

## Chapter NR 670

### HAZARDOUS WASTE LICENSING AND DECISIONMAKING PROCEDURES

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**Note:** This chapter is similar to federal regulations contained in 40 CFR part 270, revised as of July 1, 2003.

#### Subchapter A — General Information

##### NR 670.001 Purpose and scope of subchs. A to I.

**(1) COVERAGE.** (a) These license rules establish provisions for the hazardous waste facility licensing program under ch. 291.25, Stats.

(b) The rules in this chapter cover basic department licensing requirements, such as license application requirements, standard license conditions, and monitoring and reporting requirements. These rules are part of a regulatory scheme implementing chs. 289 and 291, Stats., set forth in different parts of the Wisconsin Administrative Code. The following chart indicates where the rules implementing ch. 291, Stats., appear in the Wisconsin Administrative Code.

Section of ch. 291, Stats	Coverage	Final rule
ch. 291.001 and 291.01, Stats.	Overview and definitions.	ch. NR 660
s. 291.05 (1) to (4), Stats.	Identification and listing of hazardous waste.	ch. NR 661
s. 291.21, Stats.	Generators of hazardous waste.	ch. NR 662
ss. 291.05 (5) (a) and 291.23, Stats.	Transporters of hazardous waste.	ch. NR 663
s. 291.05 (6), Stats.	Standards for HWM facilities.	chs. NR 664, 665 & 666
s. 291.25, Stats.	License requirements for HWM facilities.	ch. NR 670
s. 291.05 (1), Stats.	Preliminary notification of HWM activity.	s. NR 660.07

**(2) OVERVIEW OF THE HAZARDOUS WASTE LICENSE PROGRAM.** Not later than 90 days after the promulgation or revision of rules in ch. NR 661, identifying and listing hazardous wastes, generators and transporters of hazardous waste, and owners or operators of hazardous waste treatment, storage or disposal facilities may be required to file a notification of that activity under s. NR 660.07. Treatment, storage or disposal of hazardous waste by any person

who has not applied for and received a hazardous waste license is prohibited. A license application consists of two parts, part A (see s. NR 670.013) and a feasibility and plan of operation report (see s. NR 670.014 and applicable sections in ss. NR 670.015 to 670.029). For existing HWM facilities, the requirement to submit a license application is satisfied by submitting only part A until the date the department sets for submitting the feasibility and plan of operation report. Part A consists of Forms 1 and 3 of the EPA Consolidated Permit Application Forms. Timely submission of both notification under s. NR 660.07 and part A qualifies owners and operators of existing HWM facilities (who are required to have a license) for an interim license under s. 291.25, Stats. Facility owners and operators with an interim license are treated as having been issued an operating license until the department makes a final determination on the operating license application. Facility owners and operators with interim licenses shall comply with interim license standards set forth at chs. NR 665 and 666. Facility owners and operators with interim licenses are not relieved from complying with other state requirements. For existing HWM facilities, the department shall set a date, giving at least 6 months notice, for submission of the feasibility and plan of operation report. There is no form for the feasibility and plan of operation report; rather, the report shall be submitted in narrative form and contain the information set forth in ss. NR 670.014 to 670.029. Owners or operators of new HWM facilities shall submit the license application at least 180 days before physical construction is expected to commence.

**Note:** EPA part A form may be obtained from: <http://www.epa.gov/wastes/inforesources/data/form8700/8700-12.pdf>, or the department by E-mail: [waste.management@dnr.state.wi.us](mailto:waste.management@dnr.state.wi.us), phone (608) 266-2111 or Fax (608) 266-2111.

**(3) SCOPE OF THE LICENSE REQUIREMENT.** Section 291.25 (2), Stats., requires a license for the operation of a treatment, storage or disposal facility where any hazardous waste identified or listed in ch. NR 661 is managed. The terms “treatment,” “storage,” “disposal” and “hazardous waste” are defined in s. NR 670.002. Owners and operators of hazardous waste management units shall have licenses during the active life (including the closure period) of the unit. Owners and operators of surface impoundments, landfills and waste pile units that received waste after July 26, 1982, or that certified closure (according to s. NR 665.0115) after January 26, 1983, shall have long-term care licenses, unless they demonstrate closure by removal or decontamination as provided under s. NR 670.001 (3) (e) and (f), or obtain an enforceable document in lieu of a long-term care license, as provided under par. (g). If a long-term care license is required, the license shall address applicable ch. NR 664 groundwater monitoring, unsaturated zone monitoring, corrective action and long-term care requirements of this chapter. The denial of a license for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a long-term care license under this section.

(b) *Specific exclusions.* The following persons are among those who are not required to obtain a hazardous waste license:

1. Generators who accumulate hazardous waste on-site in compliance with s. NR 662.034 or 662.192.
2. Farmers who dispose of hazardous waste pesticides from their own use as provided in s. NR 662.070.
3. Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulation under this chapter by s. NR 661.04.
4. Owners or operators of totally enclosed treatment facilities as defined in s. NR 660.10.
5. Owners and operators of elementary neutralization units or wastewater treatment units as defined in s. NR 660.10.
6. Licensed transporters storing manifested shipments of hazardous waste in containers meeting the requirements of s. NR 662.030 at a transfer facility for a period of 10 days or less.
7. Persons adding absorbent material to waste in a container (as defined in s. NR 660.10) and persons adding waste to absor-

bent material in a container, if these actions occur at the time waste is first placed in the container; and ss. NR 664.0017 (2), 664.0171 and 664.0172 are complied with.

8. Universal waste handlers and universal waste transporters (as defined in s. NR 660.10) managing the wastes listed in subd. 8. a. to d. These handlers are regulated under ch. NR 673.

- a. Batteries as described in s. NR 673.02.
- b. Pesticides as described in s. NR 673.03.
- c. Thermostats as described in s. NR 673.04.
- d. Lamps as described in s. NR 673.05.

9. Owners or operators of POTWs which accept hazardous waste for treatment, if the owners or operators comply with all of the following:

- a. Have a WPDES permit.
- b. Comply with the conditions of that permit.
- c. Comply with the notification requirements in s. NR 660.07, the manifest requirements in ss. NR 664.0071, 664.0072 and 664.0076, the operating record requirements in ss. NR 664.0073 (1) and (2) (a) and the annual reporting requirements in s. NR 664.0075.

d. For WPDES permits issued after November 8, 1984, POTWs shall comply with the corrective action requirements of s. NR 664.0101.

e. Meet all federal, state and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe or similar conveyance.

10. Owners or operators of household and very small quantity generator hazardous waste collection facilities, provided the applicable requirements of subch. HH of ch. NR 666 are met.

11. A generator who treats waste in containers or tanks, provided the requirements of s. NR 662.034, 662.192 or 662.220 are met.

(c) *Further exclusions.* 1. A person is not required to obtain a hazardous waste license for treatment or containment activities taken during immediate response to any of the following situations:

- a. A discharge of a hazardous waste.
- b. An imminent and substantial threat of a discharge of hazardous waste.
- c. A discharge of a material which, when discharged, becomes a hazardous waste.
- d. An immediate threat to human health, public safety, property or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in s. NR 660.10.

2. Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to this chapter for those activities.

3. In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for 3 years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(d) *Licenses for less than an entire facility.* The department may issue or deny a license for one or more units at a facility without simultaneously issuing or denying a license to all of the units at the facility. The interim license of any unit for which an operating license has not been issued or denied is not affected by the issuance or denial of an operating license to any other unit at the facility.

(e) *Closure by removal.* Owners or operators of surface impoundments and waste piles closing by removal or decontamination under ch. NR 665 shall obtain a long-term care license unless they can demonstrate to the department that the closure met the standards for closure by removal or decontamination in s. NR

664.0228 or 664.0258. The demonstration may be made in any of the following ways:

1. If the owner or operator has submitted a feasibility and plan of operation report for a long-term care license, the owner or operator may request a determination, based on information contained in the feasibility and plan of operation report, that ch. NR 664 closure by removal standards were met. If the department believes that ch. NR 664 standards were met, the department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in par. (f).

2. If the owner or operator has not submitted a feasibility and plan of operation report for a long-term care license, the owner or operator may petition the department for a determination that a long-term care license is not required because the closure met the applicable ch. NR 664 closure standards.

a. The petition shall include data demonstrating that closure by removal or decontamination standards were met, or it shall demonstrate that the unit closed under state requirements that met or exceeded the applicable ch. NR 664 closure-by-removal standard.

b. The department shall approve or deny the petition according to the procedures outlined in par. (f).

(f) *Procedures for closure equivalency determination.* 1. If a facility owner or operator seeks an equivalency demonstration under par. (e), the department will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner or operator within 30 days from the date of the notice. The department may also, in response to a request or at the department's own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the equivalence of the ch. NR 665 closure to a ch. NR 664 closure. The department will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the 2 notices may be combined. Department determinations under this chapter are made as part of the process for approving a feasibility and plan of operation report or license under subch. III of ch. 289, Stats., or ch. 291, Stats., and are therefore exempt from s. 227.42 (1), Stats.

2. The department will determine whether the ch. NR 665 closure met ch. NR 664 closure by removal or decontamination requirements within 90 days of the receipt of the request under subd. 1. If the department finds that the closure did not meet the applicable ch. NR 664 standards, the department will provide the owner or operator with a written statement of the reasons why the closure failed to meet ch. NR 664 standards. The owner or operator may submit additional information in support of an equivalency demonstration within 30 days after receiving a written statement. The department will review any additional information submitted and make a final determination within 60 days.

3. If the department determines that the facility did not close according to ch. NR 664 closure by removal standards, the facility is subject to long-term care licensing requirements.

(g) *Enforceable documents for long-term care.* At the discretion of the department, an owner or operator may obtain, in lieu of a long-term care license, an enforceable document imposing the requirements of s. NR 665.0121. "Enforceable document" means a special order, variance, license, or plan approval issued by the department.

**History:** CR 05-032; cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.002 Definitions.** The following definitions apply to this chapter:

(1) "Closure" means the act of securing a hazardous waste management facility pursuant to ch. NR 664 and in compliance with the operating license or approved closure plan under s. 291.29, Stats.

(2) "Component" means any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g., a pump seal, pump, kiln liner, kiln thermocouple).

(3) "Corrective Action Management Unit" or "CAMU" means an area within a facility that is designated by the department under subch. S of ch. NR 664, for the purpose of implementing corrective action requirements under s. NR 664.0101 and s. 291.37, Stats. A CAMU shall only be used for the management of remediation wastes pursuant to implementing corrective action requirements at the facility.

(4) "Emergency license" means an operating license issued according to s. NR 670.061.

(5) "Facility mailing list" means the mailing list for a facility maintained by the department according to s. NR 670.410 (3) (a) 9.

(6) "Facility" or "activity" means any HWM facility or any other facility or activity (including land or appurtenances thereto) that is regulated under ch. 291, Stats., and chs. NR 660 to 673.

(7) "Feasibility and plan of operation report" means a report required by the department under s. 289.30 (3), Stats., that includes a description of the facility and operation in terms of land use, topography, soils, geology, groundwater, surface water, design, construction, operation, maintenance, closure and long-term care.

(8) "Federal, state and local approvals, permits or licenses necessary to begin physical construction" means permits, licenses and approvals required under federal, state or local hazardous waste control statutes, regulations or ordinances.

(9) "Final authorization" means approval by EPA of a State program which has met section 3006(b) of RCRA and the applicable requirements of 40 CFR part 271, subpart A.

(10) "Functionally equivalent component" means a component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.

(11) "Hazardous waste management facility" or "HWM facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units (for example, one or more landfills, surface impoundments or combinations of them).

(12) "Interim authorization" means approval by EPA of a state hazardous waste program which has met the requirements of section 3006(g)(2) of RCRA and applicable requirements of 40 CFR part 271, subpart B.

(13) "Interim license" means a license that grants the licensee permission to operate an existing hazardous waste treatment, storage or disposal facility in compliance with its terms or conditions and the requirements of ch. NR 665.

(14) "License" means an approval issued by the department under this chapter that grants the licensee permission to operate a hazardous waste treatment, storage or disposal facility. "License" includes an operating license, interim license and emergency license.

(15) "License application" means the EPA Part A form and the feasibility and plan of operation report for applying for an operating license, including any additions, revisions or modifications to the form or report. The specific requirements for the Part A application are in s. NR 670.013. The specific requirements for the feasibility and plan of operation report are in ss. NR 670.014 to 670.029.

(16) "Major facility" means any facility or activity classified as such by the EPA region 5 administrator in conjunction with the department.

(17) "Operating license" means an annual license that incorporates a feasibility and plan of operation report approval and grants the licensee permission to operate a hazardous waste treatment, storage or disposal facility in compliance with that approval, chs. NR 660 to 679 and ch. 291, Stats.

(18) "Owner or operator" means the owner or operator of any facility or activity regulated under ch. 291, Stats., and chs. NR 660 to 673.

(19) "Permit" means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 270, 271 and 124. Permit includes permit by rule (40 CFR 270.60) and emergency permit (40 CFR 270.61). Permit does not include RCRA interim status (40 CFR part 270 subpart G), or any permit which has not yet been the subject of final action by EPA, such as a draft permit or a proposed permit.

(20) "Physical construction" means excavation, movement of earth, erection of forms or structures, or similar activity to prepare an HWM facility to accept hazardous waste.

(21) "RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609 and Pub. L. 96-482, 42 USC 6901 *et seq.*).

(22) "Schedule of compliance" means a schedule of remedial measures included in a license, including an enforceable sequence of interim requirements (for example, actions, operations or milestone events) leading to compliance with ch. 291, Stats., and chs. NR 660 to 673.

(23) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(24) "UIC" means the underground injection control program under 42 USC 300h, including an approved program.

(25) "Underground source of drinking water" means an aquifer or its portion which supplies any public water system or contains a sufficient quantity of groundwater to supply a public water system and either of the following:

- (a) Currently supplies drinking water for human consumption.
- (b) Contains fewer than 10,000 mg/L total dissolved solids.

(26) Wisconsin pollutant discharge elimination system (WPDES) means the permit issued by the department under ch. 283, Stats., for the discharge of pollutants.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.004 Effect of a license.** (1) Compliance with a hazardous waste license during its term constitutes compliance, for purposes of enforcement, with ch. 291, Stats., and chs. NR 660 to 673 except for the following:

(a) Those requirements not included in the license which become effective by statute.

(b) Those requirements in ch. NR 668 restricting the placement of hazardous wastes in or on the land.

(c) Those requirements in ch. NR 664 regarding leak detection systems for new and replacement surface impoundment, waste pile and landfill units, and lateral expansions of surface impoundment, waste pile and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates and response action plans, and will be implemented through the procedures of s. NR 670.042 Class 1 license modifications.

(d) Those requirements in subchs. AA, BB or CC of ch. NR 665 limiting air emissions.

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

(3) The issuance of a license does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.005 Noncompliance and program reporting by the department.** The department shall prepare quarterly and annual reports as detailed below. The department shall submit any reports required under this section to the EPA region 5 administrator. For purposes of this section only, licensees shall include interim status facilities, when appropriate.

(1) **QUARTERLY REPORTS.** The department shall submit quarterly narrative reports for major facilities as follows:

(a) *Format.* The report shall list all of the following:

1. Information on noncompliance for each facility.
2. Alphabetize by licensee name. When 2 or more licensees have the same name, the lowest license number shall be entered first.

3. For each entry on the list, include all of the following information in the following order:

- a. Name, location and license number of the noncomplying licensee.

- b. A brief description and date of each instance of noncompliance for that licensee. Instances of noncompliance may include one or more of the kinds set forth in par. (b). When a licensee has noncompliance of more than one kind, combine the information into a single entry for each licensee.

- c. The dates and a brief description of the actions taken by the department to ensure compliance.

- d. Status of the instances of noncompliance with the date of the review of the status or the date of resolution.

- e. Any details which tend to explain or mitigate the instances of noncompliance.

(b) *Instances of noncompliance to be reported.* Any instances of noncompliance within the following categories shall be reported in successive reports until the noncompliance is reported as resolved. Once noncompliance is reported as resolved it need not appear in subsequent reports.

1. 'Failure to complete construction elements.' When the licensee has failed to complete, by the date specified in the license, an element of a compliance schedule involving either planning for construction (for example, award of a contract, preliminary plans), or a construction step (for example, begin construction, attain operation level); and the licensee has not returned to compliance by accomplishing the required element of the schedule within 30 days from the date a compliance schedule report is due under the license.

2. 'Modifications to schedules of compliance.' When a schedule of compliance in the license has been modified under s. NR 670.041 or 670.042 because of the licensee's noncompliance.

3. 'Failure to complete or provide compliance schedule or monitoring reports.' When the licensee has failed to complete or provide a report required in a license compliance schedule (for example, progress report or notice of noncompliance or compliance) or a monitoring report; and the licensee has not submitted the complete report within 30 days from the date it is due under the license for compliance schedules, or from the date specified in the license for monitoring reports.

4. 'Deficient reports.' When the required reports provided by the licensee are so deficient as to cause misunderstanding by the department and thus impede the review of the status of compliance.

5. 'Noncompliance with other license requirements.' Noncompliance shall be reported in any of the following circumstances:

a. Whenever the licensee has violated a license requirement (other than reported under subs. 1. or 2.), and has not returned to compliance within 45 days from the date reporting of noncompliance was due under the license.

b. When the department determines that a pattern of noncompliance exists for a major facility licensee over the most recent 4 consecutive reporting periods. This pattern includes any violation of the same requirement in 2 consecutive reporting periods, and any violation of one or more requirements in each of 4 consecutive reporting periods.

c. When the department determines significant license non-compliance or other significant event has occurred such as a fire or explosion or migration of fluids into an underground source of drinking water.

6. 'All other.' Statistical information shall be reported quarterly on all other instances of noncompliance by major facilities with license requirements not otherwise reported under this subsection.

(2) ANNUAL REPORTS. (a) *Annual noncompliance report.* Statistical reports shall be submitted by the department on nonmajor licensees indicating the total number reviewed, the number of noncomplying nonmajor licensees, the number of enforcement actions, and number of license modifications extending compliance deadlines. The statistical information shall be organized to follow the types of noncompliance listed in sub. (1).

(b) In addition to the annual noncompliance report, the department shall prepare a "program report" which contains information (in a manner and form prescribed by the EPA region 5 administrator) on generators and transporters and the license status of regulated facilities. The department shall also include, on a biennial basis, summary information on the quantities and types of hazardous wastes generated, transported, treated, stored and disposed during the preceding odd-numbered year. This summary information shall be reported in a manner and form prescribed by the EPA region 5 administrator and shall be reported according to EPA characteristics and lists of hazardous wastes at ch. NR 661.

(3) SCHEDULE. For all quarterly reports, on the last working day of May, August, November and February, the department shall submit to the EPA region 5 administrator information concerning noncompliance with license requirements by major facilities in Wisconsin according to the following schedule.

