

Chapter NR 680

PLAN REVIEW AND LICENSING

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

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

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

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

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

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

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

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

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

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

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

Register, March, 1993, No. 447

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

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

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

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

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

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

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

(c) **Number of copies.** Five copies of the plan or report prepared pursuant to the appropriate rule. Two copies shall be submitted to the appropriate department district or area office and 3 copies shall be submitted to the department's bureau of solid and hazardous waste management. Review time starts when copies are received. The plans and reports and

Register, March, 1993, No. 447

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

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

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

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

signature, title and P.E. number

P. E. Stamp

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

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

signature and title

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

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

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

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

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

c. Use uniform scales as much as practical.

d. Contain a north arrow.

e. Use USGS data as basis for all elevations.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The chief executive officer of the agency; or

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

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

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

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

3. The written authorization is submitted to the department.

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

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

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

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

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

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

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

Register, March, 1993, No. 447

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

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

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

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

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

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

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

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

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

3. Prevent contamination of water supplies;

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

5. Prevent undue exposure of personnel to hazardous waste.

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

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

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

(i) Facility location information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

Register, March, 1993, No. 447

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Register, March, 1993, No. 447

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

- (1) The requirements of s. NR 680.31 are met for a newly constructed facility;
- (2) The licensee has submitted to the department, by certified mail or hand delivery, a construction observation report signed by the licensee and sealed by a registered professional engineer, documenting that the construction is in compliance with the license and any department plan approval; and
- (3) (a) The department has inspected the newly constructed, modified or expanded portion of the facility and finds it in compliance with the license and any department plan approval; or  
(b) The department has notified the licensee in writing that the inspection requirement under par. (a) is waived.

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

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

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

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

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

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

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

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

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

Register, March, 1993, No. 447

**NR 680.50 Variances.** The department may issue a variance from the requirements of chs. NR 600 to 699 and s. 144.64, Stats., if the application for, or compliance with the terms or conditions of, any license required under chs. NR 600 to 699 would cause undue or unreasonable hardship to any person, and the variance would not result in undue harm to human health or the environment.

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

(a) Shall be issued in written form.

(b) May not exceed 5 years in duration.

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

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

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

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

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

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

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

1. Explain why application for or compliance with a required license under chs. NR 600 to 699 would cause undue or unreasonable hardship to any person. For purposes of this section, "undue or unreasonable hardship" means a hardship that is a result of unusual circumstances, which are not self-created. The delay, inconvenience or expense which are inherent in the facility approval process under s. 144.44, Stats., are not considered to be unreasonable.

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

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

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

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

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

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

3. Section NR 645.06 for a hazardous waste tank system.
4. Section NR 655.06 for a hazardous waste pile.
5. Section NR 665.06 for a hazardous waste incinerator.
6. Sections NR 670.06 and 670.07 for a hazardous waste miscellaneous unit facility.
7. Sections NR 660.09 to 660.107 for a hazardous waste landfill or surface impoundment.

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

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

(4) **FINAL DETERMINATION.** The department shall make a final written determination on the variance request within 65 business days after finding the application complete. The final determination may require construction inspection and fees under s. NR 680.09.

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

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

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

- (a) Provide for the construction of any necessary facility and for operation of the facility for not longer than one year; but the license may be renewed under sub. (5);
- (b) Provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the department deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of the technology or process on human health or the environment; and
- (c) Include requirements which the department deems necessary to protect human health and the environment, including, but not limited to requirements regarding monitoring, operation, proof of financial respon-

Register, March, 1993, No. 447

sibility, closure, and remedial action, and requirements which the department deems necessary regarding testing, recordkeeping and reporting information to the department with respect to the operation of the facility.

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

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

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

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

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

**NR 680.52 Treatability study exemption.** A treatability study of hazardous waste may be conducted without an operating license if the study is performed in accordance with s. NR 605.05 (4), (4h), (4p) and (5).

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

**NR 680.60 Termination of a regulated activity.** Any person who owns or operates a hazardous waste facility and who wishes or is required to terminate the regulated activity shall submit a closure plan for department approval and implement an approved closure plan that meets the requirements specified in s. NR 685.05. Any person who owns or operates a disposal facility and who wishes or is required to terminate the regulated activity shall submit a long-term care plan for approval and implement an approved long-term care plan that meets the requirements specified in s. NR 685.06. In accordance with ss. NR 655.10 (2), 660.15 (2) and 660.16 (4), long-term care plans may be required for certain waste piles or surface impoundments or tanks where the department approves in-place disposal of wastes.

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