

the applicant of any additional materials reasonably necessary to review the application. An application shall not be considered complete until the requirements of the Wisconsin environmental policy act, s. 1.11, Stats., have been completed and until all materials necessary for associated permits, such as Wisconsin pollution discharge elimination permits under ch. 147, Stats., are submitted to the department.

(3) If the department does not request additional materials within 40 days of receipt of the application, the application shall be deemed complete for the purposes of this chapter.

(4) The provisions of sub. (3) notwithstanding, the applicant shall submit in timely fashion, at any time during the review process, such additional materials which the department finds to be reasonably necessary for review of the application.

(5) The department shall protect as confidential any information, other than effluent data, submitted under this chapter which meets the requirements of s. 147.08 (2) (c), Stats., and s. NR 2.19, Wis. Adm. Code.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

NR 299.05 Department review of water quality certification application. (1) The department shall, within 90 days of receipt of the complete application, determine whether the proposed activity will:

- (a) Result in any discharge; and
- (b) Result in violation of any of the following applicable standards:
 1. Effluent limitations adopted under s. 147.04, Stats., and 33 USC s. 1311, for categories of discharges;
 2. Water quality related effluent limitations adopted under s. 147.05, Stats., and 33 USC s. 1312;
 3. Water quality standards adopted under s. 144.025 (2) (b), Stats., and 33 USC s. 1313;
 4. Standards of performance adopted under s. 147.06, Stats., and 33 USC s. 1316;
 5. Toxic and pretreatment effluent standards adopted under s. 147.07, Stats., and 33 USC s. 1317;
 6. Public interest and public rights standards, as appropriate, set forth in ss. 30.03, 30.10, 30.11, 30.12, 30.13, 30.15, 30.18, 30.19, 30.195, 30.20, 30.21, 31.02, 31.05, 31.06, 31.12, 31.13, 31.18, 31.23, 88.31 and 144.025 (2) (b), Stats., and made applicable by 33 USC s. 1341 (d);
 7. Any other appropriate requirements of state law as provided in 33 USC s. 1341 (d).

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.

NR 299.06 Preliminary and final department action. (1) The department shall notify the applicant, the federal permitting or licensing agency, and the regional administrator within 120 days of receipt of the complete application of its determination to deny the certification, grant or conditionally grant the certification, or waive certification.

Register, November, 1981, No. 311
Environmental Protection

(2) The department's determination shall be in writing and shall explain the reasons for granting, granting conditionally, denying or waiving certification.

(3) The notification concerning a certification shall include the following:

(a) The name and address of the applicant;

(b) A statement that the department has either:

1. Examined the complete application, specifically identifying the number or code affixed to such application, and based its determination upon an evaluation of the information contained in the application which is relevant to water quality consideration; or

2. Examined other information furnished by the applicant sufficient to permit the department to reach its decision.

(c) If a waiver of certification is made, a statement explaining the determination that no discharge will result from the activity or that the activity does not fall within the purview of the department's authority;

(d) If a grant or conditional grant of certification is made:

1. A statement that there is a reasonable assurance the activity will be conducted in a manner which will not violate the standards enumerated in s. NR 299.05 (1).

2. A statement of conditions which the department deems necessary with respect to the discharge including necessary monitoring requirements. Necessary monitoring requirements shall include, but not be limited to, the requirements that:

a. At least 5 working days prior to the beginning of the discharge, the applicant shall notify the department of intent to commence the discharge;

b. Within 5 working days after the completion of the discharge, the applicant shall notify the department of the completion;

c. The applicant shall allow the department reasonable entry and access to the discharge site in order to inspect the discharge for compliance with the certification and applicable laws.

(e) If a denial of certification is made, a statement explaining why the activity will result in the discharge of pollutants to the waters of the state and detailing the standards enumerated in s. NR 299.05 (1), which will be violated.

(f) Where a public notice is issued under sub. (4) or (5), a statement that unless a written request for a hearing is filed with the department within 30 days after mailing of the notice, the department's decision will become final without public hearing.

(g) Such other information as the department determines to be appropriate.

(4) Except for applications under chs. 30 and 31, Stats., or as provided in sub. (5), the department shall, at the same time it notifies the

applicant, notify known interested persons and shall cause to be published by the applicant as a class 1 notice under ch. 985, Stats. Notice under this subsection shall contain the information required under sub. (3).

(5) Any person whose substantial interests may be affected by the department's determination may, within 30 days after publication of the notice, request in writing a hearing on the matter under s. 227.064, Stats. In any case where a class 1 notice on the application is otherwise required by law or where a contested case hearing on an application for water quality certification will be held under some other specific provision of law, the notice and hearings shall be combined.

(6) Hearings requested under this section shall be contested case hearings and shall be in accordance with the procedures outlined in ch. 227, Stats. The hearing shall be a de novo hearing on the issue of whether the department should grant, grant with conditions, deny or waive water quality certification.

(7) (a) The department's determination shall become final:

1. Upon issuance of the department's decision where no public notice is required, or

2. Upon the expiration of the 30-day period provided under sub. (5) if no person has requested a hearing under that section, or

3. Upon the issuance of the department's decision denying the request for hearing under that section, or

4. Upon issuance of the department's decision after hearing.

(b) If a hearing is held under sub. (6), the hearing examiner shall make findings of fact, conclusions of law and a decision, which shall become final when issued in accordance with the procedures in ch. 227, Stats., and this section.

(c) The final decision of the department under par. (a) shall be judicially reviewable as provided under ch. 227, Stats.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81; am. (1), (2), (3) (f), (4), (5), (6) and (7) (a), Register, November, 1981, No. 311, eff. 12-1-81.