**Quarters Covered by Reports on Noncompliance  
by Major Dischargers**

[Date for completion of reports]

January, February, and March . . . . .	<sup>1</sup> May 31
April, May, and June . . . . .	<sup>1</sup> August 31
July, August, and September . . . . .	<sup>1</sup> November 30
October, November, and December . . . . .	<sup>1</sup> February 28

<sup>1</sup> Reports shall be made available to the public for inspection and copying on this date.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**Subchapter B — License Application**

**NR 670.007 Pre-application requirements.** (1) A person proposing to obtain a license for an interim facility or construct a new facility or expand an existing facility shall comply with all of the following local approval and pre-application and meeting requirements:

(a) Submit a written request including the standard notice developed under s. 289.22 (2), Stats., to each affected municipality as required in s. 289.22 (1m), Stats.

(b) Apply for all applicable local approvals required by a municipality under s. 289.22 (1m), Stats., at least 120 days prior to submitting the license application to the department if subject to s. 289.33 (6), Stats. 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 license application 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.

(c) Hold a public meeting and give notice as required in s. NR 670.431.

**Note:** Refer to s. 289.33, Stats., to determine if local approval requirements and negotiation and arbitration requirements apply to an existing facility.

(2) An applicant proposing to construct a hazardous waste disposal facility may submit an initial site report to the department prior to submitting the operating license application. The purpose of an initial site report is to obtain a preliminary opinion from the department on the feasibility of the site for development as a disposal facility. A favorable opinion under this section does not guarantee a favorable determination of site feasibility. If an initial site report is submitted, it must contain the following information at a minimum:

(a) *General site information.* Identify the project title; name, address and phone number of the primary contacts including the proposed owner, operator and any consultants; present property owner; site location by quarter section; identification of adjacent landowners; total acreage of the property and proposed licensed acreage; proposed site life and design capacity; estimated waste types and volumes, and preliminary design configuration.

(b) *Regional geotechnical information.* Include a discussion of the regional setting of the proposed disposal facility. This discussion may be limited to information available from publications, although field verification may be desirable. Address the following items:

1. Topography, including predominant topographic features.
2. Hydrology and hydrogeology, including surface water drainage patterns and significant hydrologic features; groundwater flow direction and the identification of aquifers used for supply wells.
3. Geology, including the nature and distribution of bedrock and unconsolidated deposits.
4. Zoning and present land uses, with emphasis on known recreational, historic or archeological areas, and present or proposed access roads and weight restrictions.

(c) *Site specific geotechnical information.* Conduct field investigations to define the following:

1. Install soil borings to investigate the site specific geology. Extend borings to a minimum of 25 feet below the anticipated facility sub-base grade and distribute in a grid pattern throughout the area. Conduct at least one boring per 5 acres, with a minimum of 5 borings.
2. Install observation wells, in accordance with ch. NR 141 requirements, to investigate the site specific hydrogeology.

(d) *Data analysis and design recommendations.* Provide an analysis of the results from the regional geotechnical information, land use and groundwater investigation; give preliminary conclusions and recommendations on facility development, including a discussion of factors that may affect the development, design or operation of the proposed disposal facility.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.010 General application requirements.**

(1) LICENSE APPLICATION. Any person who is required to have a license (including new applicants and licensees with expiring 10 year operating licenses) shall complete, sign, and submit two copies of the license application to the department as described in this section and ss. NR 670.070 to 670.073. A person currently authorized with an interim license shall submit the feasibility and plan of operation report when required by the department. Procedures for applications, issuance and administration of emergency licenses are found in s. NR 670.061. Procedures for application,

issuance and administration of research, development and demonstration licenses are found in s. NR 670.065.

**(2) WHO APPLIES?** When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a license, except that the owner shall also sign the license application.

**(3) COMPLETENESS.** The department may not issue an operating license before receiving a complete license application and for new facilities, before the owner or operator completes construction in compliance with the approved feasibility and plan of operation report except for emergency licenses. An application for an operating license is complete when the department receives a part A application form, the feasibility and plan of operation report, and any supplemental information which are completed to the department's satisfaction. An application for a license is complete notwithstanding the failure of the owner or operator to submit the exposure information described in sub. (10). The department may deny a license for the active life of a hazardous waste management facility or unit before receiving a complete application for a license.

**(4) INFORMATION REQUIREMENTS.** All applicants for licenses shall provide information set forth in s. NR 670.013 and applicable sections in ss. NR 670.014 to 670.029 to the department. Part A of the license application shall be submitted on the EPA application form 8700-023.

**(5) EXISTING HWM FACILITIES AND INTERIM LICENSE QUALIFICATIONS.** (a) Owners and operators of existing hazardous waste management facilities or of hazardous waste management facilities in existence on the effective date of the statute or rule that first rendered the facility subject to the requirement to have a hazardous waste license shall submit part A of the license application no later than any of the following:

1. The date of publication of rules which first require them to comply with the standards set forth in ch. NR 665 or 666.
2. Thirty days after the date they first become subject to the standards set forth in ch. NR 665 or 666, whichever first occurs.
3. For generators generating greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and treats, stores or disposes of these wastes on-site, by March 24, 1987.

(d) The owner or operator of an existing hazardous waste management facility shall submit a feasibility and plan of operation report. Any owner or operator shall be allowed at least 6 months from the date of request to submit the feasibility and plan of operation report. Any owner or operator of an existing hazardous waste management facility may voluntarily submit a feasibility and plan of operation report at any time. Notwithstanding the above, any owner or operator of an existing hazardous waste management facility shall submit a feasibility and plan of operation report according to the dates specified in s. NR 670.073. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under ss. NR 660 to 679 and ch. 291, Stats., that render the facility subject to the requirement to have a hazardous waste license shall submit a feasibility and plan of operation report according to the dates specified in s. NR 670.073.

(e) Failure to furnish a requested feasibility and plan of operation report on time, or to furnish in full the information required by the feasibility and plan of operation report, is grounds for revocation of an interim license under this chapter.

**(6) NEW HWM FACILITIES.** (a) Except as provided in par. (c), no person may begin physical construction of a new HWM facility without having submitted the license application and having received final approval of the feasibility and plan of operation report.

(b) A license application for a new hazardous waste management facility, including both part A and a feasibility and plan of operation report may be filed any time after promulgation of those standards in subch. I of ch. NR 664 applicable to the facility. Except as provided in par. (c), all applications shall be submitted at least 180 days before physical construction is expected to commence.

(c) Notwithstanding par. (a), a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the EPA region 5 administrator under section (6) (e) of the Toxic Substances Control Act and any person owning or operating such a facility may, at any time after construction or operation of the facility has begun, file an application for a hazardous waste license to incinerate hazardous waste authorizing the facility to incinerate waste identified or listed under ch. NR 661.

**(7) UPDATING LICENSE APPLICATIONS.** (a) If any owner or operator of a hazardous waste management facility has filed Part A of a license application and has not yet submitted a feasibility and plan of operation report, the owner or operator shall file an amended part A application if any of the following applies:

2. With the department, no later than the effective date of rules listing or designating wastes as hazardous in Wisconsin in addition to those already listed or designated, if the facility is treating, storing or disposing of any of those newly listed or designated wastes.

3. As necessary to comply with s. NR 670.072 for changes to the interim license. Revised Part A applications necessary to comply with s. NR 670.072 shall be filed with the department.

(b) The owner or operator of a facility who fails to comply with the updating requirements of par. (a) does not receive an interim license as to the wastes not covered by duly filed part A applications.

**(8) REAPPLICATION FOR AN OPERATING LICENSE.** Any HWM facility with an operating license shall re-submit a license application at least 180 days before the expiration date of the operating license, unless permission for a later date has been granted by the department. The department may not grant permission for applications to be submitted later than the expiration date of the license.

**(9) RECORDKEEPING.** Applicants shall keep records of all data used to complete license applications and any supplemental information submitted under sub. (4), ss. NR 670.013 and 670.014 to 670.021 for a period of at least 3 years from the date the application is signed.

**(10) EXPOSURE INFORMATION.** (a) After August 8, 1985, any feasibility and plan of operation report submitted by an owner or operator of a facility that stores, treats or disposes of hazardous waste in a surface impoundment or a landfill shall include a list of all persons living within 0.5 mile of the facility and be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, the information shall address all of the following:

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

2. The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under subd. 1.

3. The potential magnitude and nature of the human exposure resulting from the releases.

**(11) ADDITIONAL INFORMATION.** The department may require a licensee or an applicant to submit information in order to establish license conditions under ss. NR 670.032 (2) (b) and 670.050 (4).

**(12) FEES.** The plan review or license fee specified in ch. NR 670 Appendix II shall accompany all license applications, plans, reports, and other documents submitted to the department for approval.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; correction in (12) made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

**NR 670.011 Signatories to license applications and reports.** **(1) APPLICATIONS.** All license applications shall be signed as follows:

(a) For a corporation, by a responsible corporate officer. For the purpose of this section, 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 decisionmaking functions for the corporation.

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 according to 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 license applications unless the corporation has notified the department to the contrary. Corporate procedures governing authority to sign license 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.

(c) For a municipality, state, federal or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes any of the following:

1. The chief executive officer of the agency.

2. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA).

**(2) REPORTS.** All reports required by licenses and other information requested by the department shall be signed by a person described in sub. (1), or by a duly authorized representative of that person. A person is a duly authorized representative only if all of the following are met:

(a) The authorization is made in writing by a person described in sub. (1).

(b) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

(c) The written authorization is submitted to the department.

**(3) CHANGES TO AUTHORIZATION.** If an authorization under sub. (2) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying sub. (2) shall be submitted to the department prior to or together with any reports, information or applications to be signed by an authorized representative.

**(4)** (a) Any person signing a document under sub. (1) or (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 according to 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 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.012 Confidentiality of information.**

**(1)** According to s. NR 660.02, any information submitted to the department pursuant to chs. NR 660 to 670 may be claimed as confidential by the submitter. Any claim shall be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing the information. If no claim is made at the time of submission, the department may make the information available to the public without further notice. If a claim is asserted, the information will be treated according to the procedures in s. NR 660.02.

**(2)** Claims of confidentiality for the name and address of any license applicant or licensee will be denied.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.013 Contents of part A of the license application.** Part A of the license application shall include all of the following information:

**(1)** The activities conducted by the applicant which require it to obtain a license.

**(2)** Name, mailing address and location, including latitude and longitude of the facility for which the application is submitted.

**(3)** Up to 4 SIC codes which best reflect the principal products or services provided by the facility.

**(4)** The operator's name, address, telephone number, ownership status and status as federal, state, private, public or other entity.

**(5)** The name, address and phone number of the owner of the facility.

**(6)** Whether the facility is located on Indian lands.

**(7)** An indication of whether the facility is new or existing and whether it is a first or revised application.

**(8)** For existing facilities, all of the following:

(a) A scale drawing of the facility showing the location of all past, present and future treatment, storage and disposal areas.

(b) Photographs of the facility clearly delineating all existing structures; existing treatment, storage and disposal areas; and sites of future treatment, storage and disposal areas.

**(9)** A description of the processes to be used for treating, storing and disposing of hazardous waste, and the design capacity of these items.

**(10)** A specification of the hazardous wastes listed or designated under ch. NR 661 to be treated, stored or disposed of at the facility, an estimate of the quantity of wastes to be treated, stored or disposed annually, and a general description of the processes to be used for the wastes.

**(11)** A listing of all permits, licenses or construction approvals received or applied for under any applicable federal or state regulations.

**(12)** A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within ¼ mile of the facility property boundary.

**(13)** A brief description of the nature of the business.

(14) For hazardous debris, a description of the debris categories and contaminant categories to be treated, stored or disposed of at the facility.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.014 Contents of the feasibility and plan of operation report: general requirements.** (1) **GENERAL INFORMATION.** The feasibility and plan of operation report consists of the general information requirements of this section, and the specific information requirements in ss. NR 670.014 to 670.029 applicable to the facility. The feasibility and plan of operation information requirements presented in ss. NR 670.014 to 670.029 reflect the standards promulgated in ch. NR 664. These information requirements are necessary in order for the department to determine compliance with the ch. NR 664 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in the feasibility and plan of operation report can not be provided to the extent required, the department may make allowance for submission of the information on a case-by-case basis. Information required in the feasibility and plan of operation report shall be submitted to the department and signed according to s. NR 670.011. Technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. For long-term care licenses, only the information specified in s. NR 670.028 is required in the feasibility and plan of operation report.

**Note:** See ch. 443, Stats., for Wisconsin professional engineering registration requirements.

(2) **GENERAL INFORMATION REQUIREMENTS.** All of the following information is required for all HWM facilities, except as s. NR 664.0001 provides otherwise:

- (a) A general description of the facility.
- (b) Chemical and physical analyses of the hazardous waste and hazardous debris 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 properly according to ch. NR 664.
- (c) A copy of the waste analysis plan required by s. NR 664.0013 (2) and, if applicable s. NR 664.0013 (3).
- (d) A description of the security procedures and equipment required by s. NR 664.0014, 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 664.0015 (2). Include where applicable, as part of the inspection schedule, specific requirements in ss. NR 664.0174, 664.0193 (9), 664.0195, 664.0226, 664.0254, 664.0303, 664.0602, 664.1033, 664.1052, 664.1053, 664.1058, 664.1084, 664.1085, 664.1086 and 664.1088.
- (f) A justification of any request for a waiver of the preparedness and prevention requirements of subch. C of ch. NR 664.
- (g) A copy of the contingency plan required by subch. D of ch. NR 664.

**Note:** Include, where applicable, as part of the contingency plan, specific requirements in ss. NR 664.0227 and 664.0200.

(h) A description of procedures, structures or equipment used at the facility to do all of the following:

1. Prevent hazards in unloading operations (for example, ramps, special forklifts).
2. Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches).
3. Prevent contamination of water supplies.
4. Mitigate effects of equipment failure and power outages.
5. Prevent undue exposure of personnel to hazardous waste (for example, protective clothing).
6. Prevent releases to atmosphere.

(i) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive or incompatible wastes as

required to demonstrate compliance with s. NR 664.0017 including documentation demonstrating compliance with s. NR 664.0017 (3).

(j) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate)); describe access road surfacing and load bearing capacity; show traffic control signals).

(k) 3. Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant federal insurance administration 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 (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

**Note:** Where maps for the national flood insurance program produced by the federal insurance administration (FIA) of the federal emergency management agency are available, they will normally be determinative of whether a facility is located within or outside of the 100-year floodplain. However, where the FIA map excludes an area, usually areas of the floodplain less than 200 feet in width, these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation would be.

4. Owners and operators of facilities located in the 100-year floodplain shall provide 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 (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout.

c. If applicable, and in lieu of subs. 4. 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 such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility.

2) A description of the location or locations to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulations under chs. NR 664 to 666 and 670.

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

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

5. Existing facilities not in compliance with s. NR 664.0018 (2) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

6. Owners and operators of all facilities shall provide an identification of whether the facility is located in:

a. A habitat determined by the department to be critical to the continued existence of any threatened or endangered species listed in ch. NR 27.

b. A wetland.

(L) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with s. NR 664.0016. A brief description of how training will be designed to meet actual job tasks according to s. NR 664.0016 (1) (c).

(m) A copy of the closure plan and, where applicable, the long-term care plan required by ss. NR 664.0112, 664.0118 and 664.0197. Include, where applicable, as part of the plans, specific requirements in ss. NR 664.0178, 664.0197, 664.0228, 664.0258, 664.0310, 664.0351, 664.0601 and 664.0603.

(n) For hazardous waste disposal units that have been closed, documentation that notices required under s. NR 664.0119 have been filed.

(o) The most recent closure cost estimate for the facility prepared according to s. NR 664.0142 and a copy of the documentation required to demonstrate financial assurance under s. NR 664.0143. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the feasibility and plan of operation report.

(p) Where applicable, the most recent long-term care cost estimate for the facility prepared according to s. NR 664.0144 plus a copy of the documentation required to demonstrate financial assurance under s. NR 664.0145. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the feasibility and plan of operation report.

(q) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with s. NR 664.0147. For a new facility, documentation showing the amount of insurance meeting the specification of s. NR 664.0147 (1) and, if applicable, s. NR 664.0147 (2), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage or disposal. A request for an alternate amount of required coverage, for a new or existing facility, may be submitted as specified in s. NR 664.0147 (3).

(s) A topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (one inch) equal to not more than 61.0 meters (200 feet). Contours shall be shown on the map. The contour interval shall be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of HWM facilities located in mountainous areas shall use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show all of the following:

1. Map scale and date.
2. 100-year floodplain area.
3. Surface waters including intermittent streams.
4. Surrounding land uses (residential, commercial, agricultural, recreational).
5. A wind rose (i.e., prevailing wind-speed and direction).
6. Orientation of the map (north arrow).
7. Legal boundaries of the HWM facility site.
8. Access control (fences, gates).
9. Injection and withdrawal wells both on-site and off-site.
10. Buildings; treatment, storage or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary and process sewerage systems, loading and unloading areas, fire control facilities, etc.)
11. Barriers for drainage or flood control.
12. Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored or disposed (include equipment cleanup areas).

**Note:** For large HWM facilities the department may allow the use of other scales on a case-by-case basis.

(u) For land disposal facilities, if a case-by-case extension has been approved under 40 CFR 268.5 or a petition has been

approved under 40 CFR 268.6, a copy of the notice of approval for the extension or petition is required.

(v) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under s. NR 670.431 (3).

(w) Documentation demonstrating compliance with the local approval requirements of s. NR 670.007 (1) (a) to (c).

(x) Applicants shall submit information to enable the department to make a determination on all of the following:

1. Noncompliance with plans or orders under s. 289.34, Stats., including the following information:

a. Identification of all persons owning a 10% or greater legal or equitable interest in the applicant or in the assets of the applicant, including shareholders of a corporation which is an applicant and partners of a partnership which is an applicant.

b. Identification of all other Wisconsin solid or hazardous waste facilities for which the applicant or any person identified in subd. 1. a. is named in, or subject to an order or plan approval issued by the department.

c. Identification of all other Wisconsin solid or hazardous waste facilities which are owned by persons, including corporations and partnerships, in which the applicant or person identified in subpar. a. owns or previously owned a 10% or greater legal or equitable interest or a 10% or greater interest in the assets.

d. A statement indicating whether or not all plan approvals and orders relating to all facilities identified in subpars. b. and c. are being complied with.

2. The need for an environmental impact statement under s. 289.25, Stats., including the following information:

a. A summary of the project, such as the purpose, history, background, relevant local, state and federal permits or approvals and zoning changes.

b. A description of the proposed physical changes, including:

1) Changes in terrestrial resources, such as soil placement necessary to reach the proposed sub-base grades, construction of access roads, surface water drainage features and sedimentation controls.

2) Changes in aquatic resources, such as potential impacts to streams, wetlands, lakes and flowages under existing conditions as well as that anticipated during active operations and after closure.

3) Buildings, treatment units, roads and other structures to be constructed in conjunction with the facility.

4) Emissions and discharges such as dust, odors, gases, leachate, and surface water runoff associated with facility preparation, construction, operation, and closure.

5) Other changes anticipated with facility development.

6) Maps, plans and other descriptive material such as a facility development plan to clarify the information provided.

c. A description of the existing environment that may be affected, including:

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

2) The dominant aquatic and terrestrial plant and animal species and habitats found in the area.

3) Land use, dominant features and zoning in the area.

4) Social and economic conditions such as any ethnic or cultural groups.

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

d. A discussion of the probable adverse and beneficial impacts including primary, indirect and secondary impacts including:

1) The physical impacts associated with facility design, construction and operation.

