



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET MILLS
GOVERNOR

MELANIE LOYZIM
ACTING COMMISSIONER

March 4, 2021

South Portland Terminals LLC
Attn: Stephen Wing
170 Lincoln Street
South Portland, ME 04106

Re: License Renewal # O-000304-91-I-R

Dear Mr. Wing,

On February 11, 2021 the Department received a renewal application for South Portland Terminals LLC (hereinafter "SPT"). The Department is not able to accept this application for processing until the following information is submitted:

1. SPT must submit proof of liability insurance imposed by 38 M.R.S. §§ 546(4)(E-1) and 552-B(1)(A) in an amount no less than \$2,000,000 **by March 31, 2021**.
2. Per 38 M.R.S. §§ 546(4)(E-4) and 552-B(1)(A), financial tests of self-insurance are no longer accepted mechanisms as proof of closure assurance. In addition to the no longer accepted mechanism, it was also not current. A financial test of self-insurance from 2011 was submitted.

Financial assurance for terminal closure must be established 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.

SPT must submit proof of financial assurance for terminal closure **by April 30, 2021**.

3. SPT must submit a preliminary closure plan with closure costs for the Department's review and approval to comply with 38 M.R.S. §§ 546(4)(E-4) and 552-B(1)(B) **by April 30, 2021**. If the preliminary closure plan with detailed closure costs exceeds the current financial assurance, updated financial assurance must be provided within 30 days of Department approval of the closure costs as modified by the Department. Failure to comply with this condition of approval may result in, but not limited to, nonrenewal or revocation of their license per 38 M.R.S. § 552-B(1)(D).

The above listed items came into effect January 1, 2021 via H.P. 1443 - L.D. 2033, An Act To Ensure Proper Closure of Oil Terminal Facilities (attached).

Please note that liability insurance is in addition to the financial assurance for closure.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

Once the Department has received the above information, the Department will be able to accept SPT's renewal application for processing.

In accordance with 5 M.R.S. § 10002, SPT continues to operate under their previous license.

I may be reached at 207-530-2407 or by email at jamie.hoover@maine.gov.

Sincerely,

A handwritten signature in blue ink that reads "Jamie Hoover". The signature is written in a cursive style with a large initial "J".

Jamie Hoover, Project Manager
Petroleum Management Division
Bureau of Remediation and Waste Management
Maine Department of Environmental Protection



JANET MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
ENVIRONMENTAL PROTECTION



GERALD D. REID
COMMISSIONER

July 10, 2020

Mr. Steve Wing
South Portland Terminal LLC
170 Lincoln Street
South Portland ME 04106

RE: Public Law 2019, ch.678 (L.D. 2033), An Act to Ensure Proper Closure of Oil Terminal Facilities

Dear Mr. Wing:

As you may be aware, the Maine Legislature recently passed L.D. 2033, An Act to Ensure Proper Closure of Oil Terminal Facilities (“Act”). The legislation focused on the requirements for closure and financial assurance at marine oil terminal facilities subject to licensure by 06-096 C.M.R. chapter 600 *Oil Discharge Prevention and Pollution Control Rules for Marine Oil Terminals, Transportation Pipelines and Vessels* (chapter 600). The Act takes effect January 1, 2021. We are providing this letter to you now as a reminder of the pending changes affecting your facility and to outline upcoming Department plans to address the requirements of PL 2020, c. 678.

Financial Test Eliminated

The Act amended existing statute and eliminated the financial test as an eligible financial instrument for establishing financial assurance for the closure of marine oil terminals licensed in accordance with Chapter 600. Several marine oil terminals utilize this mechanism to meet their financial assurance obligations for the cost of closure. However, the Department will no longer be able to accept the financial test of self-insurance as a closure mechanism for marine oil terminals starting January 1, 2021.

Companies that are currently using this mechanism should establish a new financial assurance mechanism before the January 1, 2021 effective date of the legislation.

