

§552-B. Financial responsibility and facility closure

1. Financial responsibility; liability and facility closure costs. An owner or operator of an oil terminal facility shall provide to the department evidence of the owner's or operator's financial ability to satisfy the liability imposed pursuant to section 552 and to satisfy estimated probable facility closure costs in compliance with this subchapter and rules adopted by the department.

A. The owner or operator of a facility shall provide to the department evidence of the owner's or operator's financial ability to satisfy the liability imposed pursuant to section 552 in an amount no less than \$2,000,000. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

B. To be eligible for a license required under this subchapter, the owner or operator of a facility shall file with the department an estimate of probable facility closure costs and a preliminary facility closure plan and shall provide evidence of the owner's or operator's financial ability to satisfy those estimated costs. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

C. Subject to the approval of the department, the owner or operator of a facility may establish the owner's or operator's financial ability to satisfy the probable facility closure costs estimated under paragraph B by one or a combination of the following: insurance and risk retention group coverage, guarantee, surety bond, letter of credit or trust fund. In determining the adequacy of evidence of such financial ability, the department shall consider the criteria in 40 Code of Federal Regulations, Sections 280.96 to 280.99, 280.102 and 280.103. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

D. Failure by the owner or operator of a facility to meet the requirements of this subsection and the department's rules may result in, but is not limited to, nonrenewal or revocation of the owner's or operator's license in accordance with subsection 3. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

[PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

2. Facility closure requirements. An owner or operator shall close an oil terminal facility in compliance with a written facility closure plan that meets standards for safe closure and facility site remediation.

A. An owner or operator shall file a written facility closure plan with the department within 60 days of a decision to close an oil terminal facility and may not carry out facility closure activities until the department has approved the facility closure plan. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

B. The department shall review the facility closure plan to determine compliance with applicable rules, consistent with a processing time schedule adopted by the department. The department's approval must include a timeline for completion by the owner or operator of the facility closure plan, including dates for performance of specific closure tasks. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

C. The owner or operator shall complete the facility closure in accordance with the approved facility closure plan and to the satisfaction of the department. The department may conduct inspections, including, but not limited to, soil, groundwater and other testing, as a part of and to determine compliance with the approved facility closure plan. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

D. Following completion of the facility closure, the owner or operator shall file a written facility closure completion report with the department, which must include a certification from an independent licensed professional engineer that the facility closure was conducted in accordance with the approved facility closure plan and that all regulated substances have been removed or

remediated to the satisfaction of the department. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

E. The department shall post the facility closure plan, departmental approval, inspection and testing results and completion report, including the independent licensed professional engineer's certification, on the department's publicly accessible website for 5 years following the completion of the facility closure. [PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]
[PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

3. Enforcement. An owner or operator that fails to comply with the requirements of this section is subject to enforcement action by the department, including, but not limited to, revocation of the license of the owner or operator required by sections 544 and 545.

[PL 2019, c. 678, §6 (NEW); PL 2019, c. 678, §7 (AFF).]

SECTION HISTORY

PL 2019, c. 678, §6 (NEW). PL 2019, c. 678, §7 (AFF).

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