affected by chapter 86, laws of 1981, are renumbered 144.441 (6) (b) to (d) and amended to read:

144.441 (6) (b) (title) *Payments from the waste management fund.* The department may expend moneys in the waste management fund only for the purposes specified under ~~subds. 4 and 5~~ pars. (d) to (f).

(c) (title) *Payments from the investment and local impact fund.* The department may expend moneys received from the investment and local impact fund only for the purposes specified under ~~subds. 4 and 5~~ pars. (d) to (f), only for approved mining waste sites facilities, only if moneys in the waste management fund are insufficient to make complete payments and only if the amount expended does not exceed the balance in the waste management fund at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

(d) (title) *Payments for long-term care after termination of owner responsibility.* The department may make payments for all costs of long-term care of ~~a site~~ an approved facility accruing after the responsibility of the owner is terminated under sub. (2). The department shall by rule provide for the method of payment.

SECTION 68. 144.441 (3) (g) 5 of the statutes, as affected by chapter 86, laws of 1981, is renumbered 144.441 (6) (e) (intro.) and amended to read:

144.441 (6) (e) (title) *Payment of related costs.* (intro.) The department may make payments for the following costs of repairing a site, and the costs of repairing environmental damage caused by a site, as a result of occurrence which arise from occurrences not anticipated in the plan of operation and which ~~poses~~ pose a substantial hazard to public health or welfare.:

SECTION 69. 144.441 (3) (g) 6 of the statutes, as affected by chapter 86, laws of 1981, is renumbered 144.441 (6) (g) and amended to read:

144.441 (6) (g) (title) *Notice; hearing.* Prior to making any expenditure under ~~subd. 5 par. (e)~~, the department shall publish a class 1 notice, under ch. 985, of its intent to do so, specifying the amount and purpose of the proposed expenditure and shall afford a hearing to any person who ~~se~~ demands a hearing within 30 days for the purpose of determining whether the proposed expenditure meets the requirements of ~~subd. 5 par. (e)~~ and is reasonable in relation to the cost of obtaining similar materials and services. If an expenditure made under ~~subd. 5 par. (e)~~ would not have been necessary had the person responsible for the operation or long-term care of the site facility substantially complied with the requirements of the plan of operation, a right of action shall accrue to the state against the person, and the attorney general shall take action as is appropriate to enforce this right of action by recovering any amounts so expended. If the payment under ~~subd. 5 par. (e)~~ was made from the waste management fund, the net proceeds of any recovery in the action shall be paid into the waste management fund. If the payment under ~~subd. 5 par. (e)~~ was made from the investment and local impact fund, the net proceeds of any recovery in the action shall be paid into the investment and local impact fund.

SECTION 70. 144.441 (4) (title) and (g) (title) of the statutes are created to read:

144.441 (4) (title) AMOUNT OF TONNAGE FEE.

(g) (title) *Tonnage fee; mining waste.*

SECTION 71. 144.441 (4) (h) of the statutes is created to read:

144.441 (4) (h) *Tonnage fee surcharge; responsibility based on net worth.* With respect to solid or hazardous waste disposed at a facility for which the owner or operator establishes proof of financial responsibility on the basis of net worth under s. 144.443 (4) and complies with minimum security requirements under s. 144.443 (8), the tonnage fees specified under pars. (b) to (g) shall be increased by 25%.

SECTION 72. 144.441 (5) of the statutes is created to read:

144.441 (5) WASTE MANAGEMENT BASE FEE. (a) *Imposition of waste management base fee.* Except as provided under par. (b), the owner or operator of a licensed solid or hazardous waste disposal facility shall pay to the department a waste management base fee for each calendar year.

(b) *Exemption from waste management base fee; when waste management fund exceeds maximum.* If the solid and hazardous waste received by a facility are not subject to the tonnage fees imposed under sub. (3) (a) because of sub. (3) (c), the owner or operator of the facility is not subject to the waste management base fee imposed under par. (a).

(c) *Amount of waste management base fee.* The waste management base fee is \$100.

(d) *Use of waste management base fees.* Waste management base fees shall be paid into the waste management fund to be used for the purposes specified under sub. (6) (d) to (f).

SECTION 73. 144.441 (6) (title), (a) and (e) 1 to 4 of the statutes are created to read:

144.441 (6) (title) PAYMENTS FROM THE WASTE MANAGEMENT FUND AND RELATED PAYMENTS. (a) *Definitions.* As used in this subsection:

1. "Approved facility" has the meaning specified under sub. (2) (a) 1.
2. "Approved mining waste facility" has the meaning specified under sub. (2) (a) 2.
- (e) 1. The costs of repairing a facility or isolating the waste.
2. The costs of repairing environmental damage caused by a facility.
3. The costs of providing temporary or permanent replacements for residential water supplies damaged by a facility.
4. The costs of assessing the potential health effects of the occurrence, not to exceed \$10,000 per occurrence.

SECTION 74. 144.441 (6) (f) of the statutes is created to read:

144.441 (6) (f) *Payment of closure and long-term care costs; responsibility based on net worth.* The department may make payments for the cost of compliance with closure and long-term care requirements in the plan of operation of a waste facility for which the owner or operator establishes proof of financial responsibility under s. 144.443 (4) and complies with minimum security requirements under s. 144.443 (8) if the owner or operator fails to comply with these requirements and if the department or the department of justice is unable to obtain compliance with these requirements after appropriate legal action because of bankruptcy, insolvency or financial inability of the owner or operator or the company, as defined under s. 144.443 (1) (b), to comply with these requirements.

SECTION 75. 144.442 of the statutes is renumbered 144.442 (1) and amended to read:

144.442 (1) Any person acquiring rights of ownership, possession or operation in a licensed ~~site or facility for the disposal of solid waste or the treatment, storage or disposal of hazardous waste facility~~ at any time after the ~~site or facility has begun~~ begins to accept waste ~~shall be~~ is subject to all requirements of the license approved for the ~~site or the facility, including the any requirements relating to long-term care of the site or facility and is subject to any negotiated agreement or arbitration award related to the facility under s. 144.445. Upon acquisition of the rights, the department shall issue a new operating license if the previous licensee is no longer connected with the operation of the ~~site or facility, if the new licensee meets all requirements specified in the previous license, the approved plan of operation, if any, and the rules promulgated under s. 144.62, if applicable.~~~~

SECTION 76. 144.442 (2) of the statutes is created to read:

144.442 (2) Any person having or acquiring rights of ownership in land where an approved facility, as defined under s. 144.441 (2) (a) 1, was previously operated may not, after termination of the owner's responsibility for long-term care of the facility under s. 144.441 (2), undertake any activities on the land which interfere with the closed facility causing a significant threat to public health, safety or welfare.

SECTION 77. 144.443 of the statutes is created to read:

144.443 Financial responsibility. (1) DEFINITIONS. As used in this section:

(a) "Capital expenditures" means any increase in the fixed assets made during a company's fiscal year.

(b) "Company" means any business operated for profit and any public utility which is applying for or holds a license for the operation of a solid or hazardous waste disposal facility under s. 144.44 (4) or 144.64 (2) directly or through a subsidiary, affiliate, contractor or other entity if the business or public utility guarantees compliance with any closure and long-term care responsibilities of the subsidiary, affiliate, contractor or other entity.

(c) "Net worth" means the amount of a company's total tangible assets less the company's total liabilities.

(d) "Public utility" has the meaning specified under s. 196.01 (1).

(e) "Sinking fund" means principal debt payments made during a company's fiscal year.

(f) "Tangible assets" means total assets less intangible assets such as goodwill, patents and trademarks.

(2) REQUIREMENT FOR FINANCIAL RESPONSIBILITY. (a) *Disposal facilities.* The owner or operator of a solid or hazardous waste disposal facility shall maintain proof of financial responsibility ensuring the availability of funds for compliance with the closure and long-term care requirements specified in any plan of operation.

(b) *Hazardous waste storage and treatment facilities.* The owner or operator of a hazardous waste storage or treatment facility shall maintain proof of financial responsibility ensuring the availability of funds for compliance with all closure requirements specified in the plan of operation.

(3) STANDARD METHODS OF ESTABLISHING PROOF OF FINANCIAL RESPONSIBILITY. (a) *Standard methods.* The owner or operator of a facility may establish proof of financial responsibility required under sub. (2) (a) or (b) by obtaining any of the following made payable to or established for the benefit of the department and approved by the department:

1. A bond.
2. A deposit.
3. An established escrow account.
4. An irrevocable letter of credit.

5. A financial commitment satisfactory to the department to ensure that the owner or operator will comply with the closure and any long-term care requirements specified in the plan of operation. The department shall consider the request of any owner or operator to establish proof of financial responsibility under this subdivision.

(b) *Duration of standard methods.* The department may approve a standard method of establishing proof of financial responsibility under par. (a) which expires before the termination of the owner's responsibility for long-term care if the owner or operator shows to a reasonable degree of certainty that the proof of financial responsibility can be renewed or replaced upon expiration and that the owner or operator has an adequate plan to maintain proof of financial responsibility for the closure and long-term care requirements of the plan until termination of the owner's responsibility for long-term care.

(c) *Changes.* The owner or operator may change from one standard method of establishing proof of financial responsibility under par. (a) to another or to a net worth method of establishing proof of financial responsibility under sub. (4).

(4) NET WORTH METHOD OF ESTABLISHING PROOF OF FINANCIAL RESPONSIBILITY; GENERALLY. (a) *Net worth method.* A company may establish proof of financial responsibility required under sub. (2) (a) by applying to the department and meeting the net worth requirements.

(b) *Application.* A company which seeks to establish proof of financial responsibility utilizing the net worth method shall submit an application to the department as a part of the initial license application or annual review procedure which includes a copy of the most recent annual audited financial statements which were distributed to owners, stockholders or other persons with a financial interest in the company and the opinion of an independent certified public accountant.

(c) *Opinion of certified public accountant.* The opinion of the independent certified public accountant shall include all of the following based upon generally accepted accounting principals:

1. All data and information necessary to determine if the company complies with minimum financial standards under sub. (6) or (7).
2. Statements of any substantive qualifications or reservations the certified public accountant has concerning the financial statements and concerning the ability of the company to meet its obligations.
3. Statements of all material contingent liabilities.

(5) DEPARTMENT DETERMINATION UNDER NET WORTH METHOD. (a) *Initial determination.* Except as provided under par. (b), if the department determines that a company complies with minimum financial standards under sub. (6), if the department determines that none of the contingent liabilities or other data or information provided in the financial statements or opinion of the certified public accountant disqualifies the company and if the department determines that a company complies with minimum security requirements under sub. (8), then the department shall find that the company meets the net worth requirements which constitutes proof of financial responsibility for that year.