Rule Making

The Act amended the Department’s rule making authorities and requires the Department to promulgate rules that:

- Establish standards for liability insurance for liabilities under 38 M.R.S. §552 (attached),
- Develop and implement criteria and plans for cleaning and securing a facility that is out of service, but not subject to facility closure,

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- Develop and implement criteria and plans for facility closure including standards, procedures and reporting requirements for the removal of tanks and related appurtenances and for remediation of the site, and
- Establish standards for financial ability adequate to guarantee the performance of licensee obligations under section 552-B (see section 6 of L.D.2033 attached)

The Department anticipates proposing regulatory revisions in the fall of 2020. The revisions will address the changes needed to gain consistency with L.D. 2033 and will also include other revisions to improve the existing rule. Notice of the availability of the proposed rule will be provided to those on the interested party mailing list and will be posted on the Department's web site. Please contact Stacy Ladner at Stacy.A.Ladner@maine.gov to be placed on the mailing list for the chapter 600 rule making.

Additional financial responsibility and facility closure requirements

Other requirements of the Act will also be addressed in the upcoming rulemaking and include, but are not limited to, the following:

A requirement for the removal of tanks and related appurtenances at closure and affirmation of the goal of remediating contaminated media such that the terminal site is suitable for residential use or meets the most protective use standards practicable for the site.

A new requirement for the owner or operator of a marine oil terminal facility to provide evidence of the financial ability to satisfy liabilities imposed by 38 M.R.S. § 552-B in an amount no less than \$2,000,000. This is in addition to the requirement for financial assurance for the costs of closure.

Prior to obtaining a license, including a renewal license, the owner or operator shall file with the Department an estimate of probable facility closure costs, a preliminary closure plan and evidence of the financial ability to satisfy those costs.

As mentioned earlier the use of the financial test as an eligible financial instrument for establishing financial assurance for the closure of marine oil terminals was eliminated.

The failure to meet the financial assurance requirements may be grounds for revoking or not renewing a Marine Oil Terminal license.

Owners and operators may not implement closure plan activities until the Department has approved the facility closure plan. To implement this provision and assist in efficient implementation of closure activities, the Department anticipates approving specific phases of the closure plan for implementation when appropriate.

The Department's approval of facility closure plans and activities must include a schedule for implementation.

The Department may conduct inspections, require or conduct sampling of soil, groundwater and other testing to determine compliance with the approved facility closure plan.

LD 2033 - Marine Oil Terminals
July 10, 2020

Upon completion of the implementation of closure activities, a written closure completion report including certification by an independent licensed professional engineer that the closure activities were conducted in accordance with the approved plan and all regulated substances have been removed or remediated to the satisfaction of the Department, must be filed with the Department.

The Department is required to post the closure plan, Department approval, inspection and testing results and the completion report on its website for 5 years following completion of closure.

Lastly, explicit language was added that provides authority for the revocation of a Marine Oil Terminal license for non-compliance.

There are other minor changes which may be reviewed in the Act. A copy of P.L. 2019, CH. 678 (L.D. 2033), An Act to Ensure Proper Closure of Oil Terminal Facilities is attached with this letter for your convenience.

Please call me at (207) 287-7674 or email, scott.whittier@maine.gov if you have any questions regarding the changes required by these statutory amendments.

Sincerely,



Scott Whittier, Director
Petroleum Management Division
Bureau of Remediation and Waste Management
Maine Department of Environmental Protection

CC: Stacy Ladner, ES IV Petroleum Management Division
Jamie Hoover, ES III, Petroleum Management Division



Title 38: WATERS AND NAVIGATION
Chapter 3: PROTECTION AND IMPROVEMENT OF WATERS
Subchapter 2-A: OIL DISCHARGE PREVENTION AND POLLUTION
CONTROL

§552. Liability

1. Licensee shall be liable. A licensee shall be liable for all acts and omissions of its servants and agents, and carriers destined for the licensee's facilities from the time such carrier shall enter state waters until such time as the carrier shall leave state waters.

