

(c) If an authorization under par. (b) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of par. (b) shall be submitted to the department prior to or together with any reports to be signed by an authorized representative.

(d) Any person signing a document under par. (a) or (b) shall make the following certification: "I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(4) EFFECT OF A LICENSE. (a) The issuance of a license does not authorize any injury to private property, any invasion of other private rights, or any infringement of federal, state, or local law.

(b) Compliance with a license during its term constitutes compliance with ss. 144.60 through 144.74, Stats.

(5) LICENSE PERIODS AND FEES. (a) This subsection is not applicable to interim licenses issued under ss. NR 181.53 and 181.54 except for the fees specified in Table IX and the provisions of par. (e). The applicant shall pay the fee specified for an interim license or a variance under sub. (10) prior to its issuance. These fees shall be paid in addition to any plan review fee required.

(b) The license period shall be 2 years beginning on October 1 and terminating on September 30, 2 years later. The license period for disposal facilities shall begin on October 1 of even-numbered years. The license period for storage or treatment facilities, transportation services and incinerators shall begin on October 1 of odd-numbered years.

(c) Application for initial licensing of a new hazardous waste facility may be submitted at any time during the year. Fees for initial licensing are proratable. The license period is divided into 4, 6-month periods, with $\frac{1}{4}$ of the 2-year license fee applied to each period. The applicant for initial licensing of a facility shall submit the appropriate fees as shown in Table IX, "Fee Schedule". Proof of financial responsibility as specified in s. NR 181.42 (10) shall be included with the initial license application for hazardous waste facilities with plans of operation approved under this chapter.

(d) Application for renewal of a license shall be submitted to the department by June 1 preceding the license period being applied for. Applicants failing to submit the renewal application by June 1 shall pay a late processing fee equal to 50% of the renewal fee or \$150.00 whichever is less, in addition to the renewal fee. The department shall transmit application forms to renewal applicants by April 1. All applications for renewal of licenses for hazardous waste disposal facilities shall include the waste management fund payments as specified in s. NR 181.42 (12).

(e) License fees for hazardous waste facilities are not refundable.

(f) Following closure of a hazardous waste disposal facility, the owner or any successor in interest shall be required to have a license during the

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period of owner responsibility indicated in s. 144.441, Stats. The license shall be issued in accordance with sub. (5) (a) through (e), except that the fee shall be \$100.00 per license period.

**Table IX
FEE SCHEDULE**

NR 181	Facility Type	License Required	Plan Review Required	Plan Review Fees (1)				License Fees				
				Feasibility Report	Plan of Operation	Site Construction Documentation	Closure Plan	0-6 months	6-12 months	12-18 months	18-24 months and 2 yr renewals	Interim License and Variance
.43 and .435 Part IV	Storage Transportation	Yes	Yes	500	500	200	200	175	350	525	700	700
.44	Landfill	Yes	No	10000	10000	1000	1500	100	200	300	400	400
.44	Surface Impoundment	Yes	Yes	10000	10000	1000	1500	5000	10000	15000	20000	20000
.45	Incineration (2)	Yes	Yes	1400	1400	300	200	5000	10000	15000	20000	20000
.46	Treatment (2)	Yes	Yes	1400	1400	300	200	450	900	1350	1800	1800
	Plan Modification (3)	No	Yes	500	500	300	200	450	900	1350	1800	1800
.47	Other	Yes	Yes	1400	1400	300	500	450	900	1350	1800	1800

(1) The plan review fees specified in Table IX cover the department's review from initial submittal through approval or denial of the report or plan. An applicant may revise or supplement a report or plan deemed incomplete and resubmit it without paying an additional review fee. The applicant shall pay a plan review fee as specified in Table IX for resubmittal of a plan which has been previously denied or withdrawn after having been determined to be complete.

(2) The department shall waive the plan review fees and license fees for a treatment facility or incinerator which has a primary purpose of converting hazardous waste into usable materials, products or energy.