(b) *Initial determination; public utilities.* If the department determines that a public utility complies with minimum financial standards under sub. (7), if the department determines that none of the contingent liabilities or other data or information in the financial statements or opinion of the certified public accountant disqualifies the public utility and if the department determines that the public utility complies with minimum security requirements under sub. (9), then the department shall find that the utility meets the net worth requirements which constitutes proof of financial responsibility for that year.

(c) *Adverse determination.* If the department determines that contingent liabilities or other data or information provided in the opinion of the certified public accountant disqualifies a company under par. (a) or (b), the department shall issue findings of fact to support this determination and provide the company with an opportunity for a hearing.

(d) *Annual review.* In order to continue to meet the net worth requirements each year, a company shall reapply under sub. (4) (b) submitting material required under sub. (4) (c). Subsequent determinations by the department shall take into consideration any changes in the plan of operation and adjustments to the estimated total cost of compliance with closure and any long-term care requirements because of inflation or other changes.

(e) *Special review.* If the department has reason to believe that a company no longer meets the net worth requirements, it may require the company to submit information and materials to show compliance at any time.

(f) *Failure to meet net worth requirements.* If a company does not meet new worth requirements during the annual review or at any special review, the company shall establish proof of financial responsibility utilizing one of the standard methods under sub. (3) within 45 days after the department issues its findings.

(6) COMPLIANCE WITH MINIMUM FINANCIAL STANDARDS UNDER NET WORTH METHOD.

(a) *Compliance.* Except as provided under par. (j) or sub. (7), calculations and determinations based on data and information provided in the opinion of the certified public accountant are required to establish that the company satisfies each of the criteria under pars. (b) to (i) in order to comply with minimum financial standards.

(b) *Net worth to closure and long-term care cost ratio.* The net worth of the company at the end of its most recently completed fiscal year equals or exceeds 6 times the estimated total cost of compliance with the closure and any long-term care requirements specified in the plan of operation.

(c) *Minimum net worth.* The net worth of a company at the end of its most recently completed fiscal year equals or exceeds \$10,000,000.

(d) *Net fixed assets to total assets ratio.* The quotient of the net fixed assets divided by total tangible assets at the end of the company's most recently completed fiscal year exceeds 0.3.

(e) *Working capital to total liabilities ratio.* The quotient of the working capital provided from operations divided by total liabilities at the end of the company's most recently completed fiscal year exceeds 0.1.

(f) *Total liabilities to net worth ratio.* The quotient of the total liabilities divided by net worth at the end of the company's most recently completed fiscal year is less than 1.5.

(g) *Credit worthiness.* The quotient of the total of the working capital provided from operations at the end of the company's most recently completed fiscal year plus interest payments made during that year plus rental expenses incurred during that year, used as a dividend, divided by the total of interest payments made during that year plus rental expenses incurred during that year plus the product of the sinking fund at the end of that year times the tax factor, used as the divisor, exceeds 2.0. The tax factor equals the quotient of one, used as the dividend, divided by the total of one less the sum of the average federal income tax rate plus the average Wisconsin tax rate calculated in that year, used as the divisor.

(h) *Average self-financing measure.* The average for the self-financing measures for the company's 5 previous fiscal years exceeds 0.8. The self-financing measure equals the quotient of the working capital provided from operations at the end of the company's fiscal year less dividend payments made during that year, used as the dividend, divided by the capital expenditures made during that year, used as the divisor.

(i) *Absence of qualifiers in certified public accountant's opinion.* Information provided in the opinion of the certified public accountant does not indicate any of the following qualifications:

1. Accounting practices or calculations made by or suspected to have been made by the company in its financial statements which deviate from generally accepted accounting principals.

2. Any limitation on the scope of the audit procedures.

3. Any indication that materials presented in or calculations made in the financial statement are unreliable because of future events not susceptible to reasonable estimation.

(j) *Variance from one criterion.* If calculations and determinations based on data and information provided in the opinion of the certified public accountant establish that the company satisfies both the criteria under pars. (b) and (c) and all but one of the criteria under pars. (d) to (i) and if the department finds that the company meets minimum

variance requirements, the department may grant a variance and issue a determination stating that the company complies with minimum financial standards. In order to meet minimum variance requirements:

1. The deviation from the criterion may not be significant;
2. The company is required to have satisfied the criterion consistently in previous fiscal years; and
3. The company is required to establish that it is likely to satisfy the criterion in future fiscal years.

(7) COMPLIANCE WITH MINIMUM FINANCIAL STANDARDS UNDER NET WORTH METHOD; PUBLIC UTILITIES. (a) *Compliance*. A public utility is required to satisfy both the criteria under pars. (b) and (c) in order to comply with minimum financial standards.

(b) *Net worth to closure and long-term care costs ratio; minimum net worth; and absence of qualifiers in certified public accountant's opinion*. Calculations and determinations based on data and information provided in the opinion of the certified public accountant are required to establish that the utility satisfies each of the criteria under sub. (6) (b), (c) and (i); and

(c) *Minimum bond ratings*. The public utility received a bond rating of "A" or better from the Moody's investor service, incorporated, or "A" or better from Standard and Poor's corporation in the most recent issuance of ratings by either firm.

(8) MINIMUM SECURITY REQUIREMENTS UNDER NET WORTH METHOD. Except as provided under sub. (9), a company is required to pay a tonnage fee surcharge as provided under s. 144.441 (4) (h) in order to comply with minimum security requirements.

(9) MINIMUM SECURITY REQUIREMENTS UNDER NET WORTH METHOD; PUBLIC UTILITIES; ASSESSMENT ORDER. (a) *Minimum risk pool*. A public utility may comply with minimum security requirements under a risk pool arrangement if at least 2 public utilities utilize this arrangement.

(b) *Inability to meet closure and long-term care costs*. If a public utility which utilizes the risk pool arrangement does not comply with the closure and long-term care requirements specified in any plan of operation and if the department or the department of justice is unable to obtain compliance with these requirements after appropriate legal action because of bankruptcy, insolvency or the financial inability of the utility to comply with these requirements, then the department is authorized to enter an assessment order.

(c) *Assessment order*. If the department is authorized to enter an assessment order, the order shall direct each public utility which utilized the risk pool arrangement in the previous year, except the utility which failed to comply with the closure and long-term care requirements, to pay a share of the estimated total cost of compliance with these requirements proportional to the amount of electricity generated by each of these public utilities during the previous year.

(10) SALE OF FACILITY. A person acquiring ownership, possession or operation of a solid or hazardous waste facility shall establish proof of financial responsibility as required under sub. (2). The previous owner or operator is responsible and shall maintain any required proof of financial responsibility until the person acquiring ownership, possession or operation of the facility establishes any required proof of financial responsibility.

(11) CLOSURE AND LONG-TERM CARE. (a) *Failure to comply with closure and long-term care requirements*. If the owner or operator of the facility fails to comply with the closure and any long-term care requirements in any plan of operation:

1. The department may require the forfeiture or convert any standard method of establishing proof of financial responsibility if the owner or operator established proof of financial responsibility under sub. (3).

2. The department may utilize funds appropriated under s. 20.370 (2) (cq) if the owner or operator established proof of financial responsibility under sub. (4) by complying with minimum financial standards under sub. (6) and minimum security requirements under sub. (8).

3. The department may issue an assessment order under sub. (9) (c) if the owner or operator established proof of financial responsibility by complying with minimum financial standards under sub. (7) and minimum security requirements under sub. (9).

(b) *Compliance with closure and long-term care requirements.* If the owner or operator of a waste facility fails to comply with the closure and any long-term care requirements in any plan of operation, the department may take action or contract with a person to take action to comply with these requirements from moneys obtained for that purpose under par. (a).

(c) *Prevention of imminent hazard.* If the owner or operator of a waste facility fails to comply with the closure and any long-term care requirements in any plan of operation, if the department determines that the failure to comply with these requirements presents an imminent or substantial danger to the health or environment and if the department takes reasonable administrative and legal action to require compliance or to obtain moneys under par. (a), then the department may take action or contract with a person to take action to comply with these requirements even though no moneys have been obtained under par. (a).

(12) NO ENVIRONMENTAL IMPACT STATEMENT REQUIREMENTS. A determination under this section does not constitute a major state action under s. 1.11 (2).

SECTION 78. 144.445 of the statutes is repealed and recreated to read:

144.445 Solid and hazardous waste facilities; negotiation and arbitration. (1) LEGISLATIVE FINDINGS. (a) The legislature finds that the creation of solid and hazardous waste is an unavoidable result of the needs and demands of a modern society.

(b) The legislature further finds that solid and hazardous waste is generated throughout the state as a by-product of the materials used and consumed by every individual, business, enterprise and governmental unit in the state.

(c) The legislature further finds that the proper management of solid and hazardous waste is necessary to prevent adverse effects on the environment and to protect public health and safety.

(d) The legislature further finds that the availability of suitable facilities for solid waste disposal and the treatment, storage and disposal of hazardous waste is necessary to preserve the economic strength of this state and to fulfill the diverse needs of its citizens.

(e) The legislature further finds that whenever a site is proposed for the solid waste disposal or the treatment, storage or disposal of hazardous waste, the nearby residents and the affected municipalities may have a variety of legitimate concerns about the location, design, construction, operation, closing and long-term care of facilities to be located at the site, and that these facilities must be established with consideration for the concerns of nearby residents and the affected municipalities.

(f) The legislature further finds that local authorities have the responsibility for promoting public health, safety, convenience and general welfare, encouraging planned and orderly land use development, recognizing the needs of industry and business, including solid waste disposal and the treatment, storage and disposal of hazardous waste and that the reasonable decisions of local authorities should be considered in the siting of solid waste disposal facilities and hazardous waste facilities.

(g) The legislature further finds that the procedures for the siting of new or expanded solid waste disposal facilities and hazardous waste facilities under ss. 144.44 and 144.64, 1979 stats., are not adequate to resolve many of the conflicts which arise during the process of establishing such facilities.

(2) **LEGISLATIVE INTENT.** It is the intent of the legislature to create and maintain an effective and comprehensive policy of negotiation and arbitration between the applicant for a license to establish either a solid waste disposal facility or a hazardous waste treatment, storage or disposal facility and a committee representing the affected municipalities to assure that:

(a) Arbitrary or discriminatory policies and actions of local governments which obstruct the establishment of solid waste disposal facilities and hazardous waste facilities can be set aside.