2. State need not plead or prove negligence. The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims. Accordingly, any person, vessel, licensee, agent or servant, including a carrier destined for or leaving a licensee's facility while within state waters, who permits or suffers a prohibited discharge or other polluting condition to take place is liable to the State for all disbursements made by it pursuant to section 551, subsection 5, paragraphs B, D, E, H and I, or other damage incurred by the State, including damage for injury to, destruction of, loss of, or loss of use of natural resources, the reasonable costs of assessing natural resources damage and the costs of preparing and implementing a natural resources restoration plan. In any suit to enforce claims of the State under this section, to establish liability, it is not necessary for the State to plead or prove negligence in any form or manner on the part of the person causing or suffering the discharge or licensee responsible for the discharge. The State need only plead and prove the fact of the prohibited discharge or other polluting condition and that the discharge occurred at facilities under the control of the licensee or was attributable to carriers or others for whom the licensee is responsible as provided in this subchapter or occurred at or involved any real property, structure, equipment or conveyance under the custody or control of the person causing or suffering the discharge.

3. Right of recovery by licensee. Any licensee that is held liable for the acts or omissions of any carrier destined for the licensee's facilities pursuant to subsection 1 may recover in a civil action from the carrier, or any person responsible for the acts or omissions of the carrier, all loss, expense, damage or other liability incurred by the licensee for the acts and omissions of the carrier.

4. Limited liability for responders. Notwithstanding any other provision of law, the liability of a responder to a discharge or a substantial threat of a discharge of oil into or upon any coastal waters, estuaries, tidal flats, tidal waters, beaches and lands adjoining the seacoast of the State is governed by this section.

A. A responder is not liable for removal costs, damages, civil liabilities or penalties that result from actions taken or omitted in the course of rendering care, assistance or advice consistent with the National Contingency Plan, a federal contingency plan, the State Marine Oil Spill Contingency Plan or as otherwise directed by the federal on-scene coordinator or the commissioner.

B. Paragraph A does not apply:

- (1) To personal injury or wrongful death;
- (2) If the responder is grossly negligent or engages in willful misconduct; or
- (3) To a responsible party.

C. A responsible party is liable for any removal costs, damages, civil liabilities and penalties that a responder is relieved of under paragraph A



APPROVED
MARCH 26, 2020
BY GOVERNOR

CHAPTER
678
PUBLIC LAW

STATE OF MAINE
—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

—
H.P. 1443 - L.D. 2033

An Act To Ensure Proper Closure of Oil Terminal Facilities

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §542, sub-§4-B is enacted to read:

4-B. Facility closure. "Facility closure" means:

- A. Removal of oil and oil residuals from tanks and related appurtenances;**
- B. Decontamination of tanks and related appurtenances;**
- C. Removal of tanks and related appurtenances;**
- D. Disconnection and removal of underground piping or secure capping or plugging of underground piping when removal is not feasible; and**
- E. Any other steps required to safely decommission the facility and remediate sediment, soils, groundwaters and surface waters such that the facility site, as determined by the department, is suitable for residential use or meets the most protective use standards practicable for the facility site.**

Sec. 2. 38 MRSA §542, sub-§6, as amended by PL 2015, c. 319, §11, is further amended to read:

6. Oil. "Oil" means oil, oil additives, petroleum products and their by-products of any kind and in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other wastes, liquid asphalt, bunker fuel, crude oils and all other liquid hydrocarbons regardless of specific gravity. "Oil" does not include liquid natural gas.

Sec. 3. 38 MRSA §542, sub-§7, as amended by PL 1993, c. 355, §7, is further amended to read:

7. Oil terminal facility or facility. "Oil terminal facility" or "facility" means any facility of any kind and related appurtenances, located in, on or under the surface of any land or water, including submerged lands, ~~which~~ that is used or capable of being used for

the purpose of transferring, processing or refining oil, or for the purpose of storing the same, but does not include any facility used or capable of being used to store no more than ~~1500~~ 1,500 barrels or 63,000 gallons, nor any facility not engaged in the transfer of oil to or from waters of the State. A vessel is considered an oil terminal facility only in the event of a ship-to-ship transfer of oil, but only that vessel going to or coming from the place of ship-to-ship transfer and a permanent or fixed oil terminal facility. The term does not include vessels engaged in oil spill response activities.