(3) A plan modification, as referred to in Table IX, is a submittal which proposes to modify a feasibility report, plan of operation or closure plan previously approved by the department.

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

(7) **REVOCATION OR DENIAL OF LICENSES.** (a) A hazardous waste treatment, storage or disposal facility operating license may be revoked during its term, or its renewal may be denied, for any one of the following causes:

1. Failure of the licensee to pay the waste management fees specified in s. NR 181.42 (12).

2. Grievous and continuous failure to operate the facility in accordance with the facility's approved plan of operation.

(b) A hazardous waste transportation service license may be revoked during its term, or its renewal may be denied, for grievous and continuous failure to comply with the requirements of subch. IV.

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

1. Failure to comply with the interim license standards set forth in s. NR 181.53 (3) (g).

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

3. Failure to pay the waste management fund fees specified in s. NR 181.42 (12).

(8) **CONDITIONS APPLICABLE TO ALL LICENSES.** All of the conditions applicable to a license shall be incorporated into the license either expressly or by reference. The following conditions shall apply to all licenses, including interim licenses:

(a) The licensee shall comply with all conditions of the license, except as otherwise authorized by the department under sub. (10) or (11).

(b) If a licensee wishes to continue an activity regulated by a license after the expiration date of the license, the licensee shall apply for a new license. Section 227.14, Stats., provides: "When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally acted upon by the agency, and, if the application is denied or the terms of the new license are limited, until the last day for seeking review of the agency decision or a later date fixed by order of the reviewing court."

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

(d) All renewal applications, and all reports or other information submitted to the department by the licensee shall be signed and certified as specified in sub. (3).

(e) For a new facility, the licensee may not commence treatment, storage, or disposal of hazardous waste, and for a facility being modified or expanded the licensee may not treat, store or dispose of hazardous waste in the modified or expanded portion of the facility, until the licensee has received written approval from the department.

(f) The licensee shall at all times maintain in good working order and operate efficiently all facilities and systems of treatment or control and related appurte-

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nances which are installed or used by the licensee to achieve compliance with the terms and conditions of the license. Proper operation and maintenance includes, but is not limited to, effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

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

1. Enter the licensee's premises where a regulated facility or activity is located or conducted or where hazardous waste records are kept;
2. Have access to and copy at reasonable times records or labels that are being kept;
3. Inspect at reasonable times any facility's equipment, including monitoring equipment, or operations regulated under the license; and
4. Sample or monitor any substance or parameters at any location where a regulated facility or activity is located or conducted, in compliance with the requirements of s. 144.69, Stats.

(h) The licensee shall report any noncompliance which may endanger human health or the environment. Any information shall be provided orally within 24 hours from the time the licensee becomes aware of the circumstances. A written report containing the following information shall be submitted within 15 days of the time the licensee becomes aware of the circumstances:

1. Name, address, and telephone number of the owner or operator.
2. Name, address, and telephone number of the facility.
3. A description of the noncompliance and the period of noncompliance, including exact date and time, and if the noncompliance has not been corrected, the anticipated time the noncompliance is expected to continue.
4. Name and quantity of material involved.
5. The extent of injuries, if any.
6. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable.
7. Estimated quantity and disposition of recovered material that resulted from the incident.
8. The known or suspected causes of the noncompliance and a statement describing the measures taken to investigate the noncompliance to determine its cause.
9. Steps taken, or planned, to reduce or eliminate and prevent recurrence of the noncompliance.

(i) The licensee shall notify the division of emergency government and comply with the requirements of s. NR 181.42 (4) (c), s. 144.76, Stats., and ch. NR 158, if a discharge of hazardous waste or a fire or explosion occurs on the licensed site or facility.

(j) The licensee shall take all necessary steps to minimize any adverse impact on the environment resulting from noncompliance with the license.

(k) Monitoring results shall be reported at the intervals and format specified in the plan of operation or license.