(b) The legitimate concerns of nearby residents and affected municipalities can be expressed in a public forum, negotiated and, if need be, arbitrated with the applicant in a fair manner and reduced to a written document that is legally binding.

(c) An adequate mechanism exists under state law to assure the establishment of environmentally sound and economically viable solid waste disposal facilities and hazardous waste facilities.

(3) **DEFINITIONS.** In this section:

(a) "Applicant" means a person applying for a license for or the owner or operator of a facility.

(b) "Board" means the waste facility siting board.

(c) "Facility" means a solid waste disposal facility or a hazardous waste facility.

(d) "Local approval" includes any requirement for a permit, license, authorization, approval, variance or exception or any restriction, condition of approval or other restriction, regulation, requirement or prohibition imposed by a charter ordinance, general ordinance, zoning ordinance, resolution or regulation by a town, city, village, county or special purpose district, including without limitation because of enumeration any ordinance, resolution or regulation adopted under s. 59.065, 59.07, 59.083, 59.97, 59.971, 60.18, 60.29, 60.306, 60.72, 60.74, 61.34, 61.35, 62.11, 62.23, 66.01, 66.052, 66.24 (8), 87.30, 91.73, 144.07, 196.58, 236.45 or 349.16.

(e) "Local committee" means the committee appointed under sub. (7).

(f) "Participating municipality" means an affected municipality which adopts a siting resolution and appoints members to the local committee.

(fm) "Preexisting local approval" means a local approval in effect at least 15 months prior to the submission to the department of either a feasibility report under s. 144.44 (2) or an initial site report, whichever occurs first.

(g) "Siting resolution" means the resolution adopted by an affected municipality under sub. (6) (a).

(4) **RULES.** The board may promulgate rules necessary for the implementation of this section.

(5) **APPLICABILITY OF LOCAL APPROVALS.** (a) The establishment of facilities is a matter of statewide concern.

(b) An existing facility is not subject to any local approval except those local approvals made applicable to the facility under pars. (c) to (g).

(c) Except as provided under par. (d), a new or expanded facility is subject to preexisting local approvals.

(d) A new or expanded facility is not subject to any preexisting local approvals which are specified as inapplicable in a negotiation agreement approved under sub. (9) or an arbitration award issued under sub. (10).

(e) Except as provided under par. (f), a new or expanded facility is not subject to any local approvals which are not preexisting local approvals.

(f) A new or expanded facility is subject to local approvals which are not preexisting local approvals if they are specified as applicable in a negotiation agreement approved under sub. (9).

(g) This subsection applies to a new or expanded facility owned or operated by a county in the same manner it applies to all other new or expanded facilities.

(6) SITING RESOLUTION. (a) The governing body of an affected municipality may commence the negotiation and arbitration process under this section by adopting a siting resolution at any time after the municipality receives a request from the applicant under s. 144.44 (1m) (b) or receives any application for a local approval and before the expiration of any time period specified under s. 144.44 (2) (b). The siting resolution shall state the affected municipality's intent to negotiate and, if necessary, arbitrate with the applicant concerning the proposed facility. Within 7 days after adopting the siting resolution, the affected municipality shall send a copy of the siting resolution to the applicant and the board. If no affected municipality adopts a siting resolution within the time limits in this paragraph, the applicant may continue to seek state approval of the facility, is not required to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5).

(b) Immediately upon receipt of the first siting resolution applicable to a facility, the board shall give the other affected municipalities written notice that they are required to adopt a siting resolution within 2 weeks after receipt of the notice to be eligible to appoint members in the local committee. Other affected municipalities shall send a copy of the resolution to the applicant and the board within 7 days after adopting a siting resolution. An affected municipality which does not adopt a siting resolution within 2 weeks after receipt of notice from the board may not appoint members to the local committee.

(c) A siting resolution may be rescinded at any time by a resolution of the governing body of the municipality which adopted it. When a siting resolution is rescinded, individuals appointed by the governing body of the municipality to serve on the local committee are removed from membership on the local committee.

(d) An affected municipality which is also the applicant or which contracts with the applicant to construct or operate a facility may not adopt a siting resolution.

(7) LOCAL COMMITTEE. (a) Members of the local committee shall be appointed by the governing body of each affected municipality passing a siting resolution, as follows:

1. A town, city or village in which all or part of a facility is proposed to be located shall appoint 4 members, no more than 2 of whom are elected officials or municipal employes.

1m. A county in which all or part of a facility is proposed to be located shall appoint 2 members.

2. Any affected municipality, other than those specified under subd. 1 or 1m, shall appoint one member.

(b) Any affected municipality which fails to appoint members to the local committee within 2 weeks after the siting resolution is adopted by that municipality may not appoint members to the local committee. If no municipality appoints members to the local committee under this paragraph, the applicant may continue to seek state approval of the facility, is not required to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5).

(c) A participating municipality may remove and replace at will the members it appoints to the local committee. Vacancies on the local committee shall be filled in the same manner as initial appointments.

(d) The local committee shall elect one of its members as chairperson.

(e) A majority of the membership of the local committee constitutes a quorum to do business and a majority of that quorum may act in any matter before the local committee. Each member of the local committee has one vote in any matter before the committee and no member may vote by proxy.

(f) Meetings of the local committee are subject to subch. IV of ch. 19.

(8) SUBJECTS OF NEGOTIATION AND ARBITRATION. (a) The applicant and the local committee may negotiate with respect to any subject except:

1. Any proposal to make the applicant's responsibilities under the approved feasibility report or plan of operation less stringent.

2. The need for the facility.

(b) Only the following items are subject to arbitration under this section:

1. Compensation to any person for substantial economic impacts which are a direct result of the facility including insurance and damages not covered by the waste management fund.

1m. Reimbursement of reasonable costs, but not to exceed \$2,500, incurred by the local committee relating to negotiation, mediation and arbitration activities under this section.

2. Screening and fencing related to the appearance of the facility. This item may not affect the design capacity of the facility.

3. Operational concerns including, but not limited to, noise, dust, debris, odors and hours of operation but excluding design capacity.

4. Traffic flows and patterns resulting from the facility.

5. Uses of the site where the facility is located after closing the facility.

6. Economically feasible methods to recycle or reduce the quantities of waste to the facility. At facilities for which the applicant will not provide or contract for collection and transportation services, this item is limited to methods provided at the facility.

7. The applicability or nonapplicability of any preexisting local approvals.

(9) NEGOTIATION. (a) Negotiation between the applicant and the local committee may commence at any time after the appointment of all members of the local committee. The time and place of negotiating sessions shall be established by agreement between the applicant and the local committee. Negotiating sessions shall be open to the public.

(b) Either party may petition the board in writing for a determination as to whether a proposal is excluded from negotiation under sub. (8) (a). A petition may be submitted to the board before a proposal is offered in negotiation. A petition may not be submitted to the board later than 7 days after the time a proposal is offered for negotiation. The board shall conduct a hearing on the matter and issue its decision within 14 days after receipt of the petition. The decision of the board is binding on the parties and is not subject to judicial review. Negotiation on any issue, including issues subject to a petition under this paragraph, may continue pending the issuance of the board's decision.

(c) Negotiating sessions may be conducted with the assistance of a mediator if mediation is approved by both the applicant and the local committee. Either the applicant or the local committee may request a mediator at any time during negotiation. The function of the mediator is to encourage a voluntary settlement by the applicant and the local committee. The mediator may not compel a settlement. The board shall provide the applicant and the local committee with the names and qualifications of persons willing to serve as mediators. If the applicant and the local committee cannot agree on the selection of a mediator, the applicant and the local committee may request the board to appoint a mediator.

(d) Failure of the applicant or the local committee to participate in negotiating sessions constitutes default except as provided in this paragraph. It is not default if the applicant or the local committee fails to participate in negotiating sessions either for good cause or if further negotiations cannot be reasonably expected to result in a settlement. Either party may petition the board in writing for a determination as to whether a given situation constitutes default. The board shall conduct a hearing in the matter. Notwithstanding s. 227.22 (2), the decision of the board on default is subject to judicial review under ss. 227.15 to 227.21. If the applicant defaults, the applicant may not construct the facility. If the local committee defaults, the applicant may continue to seek state approval of the facility, is not required to continue to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5).

(e) Any item proposed to be included in a negotiated agreement which affects an applicant's responsibilities under an approved feasibility report or plan of operation may be submitted to the department for consideration. An item may be submitted to the department under this paragraph after agreement on the item is reached by the applicant and the local committee either during or at the conclusion of negotiation. The department shall approve or reject items submitted under this paragraph within 2 weeks after receipt of the item. The department shall reject those items which would make the applicant's responsibilities less stringent than required under the approved feasibility report or plan of operation. The department shall provide written reasons for the rejection. Items which are rejected may be revised and resubmitted. The department may incorporate all items which are not rejected under this paragraph into the approved feasibility report or the plan of operation. The department shall inform the applicant, the local committee and the board of its decisions under this paragraph.

(f) All issues subject to negotiation which are resolved to the satisfaction of both the applicant and the local committee and, if necessary, are approved by the department under par. (e), shall be incorporated into a written agreement. Within 2 weeks after approval of the written agreement by the applicant and the local committee, the negotiated agreement shall be submitted for approval by the governing body of each town, city or village where all or a portion of the facility is to be located. If the negotiated agreement is approved by resolution by each town, city or village where all or a portion of the facility is to be located, the negotiated agreement is binding on all of the participating municipalities. If the negotiated agreement is not approved by any town, city or village where all or a portion of the facility is to be located, the negotiated agreement is void.

(g) The mediator shall submit a statement of his or her costs to the applicant, the local committee and the board. Except as otherwise specified in the negotiated agreement or the arbitration award under sub. (10), the costs of the mediator shall be shared equally between the applicant and the local committee. The local committee's share of the mediator's costs shall be divided among the participating municipalities in proportion to the number of members appointed to the local committee by each participating municipality.

(10) ARBITRATION. (a) If agreement is not reached on any items after a reasonable period of negotiation, the applicant and the local committee may submit a joint written petition to the board to initiate arbitration under this subsection.

(b) Either the applicant or the local committee may submit an individual written petition to the board to initiate arbitration under this subsection but not earlier than 120 days after the board issues a notice under sub. (6) (b).