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

3) The impacts on land use.

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

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

6) Probable adverse impacts that cannot be avoided such as groundwater and surface water impacts, modifications of topography, any loss of agricultural or forest land, displacement of wildlife and adverse aesthetic impacts for people in and around the facility.

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

3. The need for the proposed facility or expansion as required under s. 289.28, Stats.

**(3) ADDITIONAL INFORMATION REQUIREMENTS.** The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in s. NR 664.0090 (2):

(a) A summary of the ground-water monitoring data obtained during the interim license period under ss. NR 665.0090 to 665.0094, where applicable.

(b) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow direction and rate, and the basis for the identification (i.e., the information obtained from hydrogeologic investigations of the facility area).

(c) On the topographic map required under sub. (2) (s), a delineation of the waste management area, the property boundary, the point of compliance as defined under s. NR 664.0095, the proposed location of groundwater monitoring wells as required under s. NR 664.0097, and, to the extent possible, the information required in par. (b).

(d) A description of any plume of contamination that has entered the groundwater from a regulated unit at the time that the application was submitted that does all of the following:

1. Delineates the extent of the plume on the topographic map required under sub. (2) (s).

2. Identifies the concentration of each ch. NR 664 Appendix IX, constituent throughout the plume or identifies the maximum concentrations of each ch. NR 664 Appendix IX constituent in the plume.

(e) Detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet s. NR 664.0097.

(f) If the presence of hazardous constituents has not been detected in the groundwater at the time of the license application, the owner or operator shall submit sufficient information, supporting data and analyses to establish a detection monitoring program which meets s. NR 664.0098. This submission shall address all of the following items specified under s. NR 664.0098:

1. A proposed list of indicator parameters, waste constituents or reaction products that can provide a reliable indication of the presence of hazardous constituents in the groundwater.

2. A proposed groundwater monitoring system.

3. Background values for each proposed monitoring parameter or constituent, or procedures to calculate the values.

4. A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data.

(g) If the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of the license application, the owner or operator shall submit sufficient information, supporting data and analyses to establish a compliance monitoring program which meets s. NR 664.0099. Except as provided in s. NR 664.0098 (7) (e), the owner or operator shall also submit an engineering feasibility plan for a corrective action program necessary to meet s. NR 664.0100, unless the owner or operator obtains written authorization in advance from the department to submit a proposed license schedule for submittal of such a plan. To demonstrate compliance with s. NR 664.0099, the owner or operator shall address all of the following items:

1. A description of the wastes previously handled at the facility.

2. A characterization of the contaminated groundwater, including concentrations of hazardous constituents.

3. A list of hazardous constituents for which compliance monitoring will be undertaken according to ss. NR 664.0097 and 664.0099.

4. Proposed concentration limits for each hazardous constituent, based on the criteria set forth in s. NR 664.0094 (1), including a justification for establishing any alternate concentration limits.

5. Detailed plans and an engineering report describing the proposed groundwater monitoring system, according to s. NR 664.0097.

6. A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data.

(h) If hazardous constituents have been measured in the groundwater which exceed the concentration limits established under s. NR 664.0094, Table 1, or if groundwater monitoring conducted at the time of the license application under s. NR 665.0090 to 665.0094 at the waste boundary indicates the presence of hazardous constituents from the facility in groundwater over background concentrations, the owner or operator shall submit sufficient information, supporting data and analyses to establish a corrective action program which meets s. NR 664.0100. However, an owner or operator is not required to submit information to establish a corrective action program if the owner or operator demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in s. NR 664.0094 (2). An owner or operator who is not required to establish a corrective action program for this reason shall instead submit sufficient information to establish a compliance monitoring program which meets s. NR 664.0099 and par. (f). To demonstrate compliance with s. NR 664.0100, the owner or operator shall address, at a minimum, all of the following items:

1. A characterization of the contaminated groundwater, including concentrations of hazardous constituents.

2. The concentration limit for each hazardous constituent found in the groundwater as set forth in s. NR 664.0094.

3. Detailed plans and an engineering report describing the corrective action to be taken.

4. A description of how the groundwater monitoring program will demonstrate the adequacy of the corrective action.

5. The license may contain a schedule for submittal of the information required in subds. 3. and 4. provided the owner or operator obtains written authorization from the department prior to submittal of the complete license application.

**(4) INFORMATION REQUIREMENTS FOR SOLID WASTE MANAGEMENT UNITS.** (a) An owner or operator shall submit all of the following information for each solid waste management unit at a facility:

1. The location of the unit on the topographic map required under sub. (2) (s).

2. Designation of type of unit.

3. General dimensions and structural description (supply any available drawings).

4. When the unit was operated.

5. Specification of all wastes that have been managed at the unit, to the extent available.

(b) The owner or operator of any facility containing one or more solid waste management units shall submit all available information pertaining to any release of hazardous wastes or hazardous constituents from the unit or units.

(c) The owner or operator shall conduct and provide the results of sampling and analysis of groundwater, landsurface and subsurface strata, surface water or air, which may include the installation of wells, where the department ascertains it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; correction in (3) (d) 2. made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

**NR 670.015 Specific feasibility and plan of operation report information requirements for containers.**

Except as otherwise provided in s. NR 664.0170, owners or operators of facilities that store containers of hazardous waste shall provide all of the following additional information:

**(1)** A description of the containment system to demonstrate compliance with s. NR 664.0175. Show at least the following:

(a) Basic design parameters, dimensions and materials of construction.

(b) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system.

(c) Capacity of the containment system relative to the number and volume of containers to be stored.

(d) Provisions for preventing or managing run-on.

(e) How accumulated liquids can be analyzed and removed to prevent overflow.

**(2)** For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with s. NR 664.0175 (3), including all of the following:

(a) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids.

(b) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

**(3)** Sketches, drawings or data demonstrating compliance with s. NR 664.0176 (location of buffer zone and containers holding ignitable or reactive wastes) and s. NR 664.0177 (3) (location of incompatible wastes), where applicable.

**(4)** Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with ss. NR 664.0177 (1) and (2), and 664.0017 (2) and (3).

**(5)** Information on air emission control equipment as required in s. NR 670.027.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.016 Specific feasibility and plan of operation report information requirements for tank systems.**

Except as otherwise provided in s. NR 664.0190, owners and operators of facilities that use tanks to store or treat hazardous waste shall provide all of the following additional information:

**(1)** A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under ss. NR 664.0191 and 664.0192.

**(2)** Dimensions and capacity of each tank.

**(3)** Description of feed systems, safety cutoff, bypass systems and pressure controls (e.g., vents).

**(4)** A diagram of piping, instrumentation and process flow for each tank system.

**(5)** A description of materials and equipment used to provide external corrosion protection, as required under s. NR 664.0192 (1) (c) 2.

**(6)** For new tank systems, a detailed description of how the tank systems will be installed in compliance with s. NR 664.0192 (2), (3), (4) and (5).

**(7)** Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed and operated to meet s. NR 664.0193 (1), (2), (3), (4), (5) and (6).

**(8)** Any of the following for tank systems for which an alternative to the requirements of s. NR 664.0193 is sought (as provided by s. NR 664.0193 (7)):

(a) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water during the life of the facility.

(b) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

**(9)** Description of controls and practices to prevent spills and overflows, as required under s. NR 664.0194 (2).

**(10)** For tank systems in which ignitable, reactive or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with ss. NR 664.0198 and 664.0199.

**(11)** Information on air emission control equipment as required in s. NR 670.027.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.017 Specific feasibility and plan of operation report information requirements for surface impoundments.**

Except as otherwise provided in s. NR 664.0001, owners and operators of facilities that store, treat or dispose of hazardous waste in surface impoundments shall provide all of the following additional information:

**(1)** A list of the hazardous wastes placed or to be placed in each surface impoundment.

**(2)** Detailed plans and an engineering report describing how the surface impoundment is designed and is or will be constructed, operated and maintained to meet ss. NR 664.0019, 664.0221, 664.0222 and 664.0223, addressing all of the following items:

(a) The liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought as provided by s. NR 664.0221 (2), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any

hazardous constituents into the groundwater or surface water at any future time.

(b) The double liner and leak (leachate) detection, collection and removal system, if the surface impoundment shall meet s. NR 664.0221 (3). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by s. NR 664.0221 (4), (5) or (6), submit appropriate information.

(c) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.

(d) The construction quality assurance (CQA) plan if required under s. NR 664.0019.

(e) Proposed action leakage rate, with rationale, if required under s. NR 664.0222, and response action plan, if required under s. NR 664.0223.

(f) Prevention of overtopping.

(g) Structural integrity of dikes.

(3) A description of how each surface impoundment, including the double liner system, leak detection system, cover system and appurtenances for control of overtopping, will be inspected in order to meet s. NR 664.0226 (1), (2) and (4). This information shall be included in the inspection plan submitted under s. NR 670.014 (2) (e).

(4) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under s. NR 664.0226 (3). For new units, the owner or operator shall submit a statement by a qualified engineer that the engineer will provide such a certification upon completion of construction according to the plans and specifications.

(5) A description of the procedure to be used for removing a surface impoundment from service, as required under s. NR 664.0227 (2) and (3). This information shall be included in the contingency plan submitted under s. NR 670.014 (2) (g).

(6) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under s. NR 664.0228 (1) (a). For any wastes not to be removed from the unit upon closure, the owner or operator shall submit detailed plans and an engineering report describing how s. NR 664.0228 (1) (b) and (2) will be complied with. This information shall be included in the closure plan and, where applicable, the long-term care plan submitted under s. NR 670.014 (2) (m).

(7) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how s. NR 664.0229 will be complied with.

(8) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how s. NR 664.0230 will be complied with.

(9) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026 and F027 describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet s. NR 664.0231. This submission shall address all of the following items specified in s. NR 664.0231:

(a) The volume, physical and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere.

(b) The attenuative properties of underlying and surrounding soils or other materials.

(c) The mobilizing properties of other materials co-disposed with these wastes.

(d) The effectiveness of additional treatment, design or monitoring techniques.

(10) Information on air emission control equipment as required in s. NR 670.027.

**History:** CR 05–032: cr. Register July 2006 No. 607, eff. 8–1–06.

### NR 670.018 Specific feasibility and plan of operation report information requirements for waste piles.

Except as otherwise provided in s. NR 664.0001, owners and operators of facilities that store or treat hazardous waste in waste piles shall provide all of the following additional information:

(1) A list of hazardous wastes placed or to be placed in each waste pile.

(2) If an exemption is sought to s. NR 664.0251 and subch. F of ch. NR 664 as provided by s. NR 664.0250 (3) or 664.0090, an explanation of how the standards of s. NR 664.0250 (3) will be complied with or detailed plans and an engineering report describing how s. NR 664.0090 (2) (b) will be met.

(3) Detailed plans and an engineering report describing how the waste pile is designed and is or will be constructed, operated and maintained to meet ss. NR 664.0019, 664.0251, 664.0252 and 664.0253, addressing all of the following items:

(a) 1. The liner system (except for an existing portion of a waste pile), if the waste pile shall meet s. NR 664.0251 (1). If an exemption from the requirement for a liner is sought as provided by s. NR 664.0251 (2), submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time.

2. The double liner and leak (leachate) detection, collection and removal system, if the waste pile shall meet s. NR 664.0251 (3). If an exemption from the requirements for double liners and a leak detection, collection and removal system or alternative design is sought as provided by s. NR 664.0251 (4), (5) or (6), submit appropriate information.

3. If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.

4. The construction quality assurance (CQA) plan if required under s. NR 664.0019.

5. Proposed action leakage rate, with rationale, if required under s. NR 664.0252, and response action plan, if required under s. NR 664.0253.

(b) Control of run-on.

(c) Control of run-off.

(d) Management of collection and holding units associated with run-on and run-off control systems.

(e) Control of wind dispersal of particulate matter, where applicable.

(4) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system and appurtenances for control of run-on and run-off, will be inspected in order to meet s. NR 664.0254 (1), (2) and (3). This information shall be included in the inspection plan submitted under s. NR 670.014 (2) (e).

(5) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals.

(6) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how s. NR 664.0256 will be complied with.

(7) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how s. NR 664.0257 will be complied with.

(8) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under s. NR 664.0258 (1). For any waste not to be removed from the waste pile upon closure, the owner or operator shall submit detailed plans and an engineering report describing how s. NR 664.0310 (1) and (2) will be complied with. This information shall be included in the closure plan and, where appli-

cable, the long-term care plan submitted under s. NR 670.014 (2) (m).

(9) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026 and F027 describing how a waste pile that is not enclosed (as defined in s. NR 664.0250 (3)) is or will be designed, constructed, operated and maintained to meet s. NR 664.0259. This submission shall address all of the following items specified in s. NR 664.0259:

(a) The volume, physical and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere.

(b) The attenuative properties of underlying and surrounding soils or other materials.

(c) The mobilizing properties of other materials co-disposed with these wastes.

(d) The effectiveness of additional treatment, design or monitoring techniques.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.019 Specific feasibility and plan of operation report information requirements for incinerators.**

Except as ss. NR 664.0340 and 670.019 (5) provide otherwise, owners and operators of facilities that incinerate hazardous waste shall fulfill sub. (1), (2) or (3).

(1) When seeking an exemption under s. NR 664.0340 (2) or (3) (ignitable, corrosive or reactive wastes only), one of the following must be provided:

(a) Documentation that the waste is listed as a hazardous waste in subch. D of ch. NR 661, solely because it is ignitable (hazard code I) or corrosive (hazard code C) or both.

(b) Documentation that the waste is listed as a hazardous waste in subch. D of ch. NR 661, solely because it is reactive (hazard code R) for characteristics other than those listed in s. NR 661.23 (1) (d) and (e), and will not be burned when other hazardous wastes are present in the combustion zone.

(c) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity or both, as determined by the tests for characteristics of hazardous waste under subch. C of ch. NR 661.

(d) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in s. NR 661.23 (1) (a), (b), (c), (f), (g) or (h), and that it will not be burned when other hazardous wastes are present in the combustion zone.

(2) Submit a trial burn plan or the results of a trial burn, including all required determinations, according to s. NR 670.062.

(3) In lieu of a trial burn, the applicant may submit all of the following information:

(a) An analysis of each waste or mixture of wastes to be burned including all of the following:

1. Heat value of the waste in the form and composition in which it will be burned.

2. Viscosity (if applicable), or description of physical form of the waste.

3. An identification of any hazardous organic constituents listed in ch. NR 661 Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in ch. NR 661 Appendix VIII, which would reasonably not be expected to be found in the waste. Identify the constituents excluded from analysis and state the basis for their exclusion. The waste analysis shall rely on the analytical techniques in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA SW-846, incorporated by reference in s. NR 660.11, or their equivalent.

4. An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the

analytical methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA SW-846, incorporated by reference in s. NR 660.11.

5. A quantification of those hazardous constituents in the waste which may be designated as POHC's based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in s. NR 664.0343.

(b) A detailed engineering description of the incinerator, including all of the following:

1. Manufacturer's name and model number of incinerator.

2. Type of incinerator.

3. Linear dimension of incinerator unit including cross sectional area of combustion chamber.

4. Description of auxiliary fuel system (type/feed).

5. Capacity of prime mover.

6. Description of automatic waste feed cutoff systems.

7. Stack gas monitoring and pollution control monitoring system.

8. Nozzle and burner design.

9. Construction materials.

10. Location and description of temperature, pressure and flow indicating devices and control devices.

(c) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data shall include those items listed in par. (a). This analysis shall specify the POHCs which the applicant has identified in the waste for which a license is sought, and any differences from the POHCs in the waste for which burn data are provided.

(d) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available.

(e) A description of the results submitted from any previously conducted trial burns including all of the following:

1. Sampling and analysis techniques used to calculate performance standards in s. NR 664.0343.

2. Methods and results of monitoring temperatures, waste feed rates, carbon monoxide and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement).

(f) The expected incinerator operation information to demonstrate compliance with ss. NR 664.0343 and 664.0345 including all of the following:

1. Expected carbon monoxide (CO) level in the stack exhaust gas.

2. Waste feed rate.

3. Combustion zone temperature.

4. Indication of combustion gas velocity.

5. Expected stack gas volume, flow rate and temperature.

6. Computed residence time for waste in the combustion zone.

7. Expected hydrochloric acid removal efficiency.

8. Expected fugitive emissions and their control procedures.

9. Proposed waste feed cut-off limits based on the identified significant operating parameters.

(g) Supplemental information as the department finds necessary to achieve the purposes of this subsection.

(h) Waste analysis data, including that submitted in sub. (3) (a), sufficient to allow the department to specify in the license those principal organic hazardous constituents (license POHCs) for which destruction and removal efficiencies will be required.

(4) The department shall approve a license application without a trial burn if the department finds that all of the following apply:

(a) The wastes are sufficiently similar.

(b) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under s. NR 664.0345) operating conditions that will ensure that the performance standards in s. NR 664.0343 will be met by the incinerator.

(5) When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with 40 CFR part 63, subpart EEE), the requirements of this section do not apply, except those provisions the department determines are necessary to ensure compliance with s. NR 664.0345 (1) and s. NR 664.0345 (3) if the owner or operator elects to comply with s. NR 670.235 (1) (a) 1. to minimize emissions of toxic compounds from startup, shutdown and malfunction events. Nevertheless, the department may apply the rules in this section, on a case-by-case basis, for purposes of information collection according to s. NR 670.010 (11) and s. NR 670.032 (2) (b).

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.021 Specific feasibility and plan of operation report information requirements for landfills.**

Except as otherwise provided in s. NR 664.0001, owners and operators of facilities that dispose of hazardous waste in landfills shall provide all of the following additional information:

(1) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell.

(2) Detailed plans and an engineering report describing how the landfill is designed and is or will be constructed, operated and maintained to meet ss. NR 664.0019, 664.0301, 664.0302 and 664.0303, addressing all of the following items:

(a) 1. The liner system (except for an existing portion of a landfill), if the landfill shall meet s. NR 664.0301 (1). If an exemption from the requirement for a liner is sought as provided by s. NR 664.0301 (2), submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time.

2. The double liner and leak (leachate) detection, collection and removal system, if the landfill shall meet s. NR 664.0301 (3). If an exemption from the requirements for double liners and a leak detection, collection and removal system or alternative design is sought as provided by s. NR 664.0301 (4), (5) or (6), submit appropriate information.

3. If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.

4. The construction quality assurance (CQA) plan if required under s. NR 664.0019.

5. Proposed action leakage rate, with rationale, if required under s. NR 664.0302, and response action plan, if required under s. NR 664.0303.

(b) Control of run-on.

(c) Control of run-off.

(d) Management of collection and holding facilities associated with run-on and run-off control systems.

(e) Control of wind dispersal of particulate matter, where applicable.

(3) A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover system and appurtenances for control of run-on and run-off, will be inspected in order to meet s. NR 664.0303 (1), (2) and (3). This information shall be included in the inspection plan submitted under s. NR 670.014 (2) (e).

(4) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet s. NR 664.0303 (1) and (2). This information shall be included in the inspection plan submitted under s. NR 670.014 (2) (e).