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

(m) The licensee shall furnish information needed to determine compliance with the license. The licensee shall also furnish to the department, upon request, copies of records required by the license.

(n) The license does not convey any property rights of any sort, or any exclusive privilege. The privileges associated with the license attach only to the person authorized to conduct the licensed activity and the license is not inherently assignable or transferable when the ownership of a facility or transportation service is transferred.

(o) The following reports required in subch. V shall be submitted to the department:

1. Manifest discrepancy report. If a significant discrepancy in a manifest is discovered, the licensee shall attempt to reconcile the discrepancy. If not resolved within 15 days, the licensee shall submit a report, including a copy of the manifest, to the department as required by s. NR 181.42 (6) (a)6.

2. Unmanifested waste report. An unmanifested waste report shall be submitted to the department within 15 days of receipt of unmanifested waste as required by s. NR 181.42 (6) (c)2.

3. Quarterly report. A quarterly report shall be submitted covering facility activities during the previous reporting quarter as specified in s. NR 181.42 (6) (c)1.

4. Additional reports. Additional reports as specified in s. NR 181.42 (6) (c)3, shall be submitted if necessary.

(p) In addition to the conditions required for all licenses, the department may establish conditions, as required on a case-by-case basis, to ensure compliance with all applicable requirements of this chapter.

(9) EMERGENCY AUTHORIZATION. Notwithstanding any other provision in this chapter, in the event of an emergency condition threatening human health or the environment, the department may issue temporary authorization to an unlicensed facility or a facility licensed under ch. NR 180 or this chapter to allow treatment, storage or disposal of hazardous waste not covered by a license. Such authorization:

(a) May be oral or written. If oral, it shall be followed within 5 days by written authorization.

(b) Shall not exceed 90 days in duration.

(c) Shall clearly specify wastes to be received, and the manner and location of their treatment, storage or disposal.

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

(10) VARIANCES. Notwithstanding any other provisions of this chapter, where the application for, or compliance with the terms or conditions of, any license issued under this chapter would in the judgment of the department cause undue or unreasonable hardship to any person, the department may issue a variance from the requirements of this chapter and s. 144.64, Stats., if the variance does not result in undue harm to human health or the environment. Such a variance:

- (a) Shall be issued in written form.
- (b) Shall not exceed one year in duration.
- (c) May be renewed or extended only after opportunity for a public hearing on each variance renewal or extension.
- (d) May be revoked by the department at any time if it is determined that revocation is appropriate to protect human health and the environment.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81; am. (5) (a) and r. and recr. table 9, Register, March, 1984, No. 339, eff. 4-1-84.

APPENDIX I

REPRESENTATIVE SAMPLING METHODS

The methods and equipment used for sampling waste materials will vary with the form and consistency of the waste materials to be sampled. Samples collected using the sampling protocols listed below, for sampling waste with properties similar to the indicated materials, will be considered by the department to be representative of the waste:

- (1) For extremely viscous liquid — ASTM Standard D140-70
- (2) For crushed or powdered material — ASTM Standard D346-75
- (3) For soil or rock-like material — ASTM Standard D420-69
- (4) For soil-like material — ASTM Standard D1452-65
- (5) For fly ash-like material — ASTM Standard D2234-76

Note: The publications containing these standards may be obtained from the:

American Society for Testing and Materials
1916 Race Street
Philadelphia, PA 19103

These publications are available for inspection at the offices of the department, the secretary of state, and the revisor of statutes.

(d) For containerized liquid wastes — "COLIWASA" described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (SW-846).

(7) For liquid waste in pits, ponds, lagoons, and similar reservoirs. — "Pond Sampler" described in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (SW-846).

Note: This publication may be obtained from:

U.S. Environmental Protection Agency
26 W. St. Claire Street
Cincinnati, OH 45268

This publication is available for inspection at the offices of the department, the secretary of state and the revisor of statutes.

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