(c) Within 15 days after receipt of a petition to initiate arbitration, the board shall notify the applicant and the local committee either that they are required to continue negotiating for a least 30 days after the date of the notice if, in the judgment of the board, arbitration can be avoided by the negotiation of any remaining issues or, otherwise, that they are required to submit their respective final offers to the board within 90 days after the date of the notice. If the board directs the applicant and the local committee to continue negotiating, the petition to initiate arbitration may be resubmitted after the

extended period of negotiation. If the local committee fails to submit a final offer within the time limit in this paragraph, the applicant may continue to seek state approval of the facility, is not required to continue to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5). If the applicant fails to submit a final offer within the time limit in this paragraph, the applicant may not construct or operate the facility.

(d) Final offers shall contain the final terms and conditions relating to the facility proposed by the applicant and the local committee and any information or arguments in support of the proposals. Additional supporting information may be submitted at any time. The final offers may include only issues subject to arbitration under sub. (8). A final offer may include only items offered in negotiation except that a final offer may not include items settled by negotiation and approved under sub. (9) (f) by each town, city or village where all or a portion of the facility is to be located. The final offers prepared by the local committee are required to be submitted for approval by resolution of the governing body of each participating municipality before the final offer is submitted to the board. The final offers are public documents and the board shall make copies available to the public.

(e) After the final offers are submitted to the board, neither the applicant nor the local committee may amend its final offer, except with the written permission of the other party. Amendments proposed by the local committee are required to be approved by the participating municipality to which the amendment relates. If the governing body of any participating municipality fails to approve the final offer prepared by the local committee, the applicant may amend those portions of his or her final offer which pertain to that municipality without obtaining written permission from the local committee.

(f) Within 30 days after the last day for submitting final offers, the board shall conduct a public meeting in a place reasonably close to the location of the facility to provide an opportunity for the applicant and the local committee to explain or present supporting arguments for their final offers. The board may conduct additional meetings with the applicant and the local committee as necessary to prepare its arbitration award. The board may administer oaths, issue summonses under s. 788.06 and direct the taking of depositions under s. 788.07.

(g) Within 90 days after the last day for submitting final offers under par. (c), the board may issue an arbitration award with the approval of a minimum of 5 board members. If the board fails to issue an arbitration award within this period, the governor shall issue an arbitration award within 120 days after the last day for submitting final offers under par. (c). The arbitration award shall adopt, without modification, the final offer of either the applicant or the local committee except that the arbitration award shall delete those items which are not subject to arbitration under sub. (8) or are not consistent with the legislative findings and intent under subs. (1) and (2). A copy of the arbitration award shall be served on the applicant and the local committee.

(h) If the applicant constructs and operates the facility, the arbitration award is binding on the applicant and the participating municipalities and does not require approval by the participating municipalities.

(i) Sections 788.09 to 788.15 apply to arbitration awards under this subsection.

(j) An arbitration award under this subsection is not a major state action under s. 1.11 (2).

(11) **SUCCESSORS IN INTEREST.** Any provision in a negotiated agreement or arbitration award is enforceable by or against the successors in interest of any person directly affected by the award. A personal representative may recover damages for breach for which the decedent could have recovered.

(12) **APPLICABILITY.** (a) *Solid waste disposal facilities.* 1. This section applies to new or expanded solid waste disposal facilities for which an initial site report is submitted after March 15, 1982, or, if no initial site report is submitted, for which a feasibility report is submitted after March 15, 1982.

2. This section does not apply to modifications to a solid waste disposal facility which do not constitute an expansion of the facility or to a solid waste disposal facility which is exempt from the requirement of a feasibility report under ss. 144.43 to 144.47 or by rule promulgated by the department.

(b) *Hazardous waste facilities.* 1. This section applies to all new or expanded hazardous waste facilities for which an initial site report is submitted after March 15, 1982, or, if no initial site report is submitted, for which a feasibility report is submitted after March 15, 1982.

2. Except as provided under subd. 1 and par. (c), only subs. (3) and (5) (a) and (b) apply to a hazardous waste facility which is in existence on the effective date of this section (1981), which has a license, an interim license or a variance under s. 144.64 or the resource conservation and recovery act and which complies with all local approvals applicable to the facility on the effective date of this section (1981).

3. Only subs. (3) and (5) (a) to (c) and (e) apply to a hazardous waste treatment or storage facility which accepts waste only from the licensee.

(c) *Existing solid waste disposal facilities or hazardous waste facilities.* 1. This section applies to an existing solid waste disposal facility or hazardous waste facility which shall be treated as a new or expanded facility upon the adoption of a siting resolution by any affected municipality under sub. (6):

a. At any time during the life of a solid waste disposal facility or a hazardous waste facility if the owner or operator and one or more affected municipalities agree to negotiate and arbitrate under this section.

b. When a negotiated settlement or arbitration award under this section provides for the reopening of negotiations.

c. At any time after the date specified in the feasibility report, if such a date has been specified under s. 144.44 (2) (f), as the proposed date of closure of a solid or hazardous waste disposal facility and if the facility is not closed on or before that date.

2. Except as provided under subd. 1 and pars. (a), (b) and (d), only subs. (3) and (5) (a) and (b) apply to an existing solid waste disposal facility or a hazardous waste facility.

(d) *Nonapplicability to mining waste facilities.* This section does not apply to any waste facility which is part of a prospecting or mining operation with a permit under s. 144.84 or 144.85.

SECTION 79. 144.447 of the statutes is created to read:

144.447 Acquisition of property by condemnation. (1) **DEFINITION.** In this section, "property" includes any interest in land including an estate, easement, covenant or lien, any restriction or limitation on the use of land other than those imposed by exercise of the police power, any building, structure, fixture or improvement and any personal property directly connected with land.

(2) **PROPERTY MAY BE CONDEMNED.** Notwithstanding s. 32.03, property intended for use as a solid or hazardous waste facility may be condemned if all of the following conditions are met:

(a) The entity proposing to acquire the property for use as a solid or hazardous waste facility has authority to condemn property for this purpose.

(b) The property is determined to be feasible for use as a solid or hazardous waste facility by the department if that determination is required under s. 144.44 (2).

(c) The property is acquired by purchase, lease, gift or condemnation by a municipality, public board or commission or any other entity, except for the state, so as to bring the property within the limitations on the exercise of the general power of condemnation under s. 32.03 within:

1. Five years prior to the determination of feasibility if a determination of feasibility is required for the facility under s. 144.44 (2).

2. Five years prior to the service of a jurisdictional offer under s. 32.06 (3) if a determination of feasibility is not required for the facility under s. 144.44 (2).

SECTION 80. 144.465 of the statutes is created to read:

144.465 Review of alleged violations. Any 6 or more citizens or any municipality may petition for a review of an alleged violation of ss. 144.43 to 144.47 or any rule promulgated or special order, plan approval, license or any term or condition of a license issued under those sections in the following manner:

(1) They shall submit to the department a petition identifying the alleged violator and setting forth in detail the reasons for believing a violation occurred. The petition shall state the name and address of a person within the state authorized to receive service of answer and other papers in behalf of the petitioners and the name and address of a person authorized to appear at a hearing in behalf of the petitioners.

(2) Upon receipt of a petition under this section, the department may:

(a) Conduct a hearing in the matter within 60 days of receipt of the petition. A hearing under this paragraph shall be a contested case under ch. 227. Within 60 days after the close of the hearing, the department shall either:

1. Serve written notice specifying the law or rule alleged to be violated, containing findings of fact, conclusions of law and an order, which shall be subject to review under ch. 227; or

2. Dismiss the petition.

(b) Initiate action under s. 144.47.

(3) If the department determines that a petition was filed maliciously or in bad faith, it shall issue a finding to that effect, and the person complained against is entitled to recover expenses on the hearing in a civil action.

SECTION 81. 144.47 (1) (a) (intro.) and 2 of the statutes are amended to read:

144.47 (1) (a) (intro.) If the department has reason to believe that a violation of ss. 144.43 to 144.47 or any rule promulgated or special order, plan approval ~~or permit, or any term or condition of a license issued under those sections has occurred~~, it may:

2. Initiate action under s. ~~144.99~~ 144.98.

SECTION 82. 144.60 (2) (i) of the statutes is amended to read:

144.60 (2) (i) Meets the minimum requirements of the resource conservation and recovery act of 1976, P.L. 94-580.

SECTION 83. 144.61 (3) of the statutes is amended to read:

144.61 (3) "Disposal" means the discharge, deposit, injection, dumping or placing of any hazardous waste into or on any land or water ~~so that in a manner which may permit the hazardous waste or any constituent of the hazardous waste may enter the environment or to be emitted into the air or, to be discharged into any waters, including ground waters, or the storage of any hazardous waste for a period longer than 18 months of the state or otherwise to enter the environment, but this term does not include the generation, transportation, storage or treatment of hazardous waste.~~

SECTION 84. 144.61 (5m) of the statutes is created to read:

144.61 (5m) "Hazardous waste facility" means a facility for the treatment, storage or disposal of hazardous waste and includes the land where the facility is located.

SECTION 85. 144.61 (9) of the statutes is amended to read:

144.61 (9) "Person" means an individual, owner ~~or~~, operator, corporation, partnership, association, municipality, interstate agency ~~or~~, state agency or federal agency, department or instrumentality.

SECTION 86. 144.61 (9m) of the statutes is created to read:

144.61 (9m) "Resource conservation and recovery act" means the federal resource conservation and recovery act, 42 USC 6901 to 6987, as amended on the effective date of this subsection (1981).

SECTION 87. 144.61 (10) and (12) of the statutes are repealed and recreated to read:

144.61 (10) "Storage" means the holding of hazardous waste for a temporary period, at the end of which period the hazardous waste is to be treated or disposed.

(12) "Transport" means the movement of hazardous wastes between facilities which are subject to or require a license under this subchapter or the resource conservation and recovery act.

SECTION 88. 144.61 (13) and (14) of the statutes are amended to read:

144.61 (13) "Treatment" means any method, technique or process, including neutralization, which follows generation and which is designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize the hazardous waste or so as to render the waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes incineration.

(14) "Treatment facility" means a ~~location~~ facility at which hazardous waste is subjected to treatment and may include a facility where hazardous waste ~~has been~~ is generated. ~~Such facilities shall~~ This term does not include a waste water treatment facilities facility whose discharges are regulated under ch. 147 unless the facility is required to be permitted as a hazardous waste treatment facility under the resource conservation and recovery act.

SECTION 89. 144.62 (1) of the statutes is repealed.