(5) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure according to s. NR 664.0310 (1), and a description of how each landfill will be maintained and monitored after closure according to s. NR 664.0310 (2). This information shall be included in the closure and long-term care plans submitted under s. NR 670.014 (2) (m).

(6) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of s. NR 664.0312 will be complied with.

(7) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how s. NR 664.0313 will be complied with.

(8) If bulk or non-containerized liquid waste or wastes containing free liquids is to be landfilled prior to May 8, 1985, an explanation of how s. NR 664.0314 (1) will be complied with.

(9) If containers of hazardous waste are to be landfilled, an explanation of how s. NR 664.0315 or 664.0316, as applicable, will be complied with.

(10) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026 and F027 describing how a landfill is or will be designed, constructed, operated and maintained to meet s. NR 664.0317. This submission shall address all of the following items specified in s. NR 664.0317:

(a) The volume, physical and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere.

(b) The attenuative properties of underlying and surrounding soils or other materials.

(c) The mobilizing properties of other materials co-disposed with these wastes.

(d) The effectiveness of additional treatment, design or monitoring techniques.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.022 Specific feasibility and plan of operation report information requirements for boilers and industrial furnaces burning hazardous waste.**

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance under 40 CFR 63.1207(j) and 40 CFR 63.1210(b) documenting compliance with 40 CFR part 63, subpart EEE), the requirements of this section do not apply, except those provisions the department determines are necessary to ensure compliance with ss. NR 666.102 (5) (a) and 666.102 (5) (b) 3. if the owner or operator elects to comply with s. NR 670.235 (1) (a) 1. to minimize emissions of toxic compounds from startup, shutdown and malfunction events. Nevertheless, the department may apply the provisions of this section, on a case-by-case basis, for purposes of information collection according to ss. NR 670.010 (11) and 670.032 (2) (b).

(1) TRIAL BURNS. (a) *General.* Except as provided below, owners and operators that are subject to the standards to control organic emissions provided by s. NR 666.104, standards to control particulate matter provided by s. NR 666.105, standards to control metals emissions provided by s. NR 666.106, or standards to control hydrogen chloride or chlorine gas emissions provided by s. NR 666.107 shall conduct a trial burn to demonstrate conformance with those standards and shall submit a trial burn plan or the results of a trial burn, including all required determinations, according to s. NR 670.066.

1. A trial burn to demonstrate conformance with a particular emission standard may be waived under ss. NR 666.104 to 666.107 and pars. (b) to (e).

2. The owner or operator may submit data in lieu of a trial burn, as prescribed in par. (f).

(b) *Waiver of trial burn for DRE.* 1. ‘Boilers operated under special operating requirements.’ When seeking to be licensed under ss. NR 666.104 (1) (d) and 666.110 that automatically waive the DRE trial burn, the owner or operator of a boiler shall submit documentation that the boiler operates under the special operating requirements provided by s. NR 666.110.

2. ‘Boilers and industrial furnaces burning low risk waste.’ When seeking to be licensed under the provisions for low risk waste provided by ss. NR 666.104 (1) (e) and s. NR 666.109 (1) that waive the DRE trial burn, the owner or operator shall submit all of the following:

a. Documentation that the device is operated in conformance with s. NR 666.109 (1) (a).

b. Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in ch. NR 661 Appendix VIII, except for those constituents that would reasonably not be expected to be in the waste. Identify the constituents excluded from analysis and explain the basis for their exclusion. The analysis shall rely on the analytical techniques in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, EPA SW–846, incorporated by reference in s. NR 660.11.

c. Documentation of hazardous waste firing rates and calculations of reasonable, worst–case emission rates of each constituent identified in subd. 2. b. using procedures provided by s. NR 666.109 (1) (b) 2.

d. Results of emissions dispersion modeling for emissions identified in subd. 2. c. using modeling procedures prescribed by s. NR 666.106 (8). The department will review the emission modeling conducted by the applicant to determine conformance with these procedures. The department will either approve the modeling or determine that alternate or supplementary modeling is appropriate.

e. Documentation that the maximum annual average ground level concentration of each constituent identified in subd. 2. b. quantified in conformance with subd. 2. d. does not exceed the allowable ambient level established in ch. NR 666 Appendix IV or V. The acceptable ambient concentration for emitted constituents for which a specific reference air concentration has not been established in ch. NR 666 Appendix IV or risk specific dose has not been established in ch. NR 666 Appendix V is 0.1 micrograms per cubic meter, as noted in the footnote to ch. NR 666 Appendix IV.

(c) *Waiver of trial burn for metals.* When seeking to be licensed under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by s. NR 666.106 (2) and (5) that control metals emissions without requiring a trial burn, the owner or operator shall submit all of the following:

1. Documentation of the feed rate of hazardous waste, other fuels and industrial furnace feed stocks.

2. Documentation of the concentration of each metal controlled by s. NR 666.106 (2) or (5) in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of each metal.

3. Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by s. NR 666.106 (2) or (5) will not be exceeded during the averaging period provided by that subsection.

4. Documentation to support the determination of the terrain–adjusted effective stack height, good engineering practice stack height, terrain type and land use as provided by s. NR 666.106 (2) (c) to (e).

5. Documentation of compliance with s. NR 666.106 (2) (f), if applicable, for facilities with multiple stacks.

6. Documentation that the facility does not fail the criteria provided by s. NR 666.106 (2) (g) for eligibility to comply with the screening limits.

7. Proposed sampling and metals analysis plan for the hazardous waste, other fuels and industrial furnace feed stocks.

(d) *Waiver of trial burn for particulate matter.* When seeking to be licensed under the low risk waste provisions of s. NR 666.109 (2) which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants shall submit documentation supporting conformance with subs. (1) (b) 2. and (1) (c).

(e) *Waiver of trial burn for HCl and Cl<sub>2</sub>.* When seeking to be licensed under the Tier I (or adjusted Tier I) feed rate screening limits for total chloride and chlorine provided by s. NR 666.107 (2) (a) and (5) that control emissions of hydrogen chloride (HCl) and chlorine gas (Cl<sub>2</sub>) without requiring a trial burn, the owner or operator shall submit all of the following:

1. Documentation of the feed rate of hazardous waste, other fuels and industrial furnace feed stocks.

2. Documentation of the levels of total chloride and chlorine in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of total chloride and chlorine.

3. Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by s. NR 666.107 (2) (a) or (5) will not be exceeded during the averaging period provided by that paragraph or subsection.

4. Documentation to support the determination of the terrain–adjusted effective stack height, good engineering practice stack height, terrain type and land use as provided by s. NR 666.107 (2) (c).

5. Documentation of compliance with s. NR 666.107 (2) (d), if applicable, for facilities with multiple stacks.

6. Documentation that the facility does not fail the criteria provided by s. NR 666.107 (2) (c) for eligibility to comply with the screening limits.

7. Proposed sampling and analysis plan for total chloride and chlorine for the hazardous waste, other fuels and industrial furnace feedstocks.

(f) *Data in lieu of trial burn.* The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with ss. NR 666.104 to 666.107 and 670.066 by providing the information required by s. NR 670.066 from previous compliance testing of the device in conformance with s. NR 666.103, or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by s. NR 670.066 shall be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information shall be provided. The department shall approve a license application without a trial burn if the department finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar and the data from other compliance tests, trial burns or operational burns are adequate to specify (under s. NR 666.102) operating conditions that will ensure conformance with s. NR 666.102 (3). In addition, all of the following information shall be submitted:

1. For a waiver from any trial burn:

a. A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing, or operational or trial burns are provided to support the contention that a trial burn is not needed.

b. The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available.

c. Supplemental information as the department finds necessary to achieve the purposes of this paragraph.

2. For a waiver of the DRE trial burn, the basis for selection of POHCs used in the other trial or operational burns which demonstrate compliance with the DRE performance standard in s. NR 666.104 (1). This analysis shall specify the constituents in ch. NR 661 Appendix VIII, that the applicant has identified in the hazardous waste for which a license is sought, and any differences from the POHCs in the hazardous waste for which burn data are provided.

**(2) ALTERNATIVE HC LIMIT FOR INDUSTRIAL FURNACES WITH ORGANIC MATTER IN RAW MATERIALS.** Owners and operators of industrial furnaces requesting an alternative HC limit under s. NR 666.104 (6) shall submit all of the following information at a minimum:

(a) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials.

(b) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste.

(c) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuels and destruction of hydrocarbon emissions from nonfuel sources.

(d) The trial burn plan shall do all of the following:

1. Demonstrate that flue gas HC (and CO) concentrations when burning hazardous waste do not exceed the baseline HC (and CO) level.

2. Identify the types and concentrations of organic compounds listed in ch. NR 661 Appendix VIII, that are emitted when burning hazardous waste in conformance with procedures prescribed by the department.

(e) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level.

(f) Other information as the department finds necessary to achieve the purposes of this subsection.

**(3) ALTERNATIVE METALS IMPLEMENTATION APPROACH.** When seeking to be licensed under an alternative metals implementation approach under s. NR 666.106 (6), the owner or operator shall submit documentation specifying how the approach ensures compliance with the metals emissions standards of s. NR 666.106 (3) or (4) and how the approach can be effectively implemented and monitored. Further, the owner or operator shall provide other information that the department finds necessary to achieve the purposes of this subsection.

**(4) AUTOMATIC WASTE FEED CUTOFF SYSTEM.** Owners and operators shall submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.

**(5) DIRECT TRANSFER.** Owners and operators that use direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in s. NR 666.111) directly to the boiler or industrial furnace shall submit information supporting conformance with the standards for direct transfer provided by s. NR 666.111.

**(6) RESIDUES.** Owners and operators that claim that their residues are excluded from regulation under s. NR 666.112 shall sub-

mit information adequate to demonstrate conformance with that section.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; corrections in (intro.), (1) (b) 2. e. made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

**NR 670.023 Specific feasibility and plan of operation report information requirements for miscellaneous units.** Except as otherwise provided in s. NR 664.0600, owners and operators of facilities that treat, store or dispose of hazardous waste in miscellaneous units shall provide all of the following additional information:

**(1)** A detailed description of the unit being used or proposed for use, including all of the following:

(a) Physical characteristics, materials of construction and dimensions of the unit.

(b) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected and closed to comply with ss. NR 664.0601 and 664.0602.

(c) For disposal units, a detailed description of the plans to comply with the long-term care requirements of s. NR 664.0603.

**(2)** Detailed hydrologic, geologic and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of s. NR 664.0601. If the applicant can demonstrate that the applicant does not violate the environmental performance standards of s. NR 664.0601 and the department agrees with the demonstration, preliminary hydrologic, geologic and meteorologic assessments will suffice.

**(3)** Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of exposures.

**(4)** For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

**(5)** Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of s. NR 664.0601.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.024 Specific feasibility and plan of operation report information requirements for process vents.**

Except as otherwise provided in s. NR 664.0001, owners and operators of facilities that have process vents to which subch. AA of ch. NR 664 applies shall provide all of the following additional information:

**(1)** For facilities that cannot install a closed-vent system and control device to comply with subch. AA of ch. NR 664 on the effective date that the facility becomes subject to subch. AA of ch. NR 664 or subch. AA of ch. NR 665, an implementation schedule as specified in s. NR 664.1033 (1) (b).

**(2)** Documentation of compliance with the process vent standards in s. NR 664.1032, including all of the following:

(a) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan).

(b) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions shall be made using operating parameter values (e.g., temperatures, flow rates or concentrations) that represent the conditions that exist when the waste management unit is oper-

ating at the highest load or capacity level reasonably expected to occur.

(c) Information and data used to determine whether or not a process vent is subject to s. NR 664.1032.

(3) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser or carbon adsorption system to comply with s. NR 664.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in s. NR 664.1035 (2) (c).

(4) Documentation of compliance with s. NR 664.1033, including all of the following:

(a) A list of all information references and sources used in preparing the documentation.

(b) Records, including the dates, of each compliance test required by s. NR 664.1033 (11).

(c) A design analysis, specifications, drawings, schematics and piping and instrumentation diagrams based on the appropriate sections of APTI Course 415: Control of Gaseous Emissions, incorporated by reference in s. NR 660.11, or other engineering texts acceptable to the department that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in s. NR 664.1035 (2) (d).

(d) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(e) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight % or greater unless the total organic emission limits of s. NR 664.1032 (1) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight %.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

#### **NR 670.025 Specific feasibility and plan of operation report information requirements for equipment.**

Except as otherwise provided in s. NR 664.0001, owners and operators of facilities that have equipment to which subch. BB of ch. NR 664 applies shall provide all of the following additional information:

(1) For each piece of equipment to which subch. BB of ch. NR 664 applies, provide all of the following:

(a) Equipment identification number and hazardous waste management unit identification.

(b) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan).

(c) Type of equipment (e.g., a pump or pipeline valve).

(d) Percent by weight total organics in the hazardous waste stream at the equipment.

(e) Hazardous waste state at the equipment (e.g., gas, vapor or liquid).

(f) Method of compliance with the standard (e.g., monthly leak detection and repair or equipped with dual mechanical seals).

(2) For facilities that cannot install a closed-vent system and control device to comply with subch. BB of ch. NR 664 on the effective date that the facility becomes subject to subch. BB of ch. NR 664 or subch. BB of ch. NR 665, an implementation schedule as specified in s. NR 664.1033 (1) (b).

(3) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser or car-

bon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in s. NR 664.1035 (2) (c).

(4) Documentation that demonstrates compliance with the equipment standards in ss. NR 664.1052 to 664.1059. This documentation shall contain the records required under s. NR 664.1064. The department may request further documentation before deciding if compliance has been demonstrated.

(5) Documentation to demonstrate compliance with s. NR 664.1060 shall include all of the following information:

(a) A list of all information references and sources used in preparing the documentation.

(b) Records, including the dates, of each compliance test required by s. NR 664.1033 (10).

(c) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of ATPI Course 415: Control of Gaseous Emissions, incorporated by reference in s. NR 660.11, or other engineering texts acceptable to the department that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in s. NR 664.1035 (2) (d) 3.

(d) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(e) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight % or greater.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

#### **NR 670.026 Specific feasibility and plan of operation report information requirements for drip pads.**

Except as otherwise provided by s. NR 664.0001, owners and operators of hazardous waste treatment, storage or disposal facilities that collect, store or treat hazardous waste on drip pads shall provide all of the following additional information:

(1) A list of hazardous wastes placed or to be placed on each drip pad.

(2) If an exemption is sought to subch. F of ch. NR 664, as provided by s. NR 664.0090, detailed plans and an engineering report describing how s. NR 664.0090 (2) (b) will be met.

(3) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet s. NR 664.0573, including the as-built drawings and specifications. This submission shall address all of the following items as specified in s. NR 664.0571:

(a) The design characteristics of the drip pad.

(b) The liner system.

(c) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time.

(d) Practices designed to maintain drip pads.

(e) The associated collection system.

(f) Control of run-on to the drip pad.

(g) Control of run-off from the drip pad.

(h) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad.

(i) Procedures for cleaning the drip pad at least once every 7 days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing

with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time and cleaning procedure used each time the pad is cleaned.

(j) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized.

(k) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and non-pressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices.

(L) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system.

(m) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

(n) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet s. NR 664.0573. This information shall be included in the inspection plan submitted under s. NR 670.014 (2) (e).

(o) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets s. NR 664.0573 (1) to (6).

(p) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under s. NR 664.0575 (1). For any waste not to be removed from the drip pad upon closure, the owner or operator shall submit detailed plans and an engineering report describing how s. NR 664.0310 (1) and (2) will be complied with. This information shall be included in the closure plan and, where applicable, the long-term care plan submitted under s. NR 670.014 (2) (m).

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.027 Specific feasibility and plan of operation report information requirements for air emission controls for tanks, surface impoundments and containers.** (1) Except as otherwise provided in s. NR 664.0001, owners and operators of tanks, surface impoundments or containers that use air emission controls according to subch. CC of ch. NR 664 shall provide all of the following additional information:

(a) Documentation for each floating roof cover installed on a tank subject to s. NR 664.1084 (4) (a) or (b) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the applicable design specifications as listed in s. NR 664.1084 (5) (a) or (6) (a).

(b) Identification of each container area subject to subch. CC of ch. NR 664 and certification by the owner or operator that the requirements of this subchapter are met.

(c) Documentation for each enclosure used to control air pollutant emissions from tanks or containers according to s. NR 664.1084 (4) (e) or 664.1086 (5) (a) 2. that includes records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, appendix B.

(d) Documentation for each floating membrane cover installed on a surface impoundment according to s. NR 664.1085 (3) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in s. NR 664.1085 (3) (a).

(e) Documentation for each closed-vent system and control device installed according to s. NR 664.1087 that includes design and performance information as specified in s. NR 670.024 (3) and (4).

(f) An emission monitoring plan for both Method 21 in 40 CFR part 60, appendix A, incorporated by reference in s. NR 660.11, and control device monitoring methods. This plan shall include the following information: monitoring points, monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances and procedures for mitigating non-compliances.

(g) When an owner or operator of a facility subject to subch. CC of ch. NR 665 cannot comply with subch. CC of ch. NR 664 by the date of license issuance, the schedule of implementation required under s. NR 665.1082.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.028 Information requirements for long-term care licenses.** For long-term care licenses, the owner or operator shall submit only the information specified in ss. NR 670.014 (2) (a), (d) to (f), (k), (m), (n), (p) and (s), (3) and (4), unless the department determines that additional information from s. NR 670.014, 670.016, 670.017, 670.018 or 670.021 is necessary. The owner or operator shall submit the same information when an alternative authority is used in lieu of a long-term care license as provided in s. NR 670.001 (3) (g).

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.029 License denial.** The department may, pursuant to the procedures in s. NR 670.043 (2) and subch. L, deny the license application either in its entirety or as to the active life of a hazardous waste management facility or unit only.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

## Subchapter C — License Conditions

**NR 670.030 Conditions applicable to all operating licenses.** The following conditions apply to all hazardous waste licenses, and shall be incorporated into the operating license either expressly or by reference. If incorporated by reference, a specific citation to this chapter shall be given in the license.

(1) **DUTY TO COMPLY.** The licensee shall comply with all conditions of the operating license, except that the licensee need not comply with the conditions of the operating license to the extent and for the duration the noncompliance is authorized in an emergency license under s. NR 670.061. Any license noncompliance, except under the terms of an emergency license, constitutes a violation of ch. 291, Stats., and chs. NR 660 to 673 and is grounds for enforcement action; for license revocation, suspension, or modification; or for denial of a license reissuance application.

(2) **DUTY TO REAPPLY.** If the licensee wishes to continue an activity regulated by an operating license after the expiration date of the operating license, the licensee shall apply for and obtain a new operating license.

(3) **NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE.** It is not a defense for a licensee in an enforcement action that it would have been necessary to halt or reduce the licensed activity in order to maintain compliance with the conditions of the license.

(4) **LICENSE NONCOMPLIANCE.** In the event of noncompliance with the license, the licensee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

(5) **PROPER OPERATION AND MAINTENANCE.** The licensee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the licensee to achieve compliance with the conditions of the license. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the license.

(6) **LICENSE ACTIONS.** A license may be modified, suspended, or revoked. The filing of a request by the licensee for a license modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any license condition.

(7) **PROPERTY RIGHTS.** The license does not convey any property rights of any sort, or any exclusive privilege.