SECTION 90. 144.62 (2) (intro.) and (a) of the statutes are consolidated, renumbered 144.62 (2) (a) and amended to read:

144.62 (2) (a) ~~Within 12 months after publication of final regulations required under s. 3001 (b) of the resource conservation and recovery act of 1976, P.L. 94-580, or by July 1, 1979, whichever is earlier, the~~ The department shall: ~~(a) Promulgate~~ promulgate by rule, criteria identical to those promulgated by the U.S. environmental protection agency under s. 3001 (b) 6921 (a) of the resource conservation and recovery act of 1976, P.L. 94-580, for identifying the characteristics of hazardous waste ~~and based on use of these criteria, maintain and update a list of wastes identified as hazardous wastes which shall be subject to ss. 144.60 to 144.74.~~ The rules shall require that any person generating or transporting, or owning or operating a facility for treatment, storage or disposal, of, any hazardous waste or any substance which either meets the criteria or is identified as a hazardous waste shall, within 90 days of promulgation of the rule, so notify the department of that fact within 90 days after the promulgation of the rule.

SECTION 91. 144.62 (2) (b) of the statutes is repealed and recreated to read:

144.62 (2) (b) 1. The department shall promulgate by rule a list of hazardous wastes.

2. Except as provided under subd. 3, the list of hazardous wastes shall be identical to the list promulgated by the U.S. environmental protection agency under s. 6921 (b) of the resource conservation and recovery act.

3. The department may include or retain on the list of hazardous wastes any additional solid waste not included on the list promulgated by the U.S. environmental protection agency if the department determines that the additional solid waste has characteristics which identify it as a hazardous waste based on the criteria promulgated under par. (a) and if the department determines that the inclusion or retention is necessary to protect public health, safety or welfare. The department shall issue specific findings and conclusions on which its determinations are based and shall include or retain the additional solid waste on the list of hazardous wastes by rule.

SECTION 92. 144.62 (5) of the statutes is amended to read:

144.62 (5) The department may, ~~by rule, exempt from any of the provisions of ss. 144.60 to 144.74 by rule~~ any person who generates, treats, stores or disposes of hazardous wastes ~~which do from any provision under ss. 144.60 to 144.74 or from any rule promulgated under those sections if the generation, treatment, storage or disposal does not~~ present a significant hazard to public health and safety or the environment.

SECTION 93. 144.62 (6) of the statutes is repealed.

SECTION 94. 144.62 (10) (a) of the statutes is amended to read:

144.62 (10) (a) ~~Rules~~ The department shall promulgate rules under sub. (2) ~~(a) shall also which~~ establish not less than 2 nor more than 4 classes of hazardous waste and shall assign wastes to a particular class. The classes shall be based upon the relative degrees of hazard posed by the waste. ~~Storage periods defined under s. 144.61 (10) and standards~~ Standards established under ss. 144.60 to 144.74 for ~~facilities which treat, store or dispose of hazardous waste, facilities or for equipment which transports hazardous waste, shall recognize and differentiate between the classes of waste the facility or equipment is intended to transport, treat, store or dispose.~~ facilities or for equipment which transports hazardous waste, shall recognize and differentiate between the classes of waste the facility or equipment is intended to transport, treat, store or dispose.

SECTION 95. 144.62 (11) of the statutes is repealed.

SECTION 96. 144.63 (intro.), (7) and (9) of the statutes are amended to read:

144.63 Generation. (intro.) Any person generating hazardous solid waste shall determine if the solid waste is a hazardous waste. Any person generating hazardous waste shall:

(7) Submit all ~~required~~ reports required under ss. 144.60 to 144.74 and rules promulgated under those sections.

(9) Arrange that all wastes generated by them are transported, treated, stored or disposed of at facilities, ~~or by operations,~~ holding a license issued under ss. 144.60 to 144.74 or issued under the resource conservation and recovery act of 1976, P.L. 94-580.

SECTION 97. 144.64 of the statutes is repealed and recreated to read:

144.64 Licenses. (1) TRANSPORTATION. (a) No person may transport hazardous waste without a license issued under this subsection.

(b) Licenses issued under this subsection shall require compliance with rules of the department. The rules shall establish standards for the following:

1. Recordkeeping concerning hazardous waste transported, and its source and delivery points.
2. Labeling procedures.
3. Use of a manifest system.
4. Containers used to transport waste.
5. Equipment operator qualifications.

(c) Licenses issued under this subsection may be denied, suspended or revoked for grievous and continuous failure to comply with the rules adopted under par. (b).

(2) TREATMENT, STORAGE OR DISPOSAL. (a) The storage of hazardous waste at the generation site by the generator of that waste for a period of less than 90 days is not subject to this subsection. The storage of hazardous waste for a period of less than 10 days is exempt from this subsection if the storage is in connection with the movement of the hazardous waste between generation sites under a single ownership and accomplished in vehicles owned by the generator. Notwithstanding the exemptions granted under this paragraph, no person may store or cause the storage of hazardous waste in a manner which causes environmental pollution.

(am) No person may:

1. Construct a hazardous waste facility unless the person complies with s. 144.44 (2) to (3).
2. Operate a hazardous waste facility without an interim or operating license issued under this subsection.

(b) Licenses issued under this subsection shall require compliance with s. 144.44 (4) and rules promulgated under ss. 144.60 to 144.74.

(c) The department may issue an interim license to a person who operates a hazardous waste facility in existence on November 19, 1980, if the person applies for a license under this subsection and complies with conditions and restrictions prescribed by rule or special order by the department pending the decision on the issuance of an operating license under this subsection. An interim license issued under this paragraph constitutes an operating license under this subsection.

(d) An existing hazardous waste facility which was never licensed under this subsection, whether or not it was previously authorized to receive hazardous waste under s. 144.44 (4), shall be treated as an unlicensed proposed facility which has not been constructed for the purpose of complying with par. (am) 1, for the purpose of obtaining an operating license under this subsection and for the purpose of administrative procedure and review under ch. 227.

(e) Licenses issued under this subsection may be denied, suspended or revoked for:

1. Failure to pay fees required under ss. 144.43 to 144.47;
2. Grievous and continuous failure to comply with the rules adopted under ss. 144.60 to 144.74; or
3. For grievous and continuous failure to comply with the approved plan of operation under s. 144.44 (3).

(f) A treatment facility which is required to be permitted as a hazardous waste treatment facility under the resource conservation and recovery act and the discharges of which are regulated under ch. 147 shall comply with construction and operating standards promulgated by rule by the department. The department shall promulgate rules under this paragraph which are substantially equivalent to and not more stringent than the standards promulgated under the resource conservation and recovery act.

(3) VARIANCE; WAIVER. (a) If the department determines that the application for or compliance with any license required under this section would cause undue or unreasonable hardship to any person, the department may issue a variance from the requirements of this section but the variance may not result in undue harm to public health or the environment and the duration of the variance may not exceed 5 years. The department may renew or extend a variance only after opportunity for a public hearing.

(b) The department may waive compliance with any requirement of ss. 144.60 to 144.74 or shorten the time periods provided under ss. 144.60 to 144.74 to the extent necessary to prevent an emergency condition threatening public health, safety or welfare or the environment.

(4) FEES. (a) The department shall adopt by rule a graduated schedule of reasonable fees to be charged for the direct administration of this section.

(b) A person who operates a licensed hazardous waste disposal facility shall pay the fees imposed and specified under s. 144.441 (3) and (4).

SECTION 98. 144.68 of the statutes is created to read:

144.68 Environmental impact statement. (1) An environmental impact statement is required under s. 1.11 (2) for a new hazardous waste disposal facility if one or both of the following conditions exist:

(a) The total area committed to solid and hazardous waste disposal exceeds 80 acres.

(b) The total volume of solid and hazardous waste intended for disposal under the plan of operation exceeds one million cubic yards.

(2) This section does not apply to hazardous waste disposal facilities granted an interim license under s. 144.64 (2) (c) or a variance under s. 144.64 (3) (a).

SECTION 99. 144.69 of the statutes is amended to read:

144.69 Inspections and right of entry. ~~Any~~ Upon the request of any officer or employe of the department and with notice provided no later than upon the officer or employe's arrival, any person who generates, stores, treats, transports or disposes of hazardous wastes shall, upon request of any officer or employe of the department, permit the person, at reasonable times and with notice no later than upon arrival, officer or employe access to vehicles, premises and records relating to hazardous wastes. ~~Departmental personnel at reasonable times. An officer or employe of the department may take samples of any hazardous wastes as they deem necessary waste. Inspections~~ The officer or employe shall ~~be commenced~~ commence and ~~completed~~ complete inspections with reasonable promptness. If samples are taken, the officer or employe shall give a receipt for each sample shall be given to the person in charge of the facility, and, upon request, half of the sample taken. ~~A~~ The department shall furnish promptly a copy of the results of any departmental analysis of the any sample, if which is taken, and a copy of the inspection report, shall be promptly furnished to the person in charge of the facility.

SECTION 100. 144.70 of the statutes is repealed and recreated to read:

144.70 Confidentiality of records. (1) RECORDS. Except as provided under sub. (2), any records or other information furnished to or obtained by the department in the administration of ss. 144.60 to 144.74 are public records subject to s. 19.21.

(2) CONFIDENTIAL RECORDS. (a) *Application.* An owner or operator of a hazardous waste facility may seek confidential treatment of any records or other information furnished to or obtained by the department in the administration of ss. 144.60 to 144.74.

(b) *Standards for granting confidential status.* Except as provided under par. (c), the department shall grant confidential status for any records or information received by the department and certified by the owner or operator of the solid waste facility as relating to production or sales figures or to processes or production unique to the owner or operator of the solid waste facility or which would tend to adversely affect the competitive position of the owner or operator if made public.

(c) *Emission data; analyses and summaries.* The department may not grant confidential status for emission data. Nothing in this subsection prevents the department from using records and other information in compiling or publishing analyses or summaries relating to the general condition of the environment if the analyses or summaries do not

identify a specific owner or operator or the analyses or summaries do not reveal records or other information granted confidential status.

(d) *Use of confidential records.* Except as provided under par. (c) and this paragraph the department may use records and other information granted confidential status under this subsection only in the administration of ss. 144.60 to 144.74. The department may release for general distribution records and other information granted confidential status under this subsection if the owner or operator expressly agrees to the release. The department may release on a limited basis records and other information granted confidential status under this subsection if the department is directed to take this action by a judge or hearing examiner under an order which protects the confidentiality of the records or other information. The department may release to the U.S. environmental protection agency or its authorized representative records and other information granted confidential status under this subsection if the department includes in each release of records or other information a request to the U.S. environmental protection agency or its authorized representative to protect the confidentiality of the records or other information.