(8) **DUTY TO PROVIDE INFORMATION.** The licensee shall furnish to the department, within a reasonable time, any relevant information which the department may request to determine whether cause exists for modifying, revoking or suspending the license, or to determine compliance with the license. The licensee shall also furnish to the department, upon request, copies of records required to be kept by the license.

(9) **INSPECTION AND ENTRY.** The licensee shall allow any employee, officer or authorized representative of the department, with notice provided no later than upon arrival, to do all of the following:

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

(b) Have access to and copy, at reasonable times, any records relating to hazardous waste.

(c) Inspect any facilities, vehicles, equipment (including monitoring and control equipment), practices or operations and any hazardous waste facility construction project.

(d) Monitor or sample, in compliance with s. 291.91 (2), Stats., any substances or parameters at any location where a regulated facility or activity is located or conducted.

(10) **MONITORING AND RECORDS.** (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) The licensee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this license, the certification required by s. NR 664.0073 (2) (i), and records of all data used to complete the application for this license, for a period of at least 3 years from the date of the sample, measurement, report, certification or application. This period may be extended by request of the department at any time. The licensee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the long-term care period as well.

(c) Records for monitoring information shall include all of the following:

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

(11) **SIGNATORY REQUIREMENTS.** All applications, reports or information submitted to the department shall be signed and certified (see s. NR 670.011).

(12) **REPORTING REQUIREMENTS.** (a) *Planned changes.* The owner or operator shall give notice to the department as soon as possible of any planned physical alterations or additions to the licensed facility.

(b) *Anticipated noncompliance.* The owner or operator shall give advance notice to the department of any planned changes in the licensed facility or activity which may result in noncompliance with license requirements. For a new facility, the owner or operator may not treat, store or dispose of hazardous waste; and for a facility being modified, the owner or operator may not treat,

store or dispose of hazardous waste in the modified portion of the facility except as provided in s. NR 670.042, until the owner or operator has submitted to the department by certified mail or hand delivery a letter signed by the owner or operator and a registered professional engineer stating that the facility has been constructed or modified in compliance with the approved feasibility and plan of operation report and one of the following:

1. The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the approved feasibility and plan of operation report.

2. Within 15 days of the date of submission of the letter in this paragraph, the owner or operator has not received notice from the department of the department's intent to inspect, prior inspection is waived and the department shall proceed with issuing the operating license.

(c) *Transfers.* This license is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance of the license to change the name of the licensee and incorporate other requirements as may be necessary under s. 289.61, Stats., and s. NR 670.040.

(d) *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this license.

(e) *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this license shall be submitted no later than 14 days following each schedule date.

(f) *Twenty four hour reporting.* 1. The licensee shall orally report any noncompliance which may endanger health or the environment within 24 hours from the time the licensee becomes aware of the circumstances, including all of the following:

a. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.

b. Any information of a release or discharge of hazardous waste or of a fire or explosion from the HWM facility, which could threaten the environment or human health outside the facility.

2. The description of the occurrence and its cause shall include all of the following:

- a. Name, address and telephone number of the owner or operator.
- b. Name, address and telephone number of the facility.
- c. Date, time and type of incident.
- d. Name and quantity of materials involved.
- e. The extent of injuries, if any.
- f. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable.

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

3. A written submission shall also be provided to the department within 5 days of the time the licensee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance. The department may waive the 5 day written notice requirement in favor of a written report within 15 days.

**Note:** A person responsible for the discharge of a hazardous substance must comply with the applicable requirements of s. 292.11, Stats. and ch. NR 706 which includes giving notice to division of emergency management at (800) 943-0003.

(g) *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 letter report, including a copy of the manifest, to the department (see s. NR 664.0072).

(h) *Unmanifested waste report.* An unmanifested waste report shall be submitted to the department within 15 days of receipt of unmanifested waste (see s. NR 664.0076).

(i) *Annual report.* An annual report shall be submitted covering facility activities during each calendar year (see s. NR 664.0075).

(j) *Other noncompliance.* The licensee shall report all instances of noncompliance not reported under pars. (d), (e) and (f), at the time monitoring reports are submitted. The reports shall contain the information listed in par. (f).

(k) *Other information.* Where the licensee becomes aware that it failed to submit any relevant facts in the license application, or submitted incorrect information in the license application or in any report to the department, it shall promptly submit the facts or information.

**(13) Information repository.** The department may require the licensee to establish and maintain an information repository at any time, based on the factors set forth in s. NR 670.433 (2). The information repository will be governed by the provisions in s. NR 670.433 (3) to (6).

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; correction in (12) (c) made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

**NR 670.031 Requirements for recording and reporting of monitoring results.** All licenses shall specify the following:

**(1)** Requirements concerning the proper use, maintenance and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate).

**(2)** Required monitoring including type, intervals and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

**(3)** Applicable reporting requirements based upon the impact of the regulated activity and as specified in chs. NR 664 and 666.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.032 Establishing license conditions.** **(1)** In addition to conditions required in all licenses (s. NR 670.030), the department shall establish conditions, as required on a case-by-case basis, in licenses under s. NR 670.050 (duration of licenses), s. NR 670.033 (1) (schedules of compliance) and s. NR 670.031 (monitoring).

**(2)** (a) Each license shall include conditions necessary to achieve compliance with ch. 291, Stats., and chs. NR 660 to 673, including each of the applicable requirements specified in chs. NR 664, 666 and 668. In satisfying this provision, the department may incorporate applicable requirements of chs. NR 664, 666 and 668 directly into the license or establish other license conditions that are based on these chapters.

(b) Each license issued under s. 291.25, Stats., shall contain terms and conditions as the department determines necessary to protect human health and the environment.

**(3)** An applicable requirement is a statutory or regulatory requirement which takes effect prior to final administrative disposition of a license. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a license, to the extent allowed in s. NR 670.041.

**(4)** New or reissued licenses, and to the extent allowed under s. NR 670.041, modified or revoked and reissued licenses, shall incorporate each of the applicable requirements referenced in this section and in s. NR 670.031.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.033 Schedules of compliance.** **(1) SCHEDULES OF COMPLIANCE.** The license may, when appropriate, specify

a schedule of compliance leading to compliance with ch. 291, Stats., and chs. NR 660 to 673.

(a) *Time for compliance.* Any schedules of compliance under this section shall require compliance as soon as possible.

(b) *Interim dates.* Except as provided in subd. 2., if a license establishes a schedule of compliance which exceeds one year from the date of license issuance, the schedule shall set forth interim requirements and the dates for their achievement.

1. The time between interim dates may not exceed one year.

2. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the license shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(c) *Reporting.* The license shall be written to require that no later than 14 days following each interim date and the final date of compliance, the licensee shall notify the department in writing, of its compliance or noncompliance with the interim or final requirements.

**(2) ALTERNATIVE SCHEDULES OF COMPLIANCE.** A license applicant or licensee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment and storage HWM facilities, closing pursuant to applicable requirements; and, for disposal HWM facilities, closing and conducting long-term care pursuant to applicable requirements) rather than continue to operate and meet license requirements as follows:

(a) If the licensee decides to cease conducting regulated activities at a given time within the term of a license which has already been issued:

1. The license may be modified to contain a new or additional schedule leading to timely cessation of activities, or

2. The licensee shall cease conducting licensed activities before noncompliance with any interim or final compliance schedule requirement already specified in the license.

(b) If the decision to cease conducting regulated activities is made before issuance of a license whose term will include the revocation date, the license shall contain a schedule leading to revocation which will ensure timely compliance with applicable requirements.

(c) If the licensee is undecided whether to cease conducting regulated activities, the department may issue or modify a license to contain 2 schedules as follows:

1. Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities.

2. One schedule shall lead to timely compliance with applicable requirements.

3. The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements.

4. Each license containing 2 schedules shall include a requirement that after the licensee has made a final decision under subd. 1. it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to revocation if the decision is to cease conducting regulated activities.

(d) The applicant's or licensee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the department, such as resolution of the board of directors of a corporation.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**Subchapter D — Changes to Licenses**

**NR 670.040 Transfer of licenses. (1)** A license may be transferred by the licensee to a new owner or operator only if the license has been modified or revoked and reissued (under s. NR 670.040 (2) or 670.041 (2) (b)) to identify the new licensee and incorporate other requirements as may be necessary under s. 289.46, Stats., and chs. NR 660 to 673.

**(2)** Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the department according to s. NR 670.042. The new owner or operator shall submit a revised license application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of license responsibility between the current and new licensees shall also be submitted to the department. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with subch. H of ch. NR 664 (Financial Requirements) until notified by the department that the new owner or operator has demonstrated that the owner or operator is complying with that subchapter. The new owner or operator shall demonstrate compliance with subch. H requirements within 6 months of the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with subch. H, the department shall notify the old owner or operator that the owner or operator no longer needs to comply with subch. H as of the date of demonstration.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.041 Modification or revocation and reissuance of licenses.** When the department receives any information (for example, inspects the facility, receives information submitted by the licensee as required in the license (see s. NR 670.030), receives a request for revocation and reissuance under s. NR 670.405 or conducts a review of the license file), the department may determine whether one or more of the causes listed in subs. (1) and (2) for modification, or revocation and reissuance or both exist. If cause exists, the department may modify or revoke and reissue the license accordingly, subject to the limitations of sub. (3), and may request an updated application if necessary. When a license is modified, only the conditions subject to modification are reopened. If a license is revoked and reissued, the entire license is reopened and subject to revision and the license is reissued for a new term. (See s. NR 670.405 (3) (b).) If cause does not exist under this section or s. 289.30 (8), Stats., the department may not modify or revoke and reissue the license, except on request of the licensee. If a license modification is requested by the licensee, the department shall approve or deny the request according to the procedures of s. NR 670.042. Otherwise, a preliminary determination of the feasibility and plan of operation report shall be prepared and other procedures in ss. NR 670.401 to 670.433 followed.

**(1) CAUSES FOR MODIFICATION.** The following are causes for modification, but not revocation and reissuance, of licenses; the following may be causes for revocation and reissuance, as well as modification, when the licensee requests or agrees.

(a) *Alterations.* There are material and substantial alterations or additions to the licensed facility or activity which occurred after license issuance which justify the application of license conditions that are different or absent in the existing license.

(b) *Information.* The department has received information. Licenses may be modified during their terms for this cause only if the information was not available at the time of license issuance (other than revised rules, guidance or test methods) and would have justified the application of different license conditions at the time of issuance.

(c) *New statutory requirements or rules.* The standards or rules on which the license was based have been changed by statute,

through promulgation of new or amended standards or rules, or by judicial decision after the license was issued.

(d) *Compliance schedules.* The department determines good cause exists for modification of a compliance schedule, 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.

(e) Notwithstanding any other provision in this section, when a license for a land disposal facility is reviewed by the department under s. NR 670.050 (4), the department shall modify the license as necessary to assure that the facility continues to comply with the currently applicable requirements in chs. NR 660 to 666 and 670.

**(2) CAUSES FOR MODIFICATION OR REVOCATION AND REISSUANCE.** All of the following are causes to modify or, alternatively, revoke and reissue a license:

(a) Cause exists for revocation under s. NR 670.043, and the department determines that modification or revocation and reissuance is appropriate.

(b) The department has received notification (as required in the license, see s. NR 670.030 (12) (c)) of a proposed transfer of the license.

**(3) FACILITY SITING.** Suitability of the facility location will not be considered at the time of license modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of license issuance.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.042 License modification at the request of the licensee. (1) CLASS 1 MODIFICATIONS.** (a) Except as provided in subd. 2., the licensee may put into effect class 1 modifications listed in ch. NR 670 Appendix I if all of the following conditions are met:

1. The licensee shall notify the department concerning the modification by certified mail or other means that establish proof of delivery within 7 calendar days after the change is put into effect. This notice shall specify the changes being made to license conditions or supporting documents referenced by the license and shall explain why they are necessary. Along with the notice, the licensee shall provide the applicable information required by ss. NR 670.013 to 670.029 and 670.062.

2. The licensee shall send a notice of the modification to all persons on the facility mailing list, maintained by the department, and the appropriate units of state and local government, as specified in s. NR 670.410 (3) (a) 9. This notification shall be made within 90 calendar days after the change is put into effect. For the class I modifications that require prior department approval, the notification shall be made within 90 calendar days after the department approves the request.

3. Any person may request the department to review, and the department may for cause reject, any class 1 modification. The department shall inform the licensee by certified mail that a class 1 modification has been rejected, explaining the reasons for the rejection. If a class 1 modification has been rejected, the licensee shall comply with the original license conditions.

(b) Class 1 license modifications identified in ch. NR 670 Appendix I by a footnote may be made only with the prior written approval of the department.

(c) For a class 1 license modification, the licensee may elect to follow the procedures in sub. (2) for class 2 modifications instead of the class 1 procedures. The licensee shall inform the department of this decision in the notice required in sub. (2) (a).

**(2) CLASS 2 MODIFICATIONS.** (a) For class 2 modifications, listed in ch. NR 670 Appendix I, the licensee shall submit a modification request to the department that does all of the following:

1. Describes the exact change to be made to the license conditions and supporting documents referenced by the license.

2. Identifies that the modification is a class 2 modification.
3. Explains why the modification is needed.
4. Provides the applicable information required by ss. NR 670.013 to 670.029 and 670.062.

(b) The licensee shall send a notice of the modification request to all persons on the facility mailing list maintained by the department and to the appropriate units of state and local government as specified in s. NR 670.410 (3) (a) 9. and shall publish this notice in a major local newspaper of general circulation. This notice shall be mailed and published within 7 days before or after the date of submission of the modification request, and the licensee shall provide to the department evidence of the mailing and publication. The notice shall include all of the following:

1. Announcement of a 45-day comment period, according to par. (e), and the name and address of a department contact to whom comments shall be sent.
2. Announcement of the date, time and place for a public meeting held according to par. (d).
3. Name and telephone number of the licensee's contact person.
4. Name and telephone number of a department-designated contact person.
5. Location where copies of the modification request and any supporting documents can be viewed and copied.
6. The following statement: "The licensee's compliance history during the life of the license being modified is available from the department contact person."

(c) The licensee shall place a copy of the license modification request and supporting documents in a location accessible to the public in the vicinity of the licensed facility.

(d) The licensee shall hold a public meeting no earlier than 15 days after the publication of the notice required in par. (b) and no later than 15 days before the close of the 45-day comment period. The meeting shall be held to the extent practicable in the vicinity of the licensed facility.

(e) The public shall be provided 45 days to comment on the modification request. The comment period will begin on the date the licensee publishes the notice in the local newspaper. Comments shall be submitted to the department contact identified in the public notice.

(f) 1. No later than 90 days after receipt of the notification request, the department shall do one of the following:

- a. Approve the modification request, with or without changes, and modify the license accordingly.
- b. Deny the request.
- c. Determine that the modification request shall follow the procedures in sub. (3) for class 3 modifications for either of the following reasons:

- 1) There is significant public concern about the proposed modification.
- 2) The complex nature of the change requires the more extensive procedures of class 3.

d. Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

3. If the department approves or denies the modification request during the term of the temporary authorization provided for in subd. 1., this action cancels the temporary authorization.

6. In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a class 3, the department shall consider all written comments submitted to the department during the public comment period and shall respond in writing to all significant comments in the department's decision.

(g) The department may deny or change the terms of a class 2 license modification request under subds. 1. to 3. for any of the following reasons:

1. The modification request is incomplete.
2. The requested modification does not comply with ch. NR 664 or other applicable requirements.

3. The conditions of the modification fail to protect human health and the environment.

(h) The licensee may perform any construction associated with a class 2 license modification request beginning 60 days after the submission of the request unless the department establishes a later date for commencing construction and informs the licensee in writing before day 60.

**(3) CLASS 3 MODIFICATIONS.** (a) For class 3 modifications listed in ch. NR 670 Appendix I, the licensee shall submit a modification request to the department that does all of the following:

1. Describes the exact change to be made to the license conditions and supporting documents referenced by the license.
2. Identifies that the modification is a class 3 modification.
3. Explains why the modification is needed.
4. Provides the applicable information required by ss. NR 670.007, 670.013 to 670.029, 670.062 and 670.066.

(b) The licensee shall send a notice of the modification request to all persons on the facility mailing list maintained by the department and to the appropriate units of state and local government as specified in s. NR 670.410 (3) (a) 9. and shall publish this notice in a major local newspaper of general circulation. This notice shall be mailed and published within 7 days before or after the date of submission of the modification request, and the licensee shall provide to the department evidence of the mailing and publication. The notice shall include all of the following:

1. Announcement of a 45-day comment period, and a name and address of a department contact to whom comments shall be sent.
2. Announcement of the date, time and place for a public meeting on the modification request, according to par. (d).
3. Name and telephone number of the licensee's contact person.
4. Name and telephone number of a department contact person.
5. Location where copies of the modification request and any supporting documents can be viewed and copied.
6. The following statement: "The licensee's compliance history during the life of the license being modified is available from the department contact person."

(c) The licensee shall place a copy of the license modification request and supporting documents in a location accessible to the public in the vicinity of the licensed facility.

(d) The licensee shall hold a public meeting no earlier than 15 days after the publication of the notice required in par. (b) and no later than 15 days before the close of the 45-day comment period. The meeting shall be held to the extent practicable in the vicinity of the licensed facility.

(e) The public shall be provided at least 45 days to comment on the modification request. The comment period will begin on the date the licensee publishes the notice in the local newspaper. Comments shall be submitted to the department contact identified in the notice.

(f) After the conclusion of the 45-day comment period, the department shall grant or deny the license modification request according to the license modification procedures of this chapter. In addition, the department shall consider and respond to all significant written comments received during the 45-day comment period.

**(4) OTHER MODIFICATIONS.** (a) In the case of modifications not explicitly listed in ch. NR 670 Appendix I, the licensee may submit a class 3 modification request to the department, or the licensee may request a determination by the department that the modification shall be reviewed and approved as a class 1 or class 2 modification. If the licensee requests that the modification be

classified as a class 1 or 2 modification, the licensee shall provide the department with the necessary information to support the requested classification.

(b) The department shall make the determination described in par. (a) as promptly as practicable. In determining the appropriate class for a specific modification, the department shall consider the similarity of the modification to other modifications codified in ch. NR 670 Appendix I and all of the following criteria:

1. Class 1 modifications apply to minor changes that keep the license current with routine changes to the facility or its operation. These changes do not substantially alter the license conditions or reduce the capacity of the facility to protect human health or the environment. In the case of class 1 modifications, the department may require prior approval.

2. Class 2 modifications apply to changes that are necessary to enable a licensee to respond, in a timely manner, to all of the following:

- a. Common variations in the types and quantities of the wastes managed under the facility license.
- b. Technological advancements.
- c. Changes necessary to comply with new rules, where these changes can be implemented without substantially changing design specifications or management practices in the license.

3. Class 3 modifications substantially alter the facility or its operation.

**(5) TEMPORARY AUTHORIZATIONS.** (a) Upon request of the licensee, the department may, without prior public notice and comment, grant the licensee a temporary authorization according to this subsection. Temporary authorizations shall have a term of not more than 180 days.

(b) 1. The licensee may request a temporary authorization for:

- a. Any class 2 modification meeting the criteria in par. (c) 2.
- b. Any class 3 modification that meets the criteria in par. (c) 2. a. or b.; or that meets the criteria in pars. (c) 2. c. to e. and provides improved management or treatment of a hazardous waste already listed in the facility license.

2. The temporary authorization request shall include all of the following:

- a. A description of the activities to be conducted under the temporary authorization.
- b. An explanation of why the temporary authorization is necessary.
- c. Sufficient information to ensure compliance with ch. NR 664 standards.

3. The licensee shall send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the department and to appropriate units of state and local governments as specified in s. NR 670.410 (3) (a) 9. This notification shall be made within 7 days of submission of the authorization request.

(c) The department shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the department shall find:

1. The authorized activities are in compliance with the standards of ch. NR 664.
2. The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:
  - a. To facilitate timely implementation of closure or corrective action activities.
  - b. To allow treatment or storage in tanks or containers, or in containment buildings according to ch. NR 668.
  - c. To prevent disruption of ongoing waste management activities.

d. To enable the licensee to respond to sudden changes in the types or quantities of the wastes managed under the facility license.

e. To facilitate other changes to protect human health and the environment.

(d) A temporary authorization may be reissued for one additional term of up to 180 days if the licensee has requested a class 2 or 3 license modification for the activity covered in the temporary authorization, and

1. The reissued temporary authorization constitutes the department's decision on a class 2 license modification according to sub. (2) (f) 1. d.

2. The department determines that the reissued temporary authorization involving a class 3 license modification request is warranted to allow the authorized activities to continue while the modification procedures of sub. (3) are conducted.

**(6) PUBLIC NOTICE AND APPEALS OF LICENSE MODIFICATION DECISIONS.** (a) The department shall notify persons on the facility mailing list and appropriate units of state and local government within 10 days of any decision under this section to grant or deny a class 2 or 3 license modification request.

(b) The department's decision to grant or deny a class 2 or 3 license modification request under this section may be appealed under the license appeal procedures of ss. 227.52 and 227.53, Stats. Department determinations under this chapter are made as part of the process for approving a feasibility and plan of operation report or license under subch. III of ch. 289, Stats., or ch. 291, Stats., and are therefore exempt from s. 227.42 (1), Stats.

**(7) NEWLY REGULATED WASTES AND UNITS.** (a) The licensee is authorized to continue to manage wastes listed or identified as hazardous under ch. NR 661, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if all of the following apply:

1. The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit.

2. The licensee submits a class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements.

3. The licensee is in compliance with the applicable standards of chs. NR 665 and 666.

4. The licensee also submits a complete class 2 or 3 modification request within 180 days of the effective date of the rule listing or identifying the waste, or subjecting the unit to ch. 291, Stats., and chs. NR 660 to 673 management standards.

5. In the case of land disposal units, the licensee certifies that each unit is in compliance with ch. NR 665 for groundwater monitoring and financial responsibility on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, the owner or operator will lose authority to operate under this section.

**(8) MILITARY HAZARDOUS WASTE MUNITIONS TREATMENT AND DISPOSAL.** The licensee is authorized to continue to accept waste military munitions notwithstanding any license conditions barring the licensee from accepting off-site wastes, if all of the following apply:

(a) The facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to hazardous waste regulatory requirements.

(b) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the licensee submits a class 1 modification request to remove or

amend the license provision restricting the receipt of off-site waste munitions.

(c) The licensee submits a complete class 2 modification request within 180 days of the date when the waste military munitions became subject to hazardous waste regulatory requirements.

(9) **LICENSE MODIFICATION LIST.** The department shall maintain a list of all approved license modifications and shall publish a notice once a year in a statewide newspaper that an updated list is available for review.

(10) **COMBUSTION FACILITY CHANGES TO MEET 40 CFR PART 63 MACT STANDARDS.** The following procedures apply to hazardous waste combustion facility license modifications requested under section L(9) of ch. NR 670 Appendix I.

(a) Facility owners or operators shall have complied with the notification of intent to comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to October 11, 2000, (see 40 CFR part 63, revised as of July 1, 2000) in order to request a license modification under this section.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; corrections in (1) (a) (intro.), (b), (2) (a) (intro.), (3) (a) (intro.), (4) (a), (b), (10) (intro.) made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

**NR 670.043 Revocation, suspension or denial of licenses.** (1) Any of the following are causes for denying, suspending, or revoking a license, or for denying a license application:

(a) Noncompliance by the applicant or licensee with any condition of the license or any applicable provisions of chs. NR 660 to NR 679 or ch. 291, Stats.

(b) The applicant or licensee's failure in the license application or during the license issuance process to disclose fully all relevant facts, or the applicant or licensee's misrepresentation of any relevant facts at any time.

(c) A determination that the licensed activity endangers human health or the environment and can only be regulated to acceptable levels by license denial, suspension or revocation.

(d) Failure to pay fees under ss. 291.05 (7) and 291.33, Stats.

(2) The department shall follow the procedures in s. 291.87, Stats., in revoking, suspending or denying any license under this section.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

### Subchapter E — Expiration and Continuation of Licenses

**NR 670.050 Duration of licenses.** (1) Operating licenses shall be effective for a fixed term of no more than 10 years, but are subject to annual renewal during that term.

(2) Except as provided in s. NR 670.051, the term of an operating license may not be extended by modification beyond the maximum duration specified in this section.

(3) The department may issue any operating license for a duration that is less than the full allowable term under this section.

(4) Each operating license for a land disposal facility shall be reviewed by the department 5 years after the date of license issuance or reissuance and shall be modified as necessary, as provided in s. NR 670.041.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.051 Continuation of expiring operating licenses.** (1) The conditions of an expired operating license continue in force until the department takes final action on a complete application if:

(a) The licensee has submitted a timely application under s. NR 670.014 and the applicable sections of ss. NR 670.015 to 670.029 which is a complete application for a new license under s. NR 670.010 (3).

(b) The department through no fault of the licensee, does not issue a new operating license with an effective date under s. NR 670.415 on or before the expiration date of the previous license, for example, when issuance is impracticable due to time or resource constraints.

(2) Operating licenses continued under this section remain fully effective and enforceable.

(3) When the licensee is not in compliance with the conditions of the expiring or expired operating license, the department may choose to do any of the following:

(a) Initiate enforcement action based upon the operating license which has been continued.

(b) Issue a preliminary determination to deny the new operating license under s. NR 670.406. If the new operating license is denied, the owner or operator shall cease the activities authorized by the continued license or be subject to enforcement action for operating without a license.

(c) Issue a new operating license under subch. L with appropriate conditions.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

### Subchapter F — Special Forms of Licenses

**NR 670.061 Emergency licenses.** (1) Notwithstanding any other provision of this chapter, in the event the department finds an imminent and substantial endangerment to human health or the environment the department may issue a temporary emergency license to either of the following:

(a) A non-licensed facility to allow treatment, storage or disposal of hazardous waste.

(b) A licensed facility to allow treatment, storage or disposal of a hazardous waste not covered by an effective license.

(2) This emergency license:

(a) May be oral or written. If oral, it shall be followed in 5 days by a written emergency license.

(b) May not exceed 90 days in duration.

(c) Shall clearly specify the hazardous 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 without process if the department determines that revocation is appropriate to protect human health and the environment.

(e) Shall be accompanied by a public notice published under s. NR 670.410 including all of the following:

1. Name and address of the office granting the emergency authorization.

2. Name and location of the licensed HWM facility.

3. A brief description of the wastes involved.

4. A brief description of the action authorized and reasons for authorizing it.

5. Duration of the emergency license.

(f) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and chs. NR 664 and 666.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.062 Hazardous waste incinerator licenses.** When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance under 40 CFR 63.1207(j) and 40 CFR 63.1210(b) documenting compliance with 40 CFR part 63, subpart EEE), the requirements of this section do not apply, except those provisions the department determines are necessary to ensure compliance with ss. NR 664.0345 (1) and 664.0345 (3) if the owner or operator elects to comply with s. NR 670.235 (1) (a) 1. to minimize emissions of toxic compounds from

startup, shutdown and malfunction events. The department may apply the provisions of this section, on a case-by-case basis, for purposes of information collection according to ss. NR 670.010 (11) and 670.032 (2) (b).

(1) For the purposes of determining operational readiness following completion of physical construction, the department shall establish license conditions, including but not limited to allowable waste feeds and operating conditions, in the license to a new hazardous waste incinerator. These license conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The department may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The license may be modified to reflect the extension according to s. NR 670.042.

(a) Applicants shall submit a statement, with the feasibility and plan of operation report, which suggests the conditions necessary to operate in compliance with the performance standards of s. NR 664.0343 during this period. This statement shall include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in s. NR 664.0345.

(b) The department will review this statement and any other relevant information submitted with the feasibility and plan of operation report and specify requirements for this period sufficient to meet the performance standards of s. NR 664.0343 based on the department's engineering judgment.

(2) For the purposes of determining feasibility of compliance with the performance standards of s. NR 664.0343 and of determining adequate operating conditions under s. NR 664.0345, the department shall establish conditions in the license for a new hazardous waste incinerator to be effective during the trial burn.

(a) Applicants shall propose a trial burn plan, prepared under par. (b) with a feasibility and plan of operation report.

(b) The trial burn plan shall include all of the following information:

1. An analysis of each waste or mixture of wastes to be burned which includes all of the following:

a. Heat value of the waste in the form and composition in which it will be burned.

b. Viscosity (if applicable), or description of the physical form of the waste.

c. An identification of any hazardous organic constituents listed in ch. NR 661 Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in ch. NR 661 Appendix VIII, which would reasonably not be expected to be found in the waste. Identify the constituents excluded from analysis and state the basis for the exclusion. The waste analysis shall rely on the analytical techniques in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA SW-846, incorporated by reference in s. NR 660.11, or other equivalent.

d. An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA SW-846, incorporated by reference in s. NR 660.11, or their equivalent.

2. A detailed engineering description of the incinerator for which the license is sought including all of the following:

a. Manufacturer's name and model number of incinerator (if available).

b. Type of incinerator.

c. Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

d. Description of the auxiliary fuel system (type and feed).

e. Capacity of prime mover.

f. Description of automatic waste feed cut-off systems.

g. Stack gas monitoring and pollution control equipment.

h. Nozzle and burner design.

i. Construction materials.

j. Location and description of temperature, pressure and flow indicating and control devices.

3. A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

4. A detailed test schedule for each waste for which the trial burn is planned including dates, duration, quantity of waste to be burned, and other factors relevant to the department's decision under par. (e).

5. A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.

6. A description of, and planned operating conditions for, any emission control equipment which will be used.

7. Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.

8. Other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection and the criteria in par. (e).

(c) The department, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection.

(d) Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic hazardous constituents (POHCs), those constituents for which destruction and removal efficiencies shall be calculated during the trial burn. These trial POHCs will be specified by the department based on the department's estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in subch. D of ch. NR 661, the hazardous waste organic constituent or constituents identified in ch. NR 661 Appendix VII as the basis for listing.

(e) The department shall approve a trial burn plan if the department finds that all of the following apply:

1. The trial burn is likely to determine whether the incinerator performance standard required by s. NR 664.0343 can be met.

2. The trial burn itself will not present an imminent hazard to human health or the environment.

3. The trial burn will help the department to determine operating requirements to be specified under s. NR 664.0345.

4. The information sought in subs. 1. and 2. cannot reasonably be developed through other means.

(f) The department shall send a notice to all persons on the facility mailing list as set forth in s. NR 670.410 (3) (a) 9. and to the appropriate units of state and local government as set forth in s. NR 670.410 (3) (a) 10. announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the department has issued the notice.

1. This notice shall be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the department.

2. This notice shall contain all of the following:

a. The name and telephone number of the applicant's contact person.

b. The name and telephone number of the department's contact office.

c. The location where the approved trial burn plan and any supporting documents can be reviewed and copied.

d. An expected time period for commencement and completion of the trial burn.

(g) During each approved trial burn, or as soon after the burn as is practicable, the applicant shall make all of the following determinations:

1. A quantitative analysis of the trial POHCs in the waste feed to the incinerator.

2. A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O<sub>2</sub>) and hydrogen chloride (HCl).

3. A quantitative analysis of the scrubber water (if any), ash residues and other residues, for the purpose of estimating the fate of the trial POHCs.

4. A computation of destruction and removal efficiency (DRE), according to the DRE formula specified in s. NR 664.0343 (1).

5. If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency according to s. NR 664.0343 (2).

6. A computation of particulate emissions, according to s. NR 664.0343 (3).

7. An identification of sources of fugitive emissions and their means of control.

8. A measurement of average, maximum, and minimum temperatures and combustion gas velocity.

9. A continuous measurement of carbon monoxide (CO) in the exhaust gas.

10. Other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in s. NR 664.0343 and to establish the operating conditions required by s. NR 664.0345 as necessary to meet that performance standard.

(h) The applicant shall submit to the department a certification that the trial burn has been carried out according to the approved trial burn plan, and shall submit the results of all the determinations required in par. (f). This submission shall be made within 90 days of completion of the trial burn, or later if approved by the department.

(i) All data collected during any trial burn shall be submitted to the department following the completion of the trial burn.

(j) All submissions required by this subsection shall be certified on behalf of the applicant by the signature of a person authorized to sign a license application or a report under s. NR 670.011.

(k) Based on the results of the trial burn, the department shall set the operating requirements in the final license according to s. NR 664.0345. The license modification shall proceed according to s. NR 670.042.

**(3)** For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the license conditions to reflect the trial burn results, the department may establish license conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet s. NR 664.0345, in the license to a new hazardous waste incinerator. These license conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility license by the department.

(a) Applicants shall submit a statement, with the feasibility and plan of operation report, which identifies the conditions necessary to operate in compliance with the performance standards of s. NR 664.0343, during this period. This statement shall include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters in s. NR 664.0345.

(b) The department will review this statement and any other relevant information submitted with the feasibility and plan of operation report and specify those requirements for this period most likely to meet the performance standards of s. NR 664.0343 based on the department's engineering judgment.

**(4)** For the purpose of determining feasibility of compliance with the performance standards of s. NR 664.0343 and of determining adequate operating conditions under s. NR 664.0345, the applicant for a license for an existing hazardous waste incinerator shall prepare and submit a trial burn plan and perform a trial burn according to s. NR 670.019 (2) and subs. (2) (b) to (e) and (2) (g) to (j) or, instead, submit other information as specified in s. NR 670.019 (3). The department shall announce the department's intention to approve the trial burn plan according to the timing and distribution requirements of sub. (2) (f). The contents of the notice shall include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to license issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under s. NR 670.019 are exempt from compliance with s. NR 664.0343 and 664.0345 and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a license application shall complete the trial burn and submit the results, specified in sub. (2) (g), with the feasibility and plan of operation report. If completion of this process conflicts with the date set for submission of the feasibility and plan of operation report, the applicant shall contact the department to establish a later date for submission of the feasibility and plan of operation report or the trial burn results. Trial burn results shall be submitted prior to issuance of the license. When the applicant submits a trial burn plan with the feasibility and plan of operation report, the department will specify a time period prior to license issuance in which the trial burn shall be conducted and the results submitted.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; corrections in (intro.), (2) (b) 1. c. made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

**NR 670.065 Research, development and demonstration licenses.**

**(1)** The department may issue a research, development and demonstration license for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which license standards for the experimental activity have not been promulgated in chs. NR 664 or 666. Any research, development and demonstration license shall include terms and conditions as will assure protection of human health and the environment. These licenses shall:

(a) Provide for the construction of these facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in sub. (4).

(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 and the environment.

(c) Include the requirements that the department deems necessary to protect human health and the environment, including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action, and requirements as the department deems necessary regarding testing and providing of 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 license issuance requirements in ch. NR 670 except that there may be no modification or waiver of rules regarding financial responsibility, including insurance, of procedures regarding public participation or of local approval and negotiation and arbitration.

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

(4) 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 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.066 Licenses for boilers and industrial furnaces burning hazardous waste.** When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE), the requirements of this section do not apply, except those provisions the department determines are necessary to ensure compliance with ss. NR 666.102 (5) (a) and 666.102 (5) (b) 3. if the owner or operator elects to comply with s. NR 670.235 (1) (a) 1. to minimize emissions of toxic compounds from startup, shutdown and malfunction events. The department may apply the provisions of this section, on a case-by-case basis, for purposes of information collection according to ss. NR 670.010 (11) and 670.032 (2) (b).

(1) **GENERAL.** Owners and operators of new boilers and industrial furnaces, those not operating under the interim license standards of s. NR 666.103, are subject to subs. (2) to (6). Boilers and industrial furnaces operating under the interim license standards of s. NR 666.103 are subject to sub. (7).

(2) **LICENSE OPERATING PERIODS FOR NEW BOILERS AND INDUSTRIAL FURNACES.** A license for a new boiler or industrial furnace shall specify appropriate conditions for the following operating periods:

(a) *Pretrial burn period.* For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operational readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the department shall establish in the pretrial burn period of the license conditions, including but not limited to, allowable hazardous waste feed rates and operating conditions. The department may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The license may be modified to reflect the extension according to s. NR 670.042.

1. Applicants shall submit a statement, with the feasibility and plan of operation report, that suggests the conditions necessary to operate in compliance with the standards of ss. NR 666.104 to 666.107 during this period. This statement shall include, at a minimum, restrictions on the applicable operating requirements identified in s. NR 666.102 (5).

2. The department will review this statement and any other relevant information submitted with the feasibility and plan of operation report and specify requirements for this period sufficient to meet the performance standards of ss. NR 666.104 to 666.107 based on the department's engineering judgment.

(b) *Trial burn period.* For the duration of the trial burn, the department shall establish conditions in the license for the purposes of determining feasibility of compliance with the perfor-

mance standards of ss. NR 666.104 to 666.107 and determining adequate operating conditions under s. NR 666.102 (5). Applicants shall propose a trial burn plan, prepared under sub. (3), to be submitted with the feasibility and plan of operation report.

(c) *Post-trial burn period.* 1. For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility license by the department to reflect the trial burn results, the department will establish the operating requirements most likely to ensure compliance with the performance standards of ss. NR 666.104 to 666.107 based on the department's engineering judgment.

2. Applicants shall submit a statement, with the feasibility and plan of operation report, that identifies the conditions necessary to operate during this period in compliance with the performance standards of ss. NR 666.104 to 666.107. This statement shall include, at a minimum, restrictions on the operating requirements provided by s. NR 666.102 (5).

3. The department will review this statement and any other relevant information submitted with the feasibility and plan of operation report and specify requirements for this period sufficient to meet the performance standards of ss. NR 666.104 to 666.107 based on the department's engineering judgment.

(d) *Final license period.* For the final period of operation, the department will develop operating requirements in conformance with s. NR 666.102 (5) that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of ss. NR 666.104 to 666.107. Based on the trial burn results, the department shall make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The license modification shall proceed according to s. NR 670.042.

(3) **REQUIREMENTS FOR TRIAL BURN PLANS.** The trial burn plan shall include the following information. The department, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection:

(a) An analysis of each feed stream, including hazardous waste, other fuels and industrial furnace feed stocks, as fired, that includes all of the following:

1. Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine or chloride and ash.