SECTION 101. 144.725 of the statutes is created to read:

144.725 Review of alleged violations. Any 6 or more citizens or any municipality may petition for review of an alleged violation of ss. 144.60 to 144.74 or any rule promulgated or special order, plan approval, license or any term or condition of a license issued under those sections in the following manner:

(1) They shall submit to the department a petition identifying the alleged violator and setting forth in detail the reasons for believing a violation occurred. The petition shall state the name and address of a person within the state authorized to receive service of answer and other papers in behalf of the petitioners and the name and address of a person authorized to appear at a hearing in behalf of the petitioners.

(2) Upon receipt of a petition under this section, the department may:

(a) Conduct a hearing in the matter within 60 days of receipt of the petition. A hearing under this paragraph shall be a contested case under ch. 227. Within 60 days after the close of the hearing, the department shall either:

1. Serve written notice specifying the law or rule alleged to be violated, containing findings of fact, conclusions of law and an order, which shall be subject to review under ch. 227; or

2. Dismiss the petition.

(b) Initiate action under s. 144.73.

(3) If the department determines that a petition has been filed maliciously or in bad faith it shall issue a finding to that effect and the person complained against is entitled to recover expenses on the hearing in a civil action.

SECTION 102. 144.73 (4) of the statutes is amended to read:

144.73 (4) **VENUE.** Any action on a violation shall be commenced in the circuit court for the county in which the violation occurred. If all parties stipulate and the circuit court for Dane county agrees, the proceedings may be transferred to the circuit court for Dane county.

SECTION 103. 144.74 (3) of the statutes is repealed and recreated to read:

144.74 (3) No person may:

(a) Transport any hazardous waste to a facility which the transporter knows does not have a license under s. 144.64.

(b) Store, treat, transport or dispose of any hazardous waste without a license required under s. 144.64 or in violation of any license condition or license issued under s. 144.64.

(c) Make any false statement or representation in any application, label, manifest, record, report, license or other document.

(d) Destroy, alter or conceal any records required to be maintained under ss. 144.60 to 144.74 or under rules promulgated under those sections.

SECTION 104. 144.74 (4) of the statutes is created to read:

144.74 (4) A person who intentionally violates sub. (3) shall be fined not more than \$25,000 or imprisoned not more than one year in the county jail or both. For a 2nd or subsequent violation, the person shall be fined not more than \$50,000 or imprisoned not more than 2 years or both. Each day of violation constitutes a separate offense.

SECTION 105. 144.76 (1) (b) of the statutes is repealed.

SECTION 106. 144.76 (2) (a), (3), (5) (a), (7) (b) and (c), (8) and (9) (b) of the statutes are amended to read:

144.76 (2) (a) ~~Persons possessing or controlling~~ A person who possesses or controls a hazardous substance or who causes the discharge of a hazardous substance shall ~~immediately~~ immediately notify the department immediately of any discharge not exempted under sub. (9).

(3) RESPONSIBILITY. ~~Persons having possession of or control over~~ A person who possesses or controls a hazardous substance ~~being which is discharged, or who cause a hazardous~~ causes the discharge, of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from ~~any~~ the discharge to the air, lands or waters of this state.

(5) (a) ~~The department shall, after~~ After consultation with other affected federal, state and local agencies and private organizations, ~~the department shall~~ the department shall establish by rule criteria and procedures for the development, establishment and amendment of a contingency plan for the undertaking of emergency actions in response to the discharge of hazardous substances.

(7) (b) ~~The person causing who possessed or controlled a hazardous substance which was discharged or who caused the discharge of a hazardous substance~~ shall reimburse the department for actual and necessary expenses incurred in carrying out its duties under this subsection.

(c) The department ~~may~~, for the protection of public health, safety or welfare, may issue an emergency order to the person possessing, controlling or responsible for the discharge of hazardous substances to fulfill the duty imposed by sub. (3).

(8) ACCESS TO PROPERTY. Any duly authorized officer, employe or agent of the department ~~may~~, upon notice to the owner or occupant, may enter any property, premises or place at any time for the purposes of sub. (7) if ~~such~~ the entry is necessary to prevent increased damage to the air, land or waters of the state. Notice to the owner or occupant ~~shall is not be~~ required if the delay attendant upon providing it will result in imminent risk to public health or safety or the environment.

(9) (b) Law enforcement officers or members of a fire department using hazardous substances in carrying out their responsibility to protect public health, safety and welfare are exempted from the penalty requirements of this section, but shall ~~be encouraged to~~ report to the department any discharges of a hazardous substance occurring within the performance of their duties.

SECTION 107. 144.781 (2) of the statutes is amended to read:

144.781 (2) The purpose of ss. 144.781 to 144.784 is to provide state financial assistance to regional planning commissions or to county areawide planning agencies for the development of areawide solid waste management plans ~~and~~, to counties and other local units of government to conduct specific solid waste disposal site feasibility studies consistent with previously adopted and approved areawide solid waste management plans and to

counties and other local units of government to conduct special study projects consistent with previously adopted and approved areawide solid waste management plans.

SECTION 108. 144.781 (3) (a) of the statutes is repealed.

SECTION 109. 144.781 (3) (b) of the statutes is repealed and recreated to read:

144.781 (3) (b) "Disposal" has the meaning specified for solid waste disposal under s. 144.43 (4r).

SECTION 110. 144.781 (3) (c) to (f) of the statutes are renumbered 144.781 (3) (a), (c), (d) and (e).

SECTION 111. 144.781 (3) (f) of the statutes is created to read:

144.781 (3) (f) "Special study project" means a sludge management or resource recovery project feasibility study developed to provide detailed project feasibility information for implementation of approved and adopted areawide solid waste management plans.

SECTION 112. 144.7815 of the statutes is created to read:

144.7815 Eligibility. (1) **AREAWIDE SOLID WASTE MANAGEMENT PLANNING GRANTS.** A regional planning commission or county, or more than one regional planning commission or county acting jointly, is eligible to apply for funding to develop an areawide solid waste management plan.

(2) **SPECIFIC SOLID WASTE DISPOSAL SITE FEASIBILITY GRANTS.** A town, village, city or county, or more than one town, village, city or county acting jointly, is eligible to apply for funding a proposal to conduct a specific solid waste disposal site feasibility study which is consistent with a previously developed areawide solid waste management plan approved by the department.

(3) **SPECIAL STUDY PROJECT GRANTS.** A town, village, city or county or more than one town, village, city or county acting jointly is eligible to apply for funding special study projects if it has adopted or is located in a jurisdiction which has adopted an areawide solid waste management plan approved by the department.

SECTION 113. 144.782 (1) (intro.) and (a) of the statutes are repealed.

SECTION 114. 144.782 (1) (b) to (d) of the statutes are renumbered 144.782 (2) to (4), and 144.782 (2), (3) (intro.) and (4), as renumbered, are amended to read:

144.782 (2) ~~Develop~~ The department shall develop evaluation criteria for reporting on and evaluating the solid waste management grant program including the number of grants awarded for areawide solid waste management plans ~~and~~, specific site feasibility studies ~~and special study projects~~, the extent to which the grant money is used as required by the solid waste management grant program, and the costs necessary to meet remaining needs of implementing the purposes of ss. 144.781 to 144.784.

(3) (intro.) ~~Develop~~ The department shall develop criteria, by rule, for approving areawide solid waste management plans. The criteria shall include, but are not limited to:

(4) ~~Develop~~ The department shall develop criteria, by rule, for approving specified solid waste disposal site feasibility studies. The criteria shall include, but are not limited to, identification of one or more disposal sites that are feasible for development as a sanitary landfill, and the provision that no grant moneys may be expended for any acquisition of land or interest in land, or any site preparation, operation or abandonment, or for any subsidies for the price of recovered resources.

SECTION 115. 144.782 (1) of the statutes is created to read:

144.782 (1) The department shall develop evaluation criteria for reporting on and evaluating the solid waste management grant program including the number of grants awarded for areawide solid waste management plans, specific site feasibility studies and special study projects, the extent to which the grant money is used as required by the solid

waste management grant program and the costs necessary to meet remaining needs of implementing the purposes of ss. 144.781 to 144.784.

SECTION 116. 144.782 (5) of the statutes is created to read:

144.782 (5) The department shall develop criteria, by rule, for approving special study projects. The criteria shall provide for identification of appropriate projects for funding, including sludge management and resource recovery feasibility projects.

SECTION 117. 144.783 (1) of the statutes is amended to read:

144.783 (1) (a) The department may enter into agreements with eligible applicants, ~~as defined under s. 144.781 (3) (a) and (b)~~, to make grant payments to the applicants from the appropriation made by s. 20.370 (4) (cf).

(b) An applicant for an areawide solid waste management planning grant may receive a grant which provides up to 50% of the estimated total cost of the applicant's areawide solid waste management plan, but the grant may not exceed \$50,000.

(c) An applicant for a specific solid waste disposal site feasibility study may receive a grant which provides up to 25% of the total estimated cost of the applicant's specific site feasibility study if the study is consistent with the applicable department-approved area-wide solid waste management plan, but the grant for each feasibility study may not exceed \$50,000.

SECTION 118. 144.783 (1) (d) of the statutes is created to read:

144.783 (1) (d) An applicant for a special study project grant may receive a grant which provides up to 25% of the total estimated cost of the special study project if the project is consistent with the applicable department-approved areawide solid waste management plan, but the grant for each special study project may not exceed \$50,000.

SECTION 119. 144.783 (3), (4) and (5) (a) (intro.) of the statutes are amended to read:

144.783 (3) All available federal funding ~~from under the federal~~ resource conservation and recovery act of 1976, P.L. 94-580, for areawide solid waste management planning ~~and~~, specific solid waste disposal site feasibility studies and special study projects shall be utilized to supplement and increase the levels of funding under this program. The local or municipal share of ~~either~~ an areawide solid waste management plan ~~or~~, specific solid waste disposal site feasibility study or a special study project shall not be less than 25% of the total eligible costs of the project.

(4) To the greatest extent possible, each year applications for areawide solid waste management planning grants shall receive first consideration for approval and funding by the department. ~~Each~~ To the greatest extent possible, each year applications for specific solid waste disposal site feasibility studies shall ~~be considered~~ receive 2nd consideration for funding by the department after the department has completed the grant application process for the areawide solid waste management plans. Each year applications for special study project grants shall receive 3rd consideration for funding by the department after the department has completed the grant application process for the areawide solid waste management plans and for specific feasibility studies.

(5) (a) (intro.) The department, by rule, shall develop a separate funding priority list for ~~both~~ areawide solid waste management plans ~~and~~, specific solid waste disposal site feasibility studies and special study projects. Factors to be considered by the department in developing funding priorities for individual plans and studies include, but are not limited to:

SECTION 120. 144.784 (1) of the statutes is amended to read:

144.784 (1) Grant applications for ~~either~~ an areawide solid waste management plan ~~or~~, a specific solid waste disposal site feasibility study or a special study project shall be submitted to the department by January 1 of each year.