2. Viscosity or description of the physical form of the feed stream.

(b) An analysis of each hazardous waste, as fired, including all of the following:

1. An identification of any hazardous organic constituents listed in ch. NR 661 Appendix VIII that are present in the feed stream, except that the applicant need not analyze for constituents listed in ch. NR 661 Appendix VIII that would reasonably not be expected to be found in the hazardous waste. Include an identification of the constituents excluded from analysis and an explanation of the basis for this exclusion. Conduct the waste analysis according to the analytical techniques in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA SW-846, incorporated by reference in s. NR 660.11, or their equivalent.

2. An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the analytical methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA SW-846, incorporated by reference in s. NR 660.11, or their equivalent.

3. A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

(c) A detailed engineering description of the boiler or industrial furnace, including all of the following:

1. Manufacturer's name and model number of the boiler or industrial furnace.
2. Type of boiler or industrial furnace.
3. Maximum design capacity in appropriate units.
4. Description of the feed system for the hazardous waste, and, as appropriate, other fuels and industrial furnace feedstocks.
5. Capacity of hazardous waste feed system.
6. Description of automatic hazardous waste feed cutoff systems.
7. Description of any air pollution control system.
8. Description of stack gas monitoring and any pollution control monitoring systems.

(d) A detailed description of sampling and monitoring procedures including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(e) A detailed test schedule for each hazardous waste for which the trial burn is planned, including dates, duration, quantity of hazardous waste to be burned and other factors relevant to the department's decision under sub. (2) (b).

(f) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in ss. NR 666.104 to 666.107.

(g) A description of, and planned operating conditions for, any emission control equipment that will be used.

(h) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.

(i) Other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in sub. (2) (b).

**(4) TRIAL BURN PROCEDURES.** (a) A trial burn shall be conducted to demonstrate conformance with the standards of ss. NR 666.104 to 666.107 under an approved trial burn plan.

(b) The department shall approve a trial burn plan if the department finds that all of the following apply:

1. The trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of ss. NR 666.104 to 666.107.
2. The trial burn itself will not present an imminent hazard to human health and the environment.
3. The trial burn will help the department to determine operating requirements to be specified under s. NR 666.102 (5).
4. The information sought in the trial burn cannot reasonably be developed through other means.

(c) The department shall send a notice to all persons on the facility mailing list as set forth in s. NR 670.410 (3) (a) 9. and to the appropriate units of state and local government as set forth in s. NR 670.410 (3) (a) 10. announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the department has issued the notice.

1. This notice shall be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the department.

2. This notice shall contain all of the following:

- a. The name and telephone number of applicant's contact person.
- b. The name and telephone number of the department.

c. The location where the approved trial burn plan and any supporting documents can be reviewed and copied.

d. An expected time period for commencement and completion of the trial burn.

(d) The applicant shall submit to the department a certification that the trial burn has been carried out according to the approved trial burn plan, and shall submit the results of all the determinations required in sub. (3). This submission shall be made within 90 days of completion of the trial burn, or later if approved by the department.

(e) All data collected during any trial burn shall be submitted to the department following completion of the trial burn.

(f) All submissions required by this paragraph shall be certified on behalf of the applicant by the signature of a person authorized to sign a license application or a report under s. NR 670.011.

**(5) SPECIAL PROCEDURES FOR DRE TRIAL BURNS.** When a DRE trial burn is required under s. NR 666.104 (1), the department will specify, based on the hazardous waste analysis data and other information in the trial burn plan, as trial principal organic hazardous constituents (POHCs) those compounds for which destruction and removal efficiencies shall be calculated during the trial burn. These trial POHCs will be specified by the department based on information including the department's estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in subch. D of ch. NR 661, the hazardous waste organic constituents identified in ch. NR 661 Appendix VII as the basis for listing.

**(6) DETERMINATIONS BASED ON TRIAL BURN.** During each approved trial burn, or as soon after the burn as is practicable, the applicant shall make all of the following determinations:

(a) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, chlorine or chloride, and silver, in the feed streams, hazardous waste, other fuels and industrial furnace feedstocks.

(b) When a DRE trial burn is required under s. NR 666.104 (1), all of the following are required:

1. A quantitative analysis of the trial POHCs in the hazardous waste feed.
2. A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs.
3. A computation of destruction and removal efficiency (DRE), according to the DRE formula specified in s. NR 666.104 (1).

(c) When a trial burn for chlorinated dioxins and furans is required under s. NR 666.104 (5), a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzop-dioxins and furans, and a computation showing conformance with the emission standard.

(d) When a trial burn for particulate matter, metals or HCl/Cl<sub>2</sub> is required under s. NR 666.105, 666.106 (3) or (4), or 666.107 (2) (b) or (3), a quantitative analysis of the stack gas for the concentrations and mass emissions of particulate matter, metals, or hydrogen chloride (HCl) and chlorine (Cl<sub>2</sub>), and computations showing conformance with the applicable emission performance standards.

(e) When a trial burn for DRE, metals, or HCl/Cl<sub>2</sub> is required under s. NR 666.104 (1), 666.106 (3) or (4), or 666.107 (2) (b) or (3), a quantitative analysis of the scrubber water, if any, ash residues, other residues and products for the purpose of estimating the fate of the trial POHCs, metals and chlorine or chloride.

(f) An identification of sources of fugitive emissions and their means of control.

(g) A continuous measurement of carbon monoxide (CO), oxygen, and where required, hydrocarbons (HC), in the stack gas.

(h) Other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in ss. NR 666.104 to 666.107 and to establish the operating conditions required by s. NR 666.102 (5) as necessary to meet those performance standards.

(7) **INTERIM LICENSED BOILERS AND INDUSTRIAL FURNACES.** For the purpose of determining feasibility of compliance with the performance standards of ss. NR 666.104 to 666.107 and of determining adequate operating conditions under s. NR 666.103, applicants owning or operating existing boilers or industrial furnaces operated under the interim license standards of s. NR 666.103 shall either prepare and submit a trial burn plan and perform a trial burn according to this section or submit other information as specified in s. NR 670.022 (1) (f). The department shall announce the department's intention to approve of the trial burn plan according to the timing and distribution requirements of sub. (4) (c). The contents of the notice shall include: the name and telephone number of a contact person at the facility; the name and telephone number of the department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to license issuance, including the anticipated time schedule for department approval of the plan and the time periods during which the trial burn would be conducted. Applicants who submit a trial burn plan and receive approval before submission of the feasibility and plan of operation report shall complete the trial burn and submit the results specified in sub. (6) with the feasibility and plan of operation report. If completion of this process conflicts with the date set for submission of the feasibility and plan of operation report, the applicant shall contact the department to establish a later date for submission of the feasibility and plan of operation report or the trial burn results. If the applicant submits a trial burn plan with the feasibility and plan of operation report, the trial burn shall be conducted and the results submitted within a time period prior to license issuance to be specified by the department.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; correction in (3) (b) 1. made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

**NR 670.068 Remediation Variances.** Remediation variances are special forms of licenses that are issued under subch. H.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

### Subchapter G — Interim Licenses

#### NR 670.070 Qualifying for an interim license.

(1) Any person who owns or operates an existing HWM facility or a facility in existence on the effective date of a statute or rule that renders the facility subject to the requirement to have an operating license shall apply for an interim license and comply with:

(a) The requirements of s. NR 660.07 pertaining to notification of hazardous waste activity.

**Note:** Some existing facilities may not be required to file a notification under s. NR 660.07. These facilities may qualify for an interim license by meeting sub. (1) (b).

(b) The requirements of ss. NR 670.010 and 670.011 pertaining to the submission of the part A application.

(2) If the department has reason to believe upon examination of a part A application that it fails to meet s. NR 670.013, the department shall notify the owner or operator in writing of the apparent deficiency. The notice shall specify the grounds for the department's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in the owner or operator's part A application. If, after the notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) If the department fails to make a decision within 90 days of receiving a complete Part A application, the department shall refund the interim license review fee paid by the applicant.

(4) Subsection (1) does not apply to any facility which has been previously denied an operating license or if authority to operate the facility under ch. 291, Stats., has been previously revoked.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.071 Operation during an interim license period.** (1) During the interim license period the facility may not do any of the following:

(a) Treat, store or dispose of hazardous waste not specified in part A of the license application.

(b) Employ processes not specified in part A of the license application.

(c) Exceed the design capacities specified in part A of the license application.

(2) During the interim license period, owners or operators shall comply with the interim license standards in ch. NR 665.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

#### NR 670.072 Modifications to an interim license.

(1) Except as provided in sub. (2), the owner or operator of an interim licensed facility may make the following modifications at the facility:

(a) Treatment, storage or disposal of new hazardous wastes not previously identified in part A of the license application which are newly listed or identified wastes, including the addition of the units used to treat, store or dispose of the hazardous wastes on the effective date of the listing or identification if the owner or operator submits a revised part A license application and obtains an interim license modification prior to the treatment, storage or disposal of these wastes.

(b) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised part A license application prior to such a change, along with a justification explaining the need for the change, and the department approves the changes for either of the following:

1. There is a lack of available treatment, storage or disposal capacity at other hazardous waste management facilities.

2. The change is necessary to comply with a federal or state requirement.

(c) Changes in the processes for the treatment, storage or disposal of hazardous waste or addition of processes if the owner or operator submits a revised part A license application prior to such change, along with a justification explaining the need for the change, and the department approves the change for either of the following:

1. The change is necessary to prevent a threat to human health and the environment because of an emergency situation.

2. The change is necessary to comply with a federal or state requirement.

(d) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised part A application no later than 90 days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator shall comply with subch. H of ch. NR 665, financial requirements, until the new owner or operator has demonstrated to the department that the new owner or operator is complying with that subchapter. The new owner or operator shall demonstrate compliance with subch. H within 6 months of the date of the change in ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with subch. H, the department shall notify the old owner or operator in writing that the old owner or operator no longer needs to comply with subch. H as of the date of demonstration. All other interim license duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(e) Changes made according to an interim status or interim license corrective action order issued by EPA under 42 USC

6928(h) or other federal authority, by the department under s. 291.37, Stats., or by a court in a judicial action brought by EPA or by the department. Changes under this paragraph are limited to the treatment, storage or disposal of solid waste from releases that originate within the boundary of the facility.

(f) Addition of newly regulated units for the treatment, storage or disposal of hazardous waste if the owner or operator submits a revised part A application on or before the date on which the unit becomes subject to the new requirements and obtain an interim license modification prior to operating these units.

(2) Except as specifically allowed under this subsection, modifications listed under sub. (1) may not be made if they amount to reconstruction of the hazardous waste management facility. 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 management facility. If all other requirements are met, the following modifications may be made even if they amount to a reconstruction:

(a) Modifications made solely for the purposes of complying with s. NR 665.0193 for tanks and ancillary equipment.

(b) If necessary to comply with federal or state requirements, modifications to an existing unit, modifications solely involving tanks or containers or addition of replacement surface impoundments that satisfy the standards of ch. 291, Stats., and chs. NR 660 to 679.

(c) Modifications that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(d) Modifications during closure of a facility or of a unit within a facility made according to an approved closure plan.

(e) Modifications necessary to comply with an interim status or interim license corrective action order issued by EPA under 42 USC 6928(h) or other federal authority, by the department under s. 291.37, Stats., or by a court in a judicial proceeding brought by EPA or the department, if the modifications are limited to the treatment, storage or disposal of solid waste from releases that originate within the boundary of the facility.

(f) Modifications to treat or store, in tanks, containers or containment buildings, hazardous wastes subject to land disposal restrictions imposed by ch. NR 668, if the changes are made solely for the purpose of complying with ch. NR 668.

(g) Addition of newly regulated units under sub. (1) (f).

(h) Modifications necessary to comply with standards under 40 CFR part 63, subpart EEE— national emission standards for hazardous air pollutants from hazardous waste combustors.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.073 Termination of an interim license.** An interim license terminates when any of the following occurs:

(1) Final administrative disposition of an operating license application.

(2) Revocation of the interim license as provided in s. NR 670.010 (5) (e) or 670.043.

(3) For owners or operators of each land disposal facility which has been granted an interim license prior to November 8, 1984, on November 8, 1985, unless all of the following apply:

(a) The owner or operator submits a feasibility and plan of operation report for a license for the facility prior to that date.

(b) The owner or operator certifies that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(4) For owners or operators of each land disposal facility which is in existence on the effective date of a statute or rule that renders the facility subject to the requirement to have an operating license and which is granted an interim license, 12 months after

the date on which the facility first becomes subject to the license requirement unless the owner or operator of the facility does all of the following:

(a) Submits a feasibility and plan of operation report for an operating license for the facility before the date 12 months after the date on which the facility first becomes subject to the license requirement.

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

(5) For owners or operators of any land disposal unit that is granted authority to operate under s. NR 670.072 (1) (a), (b) or (c), on the date 12 months after the effective date of the requirement, unless the owner or operator certifies that the unit is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(6) For owners and operators of each incinerator facility which was granted an interim license prior to November 8, 1984, the interim license terminates on November 8, 1989, unless the owner or operator of the facility submitted a feasibility and plan of operation report for an operating license for an incinerator facility by November 8, 1986.

(7) For owners or operators of any facility (other than a land disposal or an incinerator facility) which was granted an interim license prior to November 8, 1984, the interim license terminates on November 8, 1992, unless the owner or operator of the facility submitted a feasibility and plan of operation report for an operating license for the facility by November 8, 1988.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

## Subchapter H — Remediation Variances

**NR 670.079 Remediation Variances. (1) APPLICABILITY.** The department may issue a remediation variance from the requirements of s. 291.25, Stats., if the application for, or compliance with the terms or conditions of a license required under chs. NR 660 to 670 would cause undue or unreasonable hardship to any person and the remediation variance would not result in undue harm to human health or the environment. For purposes of hazardous waste remediation, issuance of a treatment or storage license under this chapter would constitute an undue or unreasonable hardship.

(2) **LIMITATIONS.** A remediation 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 remediation 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 remediation variance is issued comply with any appropriate requirements of chs. NR 660 to 679, and chs. NR 700 to 750, as a condition of issuance, in order to protect human health or the environment.

(3) **PUBLIC PARTICIPATION.** The department may not approve a remediation variance unless the applicant provides proof of public notice of the proposed project. Unless another person is approved by the department to carry out the public participation process, the responsible party shall issue a class I public notice that provides for a minimum 30 day comment period. A copy of the public notice along with a list of newspapers which carried the notice shall be included as part of the remediation variance application. If the responsible party or the department determine that additional public participation is necessary the provisions in s. NR 714.07 (6) shall be followed. The department shall respond to the comments received. The class I public notice shall include all of the following information:

**Note:** Section NR 714.07 does not contain a subsection (6).

(a) A description of the type, volume and characteristics of the contamination.

(b) The proposed response actions to be implemented to contain, reduce, or eliminate the threat of the contamination.

(c) The phone number and addresses of persons to contact for more information.

(d) The locations and times where interested parties can review the proposed response action.

(e) The department's contact person and information on how to submit comments, including the address of the contact person and the deadline for receipt of comments.

**(4) FINAL DETERMINATION.** The department shall make a final written determination on the remediation variance request within 65 business days. The department may require the applicant to provide additional information to document compliance with chs. NR 660 to 679. The final determination may require construction inspection and fees under ch. NR 670 Appendix II.

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

**Note:** For purposes of implementing this section, the department has determined that it would be an undue or unreasonable hardship to apply for, and wait for issuance of a hazardous waste treatment or storage license under s. 291.25, Stats., for the treatment or storage of remediation waste as part of the clean up a contaminated site. 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. The remediation variance approval issued by the department will include operating requirements necessary to protect public health and the environment during site remediation.

**History:** CR 05–032; cr. Register July 2006 No. 607, eff. 8–1–06; correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

### Subchapter I — Integration with Maximum Achievable Control Technology (MACT) Standards

#### NR 670.235 Options for incinerators and cement and lightweight aggregate kilns to minimize emissions from startup, shutdown, and malfunction events.

**(1) FACILITIES WITH EXISTING LICENSES.** (a) *Revisions to license conditions after documenting compliance with MACT.* The owner or operator of a licensed incinerator, cement kiln, or lightweight aggregate kiln may request that the department address license conditions that minimize emissions from startup, shutdown and malfunction events under any of the following options when requesting removal of license conditions that are no longer applicable according to ss. NR 664.0340 (2) and 666.100 (2):

1. 'Retain relevant license conditions.' Under this option, the department will do all of the following:

a. Retain license conditions that address releases during startup, shutdown and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown and malfunction plan required under 40 CFR 63.1206 (c) (2).

b. Limit applicability of those license conditions only to when the facility is operating under its startup, shutdown and malfunction plan.

2. 'Revise relevant license conditions.' a. Under this option, the department will do all of the following:

1) Identify a subset of relevant existing license requirements or develop alternative license requirements that ensure emissions of toxic compounds are minimized from startup, shutdown and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown and malfunction plan, design and operating history.

2) Retain or add these license requirements to the license to apply only when the facility is operating under its startup, shutdown and malfunction plan.

b. 1) The owner or operator shall notify the department in writing of changes to the startup, shutdown and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown or malfunction events, including releases from emergency safety vents. The owner or operator shall notify the department of the changes within 5 days of making the changes. The owner or operator shall identify in the notification recommended revisions to license conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

2) The department may revise license conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

a) Upon operating license reissuance, or, if warranted,

b) By modifying the license under s. NR 670.041 (1) or 670.042.

3. 'Remove license conditions.' Under this option, all of the following shall be met:

a. The owner or operator shall document that the startup, shutdown and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the department under 40 CFR 63.1206(c)(2)(ii)(B).

b. The department will remove license conditions that are no longer applicable according to ss. NR 664.0340 (2) and 666.100 (2).

(b) The owner or operator of an incinerator, cement kiln or lightweight aggregate kiln that has conducted a comprehensive performance test and submitted to the department a notification of compliance documenting compliance with the standards of 40 CFR part 63, subpart EEE may request in the application to reissue the license for the combustion unit that the owner or operator control emissions from startup, shutdown and malfunction events under any of the following options:

1. 'Option A' a. Under this option, the department will do all of the following:

1) Include, in the license, conditions that ensure compliance with ss. NR 664.0345 (1) and 664.0345 (3) or ss. NR 666.102 (5) (a) and 666.102 (5) (b) 3. to minimize emissions of toxic compounds from startup, shutdown and malfunction events, including releases from emergency safety vents.

2) Specify that these license requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

2. 'Option B' a. Under this option, the department will do all of the following:

1) Include, in the license, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown and malfunction plan, design and operating history.

2) Specify that these license requirements apply only when the facility is operating under its startup, shutdown and malfunction plan.

b. 1) The owner or operator shall notify the department in writing of changes to the startup, shutdown and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown or malfunction events, including releases from emergency safety vents. The owner or operator shall notify the department of the changes within 5 days of making the changes. The owner or operator shall identify in the notification recommended revisions to

license conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

2) The department may revise license conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown or malfunction events, including releases from emergency safety vents either:

- a) Upon license renewal, or, if warranted,
- b) By modifying the license under ss. NR 670.041 (1) or 670.042.

3. CAA option.' Under this option, all of the following shall be met:

a. The owner or operator shall document that the startup, shutdown and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the department under 40 CFR 63.1206(c)(2)(ii)(B).

b. The department will omit from the license conditions that are not applicable under ss. NR 664.0340 (2) and 666.100 (2).