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SECTION 121. 144.784 (4m) of the statutes is created to read:

144.784 (4m) For an applicant for a special study project grant, the applicant shall show, at a minimum:

- (a) That an areawide solid waste management plan has been approved by the department and adopted by a county or a group of counties.
- (b) That the proposed special study project is recommended in an approved areawide solid waste management plan or its approved update, and that the applicant intends to implement a portion of the plan requiring the study.
- (c) The overall special study project objectives.
- (d) The methods proposed to conduct the special study project and estimated costs of conducting the project.

SECTION 122. 144.784 (5) of the statutes is amended to read:

144.784 (5) The department shall decide the eligibility and the priority of each individual areawide solid waste management plan ~~or~~, specific solid waste disposal site feasibility study ~~or special study project grant application~~ by April 1 of each year. Funding for all grants submitted by January 1 of each year shall be committed by May 1 of the same year based on the acceptance of each grant by each successful applicant.

SECTION 123. 144.784 (7) of the statutes is amended to read:

144.784 (7) Each areawide solid waste management planning grant shall be is valid for 18 months after the date of acceptance. Each specific waste disposal site feasibility grant and special study project grant is valid for one year after the date of acceptance. The department may extend to 2 years the amount of time within which the grant recipient may spend the grant if the department determines, on a case-by-case basis, that a time extension is warranted.

SECTION 124. 144.784 (9) of the statutes is renumbered 144.784 (9) (a).

SECTION 125. 144.784 (9) (b) of the statutes is created to read:

144.784 (9) (b) 1. An applicant for a grant for any special study project shall submit one copy of its application to the areawide solid waste planning agency with jurisdiction over the applicant's area for comment on the proposed project's applicability to the department-approved areawide solid waste management plan. The areawide planning agency shall comment to the department within 30 days on the application. If the applicant for a special study project grant is the same agency that is responsible for the areawide solid waste management plan, the department shall determine whether the project is consistent with the areawide solid waste management plan.

2. An applicant for a grant for a special study project concerning resource recovery project feasibility shall submit one copy of its application to the Wisconsin solid waste recycling authority. Within 60 days after submittal, the Wisconsin solid waste recycling authority shall transmit its findings and recommendations to the department of natural resources regarding the consistency of proposed study objectives with existing resource recovery plans, studies or projects.

3. An applicant for a grant for a special study project concerning sludge management shall submit one copy of its application to the appropriate water quality planning agency. Within 60 days after submittal, this agency shall transmit its findings and recommendations to the department regarding the consistency of proposed study objectives with existing water quality plans, studies or projects.

SECTION 126. 144.784 (10) of the statutes is amended to read:

144.784 (10) No grants may be distributed for areawide solid waste management plans ~~or~~, specific solid waste disposal site feasibility studies or special project studies which have, as their primary goals, disposition of ~~toxic and any hazardous substances as defined under s. 144.43 (2)~~ substance, hazardous wastes, sludge waste as defined under s.

144.61 (5), or source material as defined under s. 140.52 (10), or by-product material as defined under s. 140.52 (3) or special nuclear material as defined under s. 140.52 ~~(3)~~ and (11).

SECTION 127. 144.83 (2) (c) 1 of the statutes is amended to read:

144.83 (2) (c) 1. Disposal of all toxic and hazardous wastes, refuse, tailings and other solid waste in solid or hazardous waste ~~land~~ disposal facilities licensed under this chapter or otherwise in an environmentally sound manner.

SECTION 128. 144.85 (5) (a) 1. b of the statutes is amended to read:

144.85 (5) (a) 1. b. The proposed operation will comply with all applicable air, ground and groundwater, surface water and solid and ~~toxic~~ hazardous waste disposal management laws and rules of the department.

SECTION 129. 144.965 of the statutes is created to read:

144.965 Damage to water supplies. (1) In this section, "regulated activity" means an activity for which the department may issue an order under s. 144.025 (2) (d), (k) or (r), 144.431 (2) (b), 144.44 (8), 144.47, 144.73 (1), 144.76 (7) (c), 144.83 (4) (c) or 144.91, if the activity is conducted in violation of this chapter, or in violation of licenses, permits or special orders issued or rules promulgated under this chapter.

(2) (a) Except as provided under par. (b), if the department finds that a regulated activity has caused a well or water supply to become contaminated, polluted or unfit for human consumption, the department may conduct a hearing on the matter. The department shall conduct a hearing on the matter upon request of the owner or operator of the regulated activity. At the close of the hearing, or at any time if no hearing is held, the department may order the owner or operator of the regulated activity to treat the water to render it drinkable, repair the well or water supply or replace the well or water supply and to reimburse the town, village or city for the cost of providing water under sub. (4).

(b) If the department finds that a regulated activity has caused a residential well or water supply to become contaminated, polluted or unfit for human consumption, and if the regulated activity is an approved facility, as defined in s. 144.441 (2) (a) 1, the department may conduct a hearing under s. 144.441 (6) (g). If the damage to the residential well or water supply is caused by an occurrence not anticipated in the plan of operation which poses a substantial hazard to public health or welfare, the department may expend moneys in the waste management fund to treat the water to render it drinkable, or to repair or replace the well or water supply, and to reimburse the town, village or city for the cost of providing water under sub. (4). If the damage to the residential well or water supply is not caused by an occurrence not anticipated in the plan of operation or if the damage does not pose a substantial hazard to public health or welfare, the department may order the owner or operator of the regulated activity to treat the water to render it drinkable, or to repair or replace the well or water supply, and to reimburse the town, village or city for the cost of providing water under sub. (4).

(3) In any action brought by the department of justice under s. 144.98, if the court finds that a regulated activity owned or operated by the defendant has caused a well or water supply to become contaminated, polluted or unfit for human consumption, the court may order the defendant to treat the water to render it drinkable, repair the well or water supply or replace the well or water supply and to reimburse the town, village or city for the cost of providing water under sub. (4).

(4) (a) The owner of land where the well or water supply is located may submit the following information to the town, village or city where the well or water supply is located:

1. Documentation from an action under sub. (2) or (3) showing that the department or the department of justice is seeking to obtain treatment, repair or replacement of the damaged well or water supply.

2. A declaration of the need for an immediate alternative source of water.

(b) A person who submits information under par. (a) may file a claim with the town, village or city where the well or water supply is located. The town, village or city shall supply necessary amounts of water to replace that water formerly obtained from the damaged well or water supply. Responsibility to supply water commences at the time the claim is filed. Responsibility to supply water ends upon notification to the town, village or city that an order under sub. (2) or (3) has been complied with or upon a finding that the regulated activity is not the cause of the damage.

(c) If the department or the court does not find that the regulated activity is the cause of the damage to a well or water supply, reimbursement to the town, village or city for the costs of supplying water under par. (b), if any, is the responsibility of the person who filed the claim. The town, city or village may assess the owner of the property where the well or water supply is located for the costs of supplying water under this subsection by a special assessment under s. 66.60.

SECTION 130. 144.97 (title) of the statutes is repealed.

SECTION 131. 144.97 of the statutes is renumbered 144.025 (7), and 144.025 (7) (intro.), as renumbered, is amended to read:

144.025 (7) (intro.) Any owner or other person in interest may secure a review of the necessity for and reasonableness of any order of the department of ~~natural resources~~ under this section in the following manner:

SECTION 132. 144.975 of the statutes is amended to read:

144.975 Hearings; procedure; review. The department shall hold a public hearing relating to alleged or potential environmental pollution upon the verified complaint of 6 or more citizens filed with the department. The complaint shall state the name and address of a person within the state authorized to receive service of answer and other papers in behalf of complainants. The department may order the complainants to file security for costs in a sum deemed to be adequate but not to exceed \$100 within 20 days after the service upon them of a copy of ~~such the~~ order and all proceedings on the part of ~~such the~~ complainants shall be stayed until the security is filed. The department shall serve a copy of the complaint and notice of the hearing upon the alleged or potential polluter either personally or by registered mail directed to the last-known post-office address at least 20 days prior to the time set for the hearing ~~which~~. The hearing shall be held not later than 90 days from after the filing of the complaint. The respondent shall file a verified answer to the complaint with the department and serve a copy on the person so designated by the complainants not later than 5 days prior to the date set for the hearing, unless the time for answering is extended by the department for cause shown. For purposes of any hearing under this ~~chapter, section~~ the secretary hearing examiner may issue subpoenas and administer oaths. Within 90 days after the closing of the hearing, the department shall make and file its findings of fact, conclusions of law and order, which shall be subject to review under ch. 227. If the department determines that any complaint ~~has been~~ was filed maliciously or in bad faith it shall so find, issue a finding to that effect and the person complained against shall be is entitled to recover expenses on the hearing in a civil action. Any situation, project or activity which upon continuance or implementation would cause, beyond reasonable doubt, a degree of pollution that normally would require clean-up action if it already existed, shall be considered potential environmental pollution. This section does not apply to any part of the process for approving a feasibility report, plan of operation or license under s. 144.44 or 144.64.

SECTION 133. 144.98 of the statutes is amended to read:

144.98 Enforcement; duty of department of justice; expenses. The attorney general shall enforce this chapter and all rules, special orders, licenses, plan approvals and permits of the department. The circuit court ~~of for~~ for Dane county or for any other county where a violation ~~has~~ occurred in whole or in part has jurisdiction to enforce this chapter or the

rule, special order, license, plan approval or permit by injunctive and other relief appropriate for enforcement. For purposes of this proceeding where this chapter or the rule, special order, license, plan approval or permit prohibits in whole or in part any pollution, a violation is deemed a public nuisance. The expenses incurred by the department of justice in assisting with the administration of this chapter shall be charged to the appropriation made by s. 20.370 (2) (ma).

SECTION 134. 227.064 (5) of the statutes is created to read:

227.064 (5) Except as provided under s. 144.44 (2) (m), this section does not apply to any part of the process for approving a feasibility report, plan of operation or license under s. 144.44 or 144.64, any decision by the department of natural resources relating to the environmental impact of a proposed action under ss. 144.43 to 144.47 or 144.60 to 144.74, or any part of the process of negotiation and arbitration under s. 144.445.

SECTION 135. 227.22 (2) of the statutes is amended to read:

227.22 (2) Only the provisions of ss. 227.01 to 227.21 relative to rules are applicable to matters arising out of s. 56.07 (7), 56.21, 66.191 ~~or~~, 101.22 or 144.445, ch. 102, subch. II of ch. 107 or ch. 108 or 949.