**(2) INTERIM LICENSED FACILITIES.** (a) *Interim license operations.* In compliance with ss. NR 665.0340 and 666.100 (2), the owner or operator of an incinerator, cement kiln or lightweight aggregate kiln that is operating under the interim license standards of ch. NR 665 or 666 may control emissions of toxic compounds during startup, shutdown and malfunction events under any of the following options after conducting a comprehensive performance test and submitting to the department a notification of compliance documenting compliance with the standards of 40 CFR part 63, subpart EEE:

1. 'RCRA option.' Under this option, the owner or operator continues to comply with the interim license emission standards and operating requirements of ch. NR 665 or 666 relevant to control of emissions from startup, shutdown and malfunction events. Those standards and requirements apply only during startup, shutdown and malfunction events.

2. 'CAA option.' Under this option, the owner or operator is exempt from the interim license standards of ch. NR 665 or 666 relevant to control of emissions of toxic compounds during startup, shutdown and malfunction events upon submission of written notification and documentation to the department that the startup, shutdown and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the department under 40 CFR 63.1206(c)(2)(ii)(B).

(b) *Operations under a subsequent operating license.* When an owner or operator of an incinerator, cement kiln or lightweight aggregate kiln that is operating under the interim license standards of ch. NR 665 or 666 submits an operating license application, the owner or operator may request that the department control emissions from startup, shutdown and malfunction events under any of the options provided by sub. (1) (b) 1., 2. or 3.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

## Subchapter L — General Decisionmaking Procedures

**NR 670.401 Purpose and scope.** This subchapter and subch. M contain department procedures for issuing, modifying, revoking and reissuing or denying licenses.

**Note:** To coordinate decisionmaking when a permit will be issued by EPA and an operating license will be issued by the department, this chapter allows applications to be jointly processed, joint comment periods and hearings to be held, and a final permit and license to be issued on a cooperative basis whenever EPA and the department agree to take these steps in general or in individual cases.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.403 License application procedures. (1)** (a) Any person required to have a license under s. NR 670.001 shall complete, sign and submit a license application to the department.

(b) The department may not begin reviewing the license application until the applicant has fully complied with the requirements in ss. NR 670.007, 670.010 and 670.013.

(c) License applications shall comply with the signature and certification requirements of s. NR 670.011.

**(3)** The department shall review for completeness every license application. Each license application submitted by the owner or operator of a HWM facility consisting of both the Part A and the feasibility and plan of operation report, shall be reviewed for completeness within 60 days of receipt. Upon completing the review, the department shall notify the applicant in writing whether the license application is complete. If the license application is incomplete, the department shall list the information necessary to make the license application complete. When the license application is for an existing HWM facility, the department shall specify in the notice of incompleteness a date for submitting the necessary submitted material. Requests for additional information will not render a license application incomplete.

**(4)** If an applicant fails or refuses to correct deficiencies in the license application, the license application may be denied and appropriate enforcement actions may be taken under ch. 291, Stats.

**(5)** If the department decides that a site visit is necessary for any reason in conjunction with the review of a license application, the department shall notify the applicant and a date shall be scheduled.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

### NR 670.404 Consolidation of EPA permit and department license processing. (1)

(a) Whenever a facility or activity requires a department license and EPA permit, processing of the license and permit applications for the license and permit may be consolidated. The first step in consolidation is to prepare the preliminary determination of the license application and draft permit at the same time.

(b) Whenever a preliminary determination of the license application and the draft permit are prepared at the same time, the statements of basis, required under 40 CFR 124.7 for EPA issued permits only, or fact sheets, required under s. NR 670.408, public comment periods, s. NR 670.410, and any public hearings, s. NR 670.412, on the preliminary determination and permit may also be consolidated. The operating license and permit may be issued together. They need not be issued together if in the judgment of the EPA or department, joint processing would result in unreasonable delay in the issuance of the permit or operating license.

**(3)** Processing of the permit and license applications under sub. (1) may be consolidated by doing all of the following:

(b) The EPA and the department may agree to consolidate the draft permit and preliminary determination whenever a facility or activity requires both a permit and an operating license.

(c) Permit and license applicants may recommend whether or not the processing of their applications shall be consolidated.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

### NR 670.405 Modification, revocation and reissuance, or revocation or denial of licenses. (1)

Licenses may be modified, revoked and reissued, or revoked or denied either at the request of any interested person, including the licensee, or upon the department's initiative. However, licenses may only be modified, revoked and reissued, or revoked or denied for the reasons specified in ss. NR 670.010 (5) (e), 670.041, 670.043 and s. 291.87 (1m), Stats. All requests shall be in writing and shall contain facts or reasons supporting the request.

**(2)** If the department decides the request is not justified, the department shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or revocation or denial are not subject to public notice, comment, or hearings.

**(3)** (a) If the department tentatively decides to modify or revoke and reissue a license under s. NR 670.041 or 670.042 (3), the department shall prepare a preliminary determination under s. NR 670.406 incorporating the proposed changes. The department

may request additional information and, in the case of a modified license, may require the submission of an updated license application. In the case of revoked and reissued licenses, the department shall require the submission of a new license application.

(b) In a license modification under this section, only those conditions to be modified shall be reopened when a new preliminary determination is prepared. All other aspects of the existing license shall remain in effect for the duration of the unmodified license. When a license is revoked and reissued under this section, the entire license is reopened just as if the license had expired and was being reissued. During any revocation and reissuance proceeding the licensee shall comply with all conditions of the existing license until a new final license is reissued.

(c) "Classes 1 and 2 modifications" as defined in s. NR 670.042 (1) and (2) are not subject to this section.

(4) If the department tentatively decides to revoke or deny a license under s. NR 670.043 where the licensee objects, the department shall issue a notice of intent to revoke or deny.

**Note:** Procedures for revocation, suspension or denial of a license are found in s. 291.87, Stats.

(5) All preliminary determinations, including notices of intent to revoke or deny, prepared under this section shall be based on the administrative record as defined in s. NR 670.409.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.406 Preliminary determination of license applications.** (1) Before issuing a preliminary determination, the department shall complete the environmental review process under ch. NR 150. Once the department determines that a license application is complete, the department shall issue a preliminary determination to approve or deny the application.

(4) The preliminary determination shall contain all of the following information:

(a) All conditions under ss. NR 670.030 and 670.032.

(b) All compliance schedules under s. NR 670.033.

(c) All monitoring requirements under s. NR 670.031.

(d) Standards for treatment, storage or disposal and other license conditions under s. NR 670.030.

(e) The environmental impact statement if required.

(f) A preliminary determination of need for the facility under s. 289.28, Stats.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.408 Fact sheet.** (1) A fact sheet shall be prepared for every preliminary determination. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the preliminary determination. The department shall send this fact sheet to the applicant and, on request, to any other person.

(2) The fact sheet shall include all of the following, when applicable:

(a) A brief description of the type of facility or activity which is the subject of the preliminary determination.

(b) The type and quantity of wastes which are proposed to be or are being treated, stored or disposed of.

(d) A brief summary of the basis for the preliminary determination conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by s. NR 670.409.

(e) Reasons why any requested alternatives to required standards do or do not appear justified.

(f) A description of the procedures for reaching a final decision on the preliminary determination including all of the following:

1. The beginning and ending dates of the comment period under s. NR 670.410 and the address where comments will be received.

2. Procedures for requesting a hearing and the nature of that hearing.

3. Any other procedures by which the public may participate in the final decision.

(g) Name and telephone number of a person to contact for additional information.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.409 Administrative record.** (1) The provisions of a preliminary determination prepared by the department under s. NR 670.406 shall be based on the administrative record which consists of the following:

(a) The application and any supporting data furnished by the applicant.

(b) Fact sheets required under s. NR 670.408 and all documents cited in the fact sheets.

(c) The environmental analysis if required by ch. NR 150.

(d) Other documents contained in the supporting file for the preliminary determination.

(e) Any other information considered by the department.

(2) The department shall base final license decisions under s. NR 670.415 on the administrative record which consists of the following:

(a) The administrative record for the preliminary determination in sub. (1).

(b) The public notices.

(c) All comments and written materials received during the public comment period provided under s. NR 670.410.

(d) The response to comments required by s. NR 670.417 and any new material placed in the record under that section.

(e) Other documents contained in the supporting file for the license.

(f) Any other information considered by the department.

(3) If a contested case hearing under s. 289.27, Stats., is held, the department's final determination shall also consider all comments received during the written comment periods and at any informational hearings, and shall consider the department's responses to comments.

(4) Material readily available at the department, or published materials which are generally available and which are included in the administrative record under this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the fact sheet or in the response to comments.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; CR 13-022: am. (1) (c) Register March 2014 No. 699, eff. 4-1-14; correction in (1) (c) made under s. 13.92 (4) (b) 7., Stats., Register March 2014 No. 699.

**NR 670.410 Public notice and public comment period.** (1) SCOPE. (a) The department shall give public notice that any of the following actions have occurred:

1. The department has completed the environmental review process under ch. NR 150.

2. A license application has been determined to be complete under s. NR 670.403 (3).

3. A preliminary determination has been issued to approve or deny the license application under s. NR 670.406.

4. A hearing has been scheduled under s. NR 670.412.

(b) No public notice is required when a request for license modification, revocation and reissuance, or revocation or denial is denied under s. NR 670.405 (2). Written notice of that denial shall be given to the requester and to the licensee.

(c) Public notices may describe more than one license or license actions.

**(2) TIMING.** (a) Public notice of the preliminary determination required under sub. (1) shall allow at least 45 days for public comment.

(b) If a hearing is to be held under ss. 289.26 or 289.27, Stats., public notice of the hearing shall be given at least 30 days before the hearing.

**(3) METHODS.** Public notice of activities described in sub. (1) (a) shall be given by the following methods:

(a) By mailing a copy of a notice to the following persons (any persons otherwise entitled to receive notice under this paragraph may waive their rights to receive notice for any classes and categories of licenses).

1. The applicant.
2. The EPA region 5 administrator if EPA is required to issue a permit for the same facility or activity.
3. Federal and state agencies with jurisdiction over wildlife resources, the advisory council on historic preservation and state historic preservation officers, including any affected Indian tribes.

9. Persons on a mailing list developed by:

- a. Including those who request in writing to be on the list.
- b. Soliciting persons for "area lists" from participants in past license proceedings in that area.

c. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in publications such as state funded newsletters, environmental bulletins or state law journals. The department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The department may delete from the list the name of any person who fails to respond to such a request.

10. To the clerk of any unit of local government having jurisdiction over the area where the facility is proposed to be located.

11. To each state agency having any authority under state law with respect to the construction or operation of the facility.

12. The main public library in each affected municipality.

(b) For preliminary determinations, the department shall publish a class 1 notice according to ss. 985.04, 985.05 and 985.06, Stats., and broadcast over local radio stations.

**(4) CONTENTS.** (a) *All public notices.* All public notices issued under this chapter shall contain the following minimum information:

1. Name and address of the office processing the license application for which notice is being given.

2. Name and address of the licensee or license applicant and, if different, of the facility or activity regulated by the license.

4. Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the preliminary determination, fact sheet, and the license application.

5. A brief description of the comment procedures required by ss. NR 670.411 and 670.412 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final license decision.

6. The location of the administrative record, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record.

10. Any additional information considered necessary or proper.

(b) *Public notices for hearings.* In addition to the general public notice described in par. (a), the public notice of a hearing under s. NR 670.412 shall contain the information required under s. NR 2.06 (1) and (2).

**(5)** In addition to the general public notice described in sub. (4) (a), all persons identified in sub. (3) (a) 1. to 3., shall be mailed a copy of the fact sheet and the preliminary determination.

**Note:** Section 289.24 (4), Stats., requires the applicant to distribute copies of the license application to the persons specified under s. 289.32, Stats., immediately after receiving notice of the department's determination that the license application is complete.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.411 Public comments and requests for public hearings.** During the public comment period provided under s. NR 670.410, any interested person may submit written comments on the preliminary determination and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in s. NR 670.417.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.412 Public hearings.** (1) (a) The department may hold a public hearing whenever the department finds, on the basis of requests, a significant degree of public interest in the preliminary determination.

(b) The department may also hold a public hearing at the department's discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the preliminary determination or operating license decision.

(c) The department may hold a public informational hearing whenever the department receives written notice of opposition to a preliminary determination and a request for a hearing within 45 days of public notice under s. NR 670.410 (2) (a), and whenever possible the department shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility.

(d) Public notice of the hearing shall be given as specified in s. NR 670.410.

(e) Department determinations under this chapter are made as part of the process for approving a feasibility and plan of operation report or license under subch. III of ch. 289, Stats., or ch. 291, Stats., and are therefore exempt from s. 227.42 (1), Stats.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.415 Issuance of the operating license.**

**(1)** Within 60 days after the close of the public comment period under s. NR 670.410 on a preliminary determination, the department shall issue a final determination. The department shall notify the applicant and each person who has submitted written comments or requested notice of the final determination. For the purposes of this section, a final determination means a final decision to issue, deny, modify, revoke or reissue, or revoke a license.

**(2)** The department shall publish a notice of the intent to issue an operating license. The department may not publish the notice of intent to issue an operating license until the department receives and accepts the following documentation:

(a) For newly constructed surface impoundments, landfills or waste piles, the construction quality assurance certification required in s. NR 664.0019.

(b) For newly constructed treatment or storage facilities, the written construction certification statement required in s. NR 664.0025.

**(3)** If the department fails to issue the operating license within 30 days of publishing the notice of intent required in sub. (2), the department shall refund the operating license review fee paid by the applicant.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.417 Response to comments.** (1) At the time that any final license decision is issued under s. NR 670.415, the department shall issue a response to comments. This response shall include both of the following:

(a) Specify which provisions, if any, of the preliminary determination have been changed in the final license decision, and the reasons for the change.

(b) Briefly describe and respond to all significant comments on the preliminary determination raised during the public comment period, or during any hearing.

(3) The response to comments shall be available to the public.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.427 Annual renewal of the operating license.** (1) The owner or operator of a treatment, storage or disposal facility who has been issued an operating license shall:

(a) Renew the operating license annually by submitting a license renewal form to the department by the date specified on the renewal application form.

(b) Submit the fee specified in ch. NR 670 Appendix II by the date specified on the environmental fee statement.

(2) The owner or operator of a treatment, storage or disposal facility who fails to renew the license according to sub. (1) shall pay a late processing fee of \$200 in addition to the license fee.

(3) If the department fails to issue the annual operating license within 65 business days after the complete license renewal form is received by the department, the department shall refund fees paid by the applicant for the annual renewal of the operating license.

**Note:** The department will mail the annual license renewal form and environmental fee statement to the owners or operators of treatment, storage or disposal facilities with effective operating licenses.

**Note:** The license application is complete when the environmental fee and license application renewal form are received by the department.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06; correction in (1) (b) made under s. 13.92 (4) (b) 7., Stats., Register March 2013 No. 687.

## Subchapter M — Specific Decisionmaking Procedures

**NR 670.431 Pre-application public meeting and notice.** (1) This section applies to all owners or operators submitting feasibility and plan of operation reports for initial operating licenses for hazardous waste management facilities. This section also applies to owners or operators submitting feasibility and plan of operation reports for reissuance of licenses for those facilities, where the submittal is proposing a significant change in facility operations. For the purposes of this section, a "significant change" is any change that would qualify as a class 3 license modification under s. NR 670.042. This section does not apply to license applications submitted for the sole purpose of conducting long-term care activities or long-term care activities and corrective action at a facility.

(2) Prior to the submission of a feasibility and plan of operation report for a facility, the applicant shall hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(3) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under sub. (2), and copies of any written comments or materials submitted at the meeting, to the department as a part of the feasibility and plan of operation report, according to s. NR 670.014 (2).

(4) The applicant shall provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant shall maintain, and provide to the department upon request, documentation of the notice.

(a) The applicant shall provide public notice in all of the following forms:

1. 'A newspaper advertisement.' The applicant shall publish a notice, fulfilling the requirements in par. (b), in a newspaper of general circulation in the county or equivalent jurisdiction that

hosts the proposed location of the facility. In addition, the applicant shall publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the department determines that publication is necessary to inform the affected public. The notice shall be published as a display advertisement.

2. 'A visible and accessible sign.' The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in par. (b). If the applicant places the sign on the facility property, then the sign shall be large enough to be readable from the nearest point where the public would pass by the site.

3. 'A broadcast media announcement.' The applicant shall broadcast a notice, fulfilling the requirements in par. (b), at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the department.

4. 'A notice to the department.' The applicant shall send a copy of the newspaper notice to the department and to the appropriate units of local government, according to s. NR 670.410 (3) (a) 10.

(b) The notices required under par. (a) shall include all of the following:

1. The date, time and location of the meeting.

2. A brief description of the purpose of the meeting.

3. A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location.

4. A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting.

5. The name, address and telephone number of a contact person for the applicant.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.432 Public notice requirements at the application stage.** (1) **APPLICABILITY.** This section applies to all owners or operators submitting feasibility and plan of operation reports for an operating license for a hazardous waste management facility. This section does not apply to license modifications or to license applications submitted for the sole purpose of conducting long-term care activities or long-term care activities and corrective action at a facility.

(2) **NOTIFICATION AT APPLICATION SUBMITTAL.** (a) The department shall provide public notice as set forth in s. NR 670.410 (3) (a) 9., and notice to appropriate units of state and local government as set forth in s. NR 670.410 (3) (a) 10., that a feasibility and plan of operation report has been submitted to the department and is available for review.

(b) The notice shall be published within a reasonable period of time after the application is received by the department. The notice shall include all of the following:

1. The name and telephone number of the applicant's contact person.

2. The name and telephone number of the department's contact office, and a mailing address to which information, opinions and inquiries may be directed throughout the license review process.

3. An address to which people can write in order to be put on the facility mailing list.

4. The location where copies of the license application and any supporting documents can be viewed and copied.

5. A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice.

6. The date that the application was submitted.

(3) **PUBLIC ACCESS TO APPLICATION.** Concurrent with the notice required under sub. (2), the department shall place the

license application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the department's office.

**History:** CR 05-032: cr. Register July 2006 No. 607, eff. 8-1-06.

**NR 670.433 Information repository.** (1) This section applies to all feasibility and plan of operation report submittals for licenses for hazardous waste management units.

(2) The department may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the department shall consider a variety of factors, including the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the department determines, at any time after submittal of a license application, that there is a need for a repository, then the department shall notify the owner or operator of the facility that it shall establish and maintain an information repository. (See s. NR 670.030 (13) for similar provisions relating to the information repository during the life of a license).

(3) The information repository shall contain all documents, reports, data and information deemed necessary by the department to fulfill the purposes for which the repository is established. The department shall have the discretion to limit the contents of the repository.

(4) The information repository shall be located and maintained at a site chosen by the owner or operator of the facility. If the department finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access or other relevant considerations, then the department shall specify a more appropriate site.

(5) The department shall specify requirements for informing the public about the information repository. At a minimum, the department shall require the owner or operator of the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

(6) The facility owner or operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the department. The department may close the repository at the department's discretion, based on the factors in sub. (2).