SECTION 136. 230.08 (2) (x) of the statutes is created to read:

230.08 (2) (x) The executive secretary of the waste facility siting board.

SECTION 137. 232.45 of the statutes is renumbered 232.45 (1) and amended to read:

232.45 (1) ~~Where~~ Except as provided in sub. (2), if any building, structure or facility is constructed for the benefit ~~of~~ or use of the authority, ~~such that construction shall be subject to the zoning ordinances but is not be subject to the any other ordinances or regulations of the municipality in which where the construction takes place except zoning including. These other ordinances and regulations include, without limitation because of enumeration, ordinances or regulations relating to materials used, permits, supervision of construction or installation, payment of permit fees, ~~or and~~ and other restrictions ~~of any nature whatsoever.~~~~

SECTION 138. 232.45 (2) of the statutes is created to read:

232.45 (2) If a solid waste disposal facility is constructed for the benefit or use of the authority, that construction is subject to s. 144.445.

SECTION 139. **Groundwater management study.** The legislative council is requested to study and submit to the legislature by January 1, 1983, recommendations necessary to establish the goals and objectives of the state's groundwater management policy. The legislative council is requested to make recommendations on all relevant issues including:

(1) The establishment of a statutory goal statement clarifying the state's groundwater management policy.

(2) Directions to state agencies to develop groundwater management rules, where applicable, in compliance with the goals and objectives of this statutory policy.

(3) A means to implement recommended processes such as specific standards or enforcement or regulatory procedures for groundwater management.

(4) The establishment of statutory authority and regulatory programs to resolve groundwater management problems, whether new or amendments to existing authority.

(5) Recommendations for any programs which are not solely regulatory, such as public education programs or coordinating councils.

SECTION 139m. **Low-interest loans for municipal and county solid waste disposal facilities study.** The department of natural resources shall study and submit to the legislature by January 1, 1984, recommendations necessary to establish a low-interest loan program for counties, cities, villages and towns for site improvement and initial construction of solid waste disposal facilities on a cost-sharing basis.

SECTION 139r. Hazardous waste; disposal alternatives study. The department of natural resources shall study hazardous waste generation, treatment and disposal in the state and shall issue a report to the legislature by July 1, 1983 which:

- (1) Identifies hazardous wastes which may be treated by any method, including incineration, to render the wastes nonhazardous, reused, reclaimed or recycled, based on environmental impacts, technological feasibility and economic concerns;
- (2) Makes recommendations concerning means for encouraging treatment, recycling, reuse or reclamation of hazardous wastes identified under subsection (1); and
- (3) Makes recommendations for discouraging disposal in hazardous waste disposal facilities including, but not limited to, differential fee schedules and disposal restrictions and conditions.

SECTION 140. Waste management fund audit. The legislative audit bureau shall review the waste management fund at least once each 5 years after the effective date of this act, and determine the adequacy of the funds in the waste management fund to accomplish the purposes in section 144.441 (6) of the statutes, as affected by this act.

SECTION 141. Position authorization. The authorized FTE positions for the waste facility siting board is increased by 0.5 GPR executive secretary position and by 0.5 GPR clerical position on July 1, 1982, to be funded from the appropriation under 20.505 (1) (fa) of the statutes, as created by this act.

SECTION 142. Initial appointments; waste facility siting board. In making the initial appointments of the town officials and county official to be members of the waste facility siting board under section 15.105 (12) of the statutes, as created by this act, the governor shall consider recommendations made by the Wisconsin towns association and the Wisconsin county boards association if these recommendations are received within 60 days after the effective date of this act. The town officials and county official members of the waste facility siting board, appointed under section 15.105 (12) of the statutes, as created by this act, shall serve initial appointments, as follows:

- (1) The county official member shall be appointed for a 2-year term plus a period ending on May 1, following the expiration of that term.
- (2) One town official member shall be appointed for a one-year term plus a period ending on May 1, following the expiration of that term. The 2nd town official member shall be appointed for a 3-year term plus a period ending on May 1, following the expiration of that term. The governor shall specify which town official member is to serve which term.

SECTION 143. Applicability; facilities in the approval process under section 144.44, 1979 stats. (1) An applicant for approval of a solid waste disposal facility or a hazardous waste treatment, storage or disposal facility who has submitted a feasibility report on or before March 15, 1982, may elect to:

- (a) Proceed with the approval process under section 144.44, 1979 stats.; or
- (b) Resubmit the feasibility report and seek approval under sections 144.44 and 144.445 of the statutes, as affected by this act.

(2) If the applicant chooses to proceed under subsection (1) (a), the repeal and recreation of section 144.44 (2) of the statutes and the creation of sections 59.97 (9) (b), 144.44 (2g) and (2r) and 144.445 of the statutes by this act do not apply to the applicant or facility and the provisions of section 144.44, 1979 stats., apply as if this act did not take effect. All other provisions of this act do apply to the applicant and facility.

(3) An applicant for approval of a solid waste disposal facility or a hazardous waste treatment, storage or disposal facility who has submitted an initial site report on or before March 15, 1982, but has not submitted a feasibility report on or before March 15, 1982, may elect to:

(a) Negotiate and arbitrate under section 144.445 of the statutes, as created by this act, with respect to all issues except the applicability or nonapplicability of local approvals; or

(b) Be subject to all provisions of this act.

(4) If the applicant chooses to proceed under subsection (3) (a), the creation of sections 59.97 (9) (b) and 144.445 (5) and (8) (b) 7 of the statutes by this act do not apply to the applicant or facility. All other provisions of this act do apply to the applicant and facility.

SECTION 144. Initial applicability; minimum risk pool. The creation of section 144.443 (9) (a) of the statutes by this act first applies on July 1, 1984, and a public utility may comply with minimum security requirements under a risk pool arrangement regardless of whether other utilities utilize this arrangement prior to that date.

SECTION 145. Initial applicability; waste management base fee. The imposition of the waste management base fee under section 144.441 (5) of the statutes, as created by this act, first applies for calendar year 1983.

SECTION 146. Initial applicability; commercial PCB facilities. (1) The creation of section 144.44 (9) (b) of the statutes by this act applies to any site or facility for which no feasibility report approval was granted prior to the effective date of this act or, if no feasibility report was required to have been submitted, if no approval comparable to a feasibility report approval, as determined by the department of natural resources, was granted prior to the effective date of this act.

(2) The creation of section 144.44 (9) (c) of the statutes by this act applies to any site or facility for which no plan of operation approval was granted prior to the effective date of this act or, if no plan of operation was required to have been submitted, if no approval comparable to a plan of operation approval, as determined by the department of natural resources, was granted prior to the effective date of this act.

(3) The creation of section 144.44 (9) (d) and (e) of the statutes by this act applies to any site or facility established or constructed after the effective date of this act.

(4) In applying section 144.44 (9) (d) of the statutes, as created by this act, in a situation where a plan of operation does not exist, the department of natural resources may establish reasonable closure and, if necessary, long-term care requirements.

SECTION 147. Applicability of financial responsibility requirements. Any person who operates a solid waste disposal facility which had plans approved under sections 144.43 to 144.45, 1975 stats., and had an initial license issued and commenced operation after May 21, 1978, shall comply with section 144.443 of the statutes, as created by this act. In applying this SECTION, in a situation where a plan of operation does not exist, the department of natural resources may establish reasonable closure and long-term care requirements.

SECTION 148. Terminology changes. (1) Wherever the term "solid waste or hazardous waste treatment, storage or disposal facility" appears in the following section of the statutes, the term "solid or hazardous waste facility" is substituted: 144.43 (8).

(2) Wherever the term "solid waste disposal sites and facilities" appears in the following sections of the statutes, the term "solid waste facilities" is substituted: 144.432 and 144.46.

(3) Wherever the term "solid waste disposal site or facility" appears in the following section of the statutes, the term "solid waste facility" is substituted: 144.434.

(4) Wherever the term "sites" appears in the following sections of the statutes, the term "facilities" is substituted: 20.370 (2) (cq), 144.436 (2) (intro.) and 144.60 (2) (g).

(5) Wherever the term "site" appears in the following sections of the statutes, the term "facility" is substituted: 144.437 (2) and 144.44 (3) (d) 1 and 2, (4) (b) and (6).

(6) Wherever the term "site for the land disposal of solid waste or the treatment, storage or disposal of hazardous waste" appears in the following section of the statutes, the term "solid waste disposal facility or a hazardous waste facility" is substituted: 144.44 (4) (b) and (6).

(7) Wherever the term "solid waste land disposal site" appears in the following section of the statutes, the term "solid waste disposal facility" is substituted: 144.44 (4) (b).

(8) Wherever the term "facilities and sites" appears in the following section of the statutes, the term "facilities" is substituted: 144.44 (7).

(9) Wherever the term "solid waste disposal sites or facilities" appears in the following section of the statutes, the term "solid waste facilities" is substituted: 144.44 (7) and (8) (intro.).

(10) Wherever the term "site or facility" appears in the following sections of the statutes, the term "facility" is substituted: 144.44 (8) (a), (c) and (d) and 144.48 (3) (c) and (5).

(11) Wherever the term "sites and facilities" appears in the following sections of the statutes, the term "facilities" is substituted: 144.448 (2) and 144.46.

(12) Wherever the term "sites and facilities for the treatment, storage and disposal of hazardous waste" appears in the following section of the statutes, the term "hazardous waste facilities" is substituted: 144.62 (8) (e).

SECTION 149. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.101 (intro.)	none	144.44 (2r)(d)
15.251 (intro.), as affected by ch. 86, laws of 1981	144.441 (3)(g) 6	144.441 (6)(g)

SECTION 150. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
20.370 (2)(cg)	144.64 (5)	144.64 (4)
20.370 (2)(cr), as created by ch. 86, laws of 1981	144.441 (3)(g)	144.441 (6)
60.315 (4)(a)	144.97 (1)	144.025 (7)(a)
70.395 (2)(j), as created by ch. 86, laws of 1981	144.441 (3)(g) 4 and 5	144.441 (6)(d) to (f)
144.05 (1)(d)	144.97	144.025 (7)
144.60 (3)	144.435 (1m)	144.435 (2)
144.61 (1)	144.43 (1)	144.43 (1m)
144.61 (5)	144.62 (2)(a)	144.62 (2)
144.62 (7)	144.64 (2)	144.64 (1)
144.63 (8)	144.62 (2)(a)	144.62 (2)