Sec. 4. 38 MRSA §542, sub-§9-D is enacted to read:

9-D. Related appurtenances. "Related appurtenances" means pumps, valves, piping, loading racks, secondary containment and, as determined by the department, any other structures related to the operation of an oil terminal facility.

Sec. 5. 38 MRSA §546, as amended by PL 1991, c. 698, §6, is further amended to read:

§546. Regulatory powers of ~~board~~ department

4. Extent of regulatory powers. The ~~board~~ department shall have the power to adopt rules ~~and regulations~~ including but not limited to rules governing the following matters:

A. Operating and inspection requirements for facilities, vessels, personnel and other matters relating to licensee operations under this subchapter, including annual inspections of oil terminal facilities;

B. Procedures and methods of reporting discharges and other occurrences prohibited by this subchapter;

C. Procedures, methods, means and equipment to be used by persons subject to ~~regulations~~ regulation by this subchapter;

D. Procedures, methods, means and equipment to be used in the removal of oil and petroleum pollutants;

E. Development and implementation of criteria and plans to meet oil and petroleum pollution occurrences of various degrees and kinds, including the state marine oil spill contingency plan required under section 546-A. Those plans must include provision for annual drills, sometimes unannounced, to determine the adequacy of response plans and the preparedness of the response teams;

E-1. Standards for establishing liability insurance for liabilities under section 552;

E-2. Development and implementation of criteria and plans for cleaning and securing a facility that is out of service but not subject to facility closure requirements under section 552-B;

E-3. Development and implementation of criteria and plans for facility closure required under section 552-B, including standards, procedures and reporting requirements for removal of tanks and related appurtenances and remediation of the facility site;

E-4. Standards for establishing financial ability adequate to guarantee the performance of licensee obligations under section 552-B;

F. The establishment from time to time of control districts comprising sections of the Maine coast and the establishment of rules ~~and regulations~~ to meet the particular requirements of each such district;

G. Requirements for the safety and operation of vessels, barges, tugs, motor vehicles, motorized equipment and other equipment relating to the use and operation of terminals, facilities and refineries and the approach and departure from terminals, facilities and refineries;

H. Such other rules ~~and regulations~~ as the exigencies of any condition may require or such as may reasonably be necessary to carry out the intent of this subchapter; and

K. Operation and inspection requirements for interstate and intrastate oil pipelines excluding natural gas and artificial gas pipelines.

5. **Facility response plans.** Every facility subject to licensing under this section shall file with the department a copy of any oil discharge response plan submitted to the President of the United States under the federal Oil Pollution Act of 1990, Public Law 101-380, Section 4202, 104 Stat. 484, or a statement that a plan is not required under federal law.

6. **Vessel response plans.** Every tank vessel, as defined under 56 United States Code, Section 2101, entering state waters shall have available for inspection by the commissioner or an agent of the commissioner a copy of any oil discharge response plan required to be submitted to the President of the United States under the federal Oil Pollution Act of 1990, Public Law 101-380, Section 4202, 104 Stat. 484.

Sec. 6. 38 MRS §552-B is enacted to read:

§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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

Sec. 7. Effective date. This Act takes effect January 1, 2021.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

H.P. 1443 - L.D. 2033

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4-B. Facility closure. "Facility closure" means:

- A. Removal of oil and oil residuals from tanks and related appurtenances;
- B. Decontamination of tanks and related appurtenances;
- C. Removal of tanks and related appurtenances;
- D. Disconnection and removal of underground piping or secure capping or plugging of underground piping when removal is not feasible; and
- E. Any other steps required to safely decommission the facility and remediate sediment, soils, groundwaters and surface waters such that the facility site, as determined by the department, is suitable for residential use or meets the most protective use standards practicable for the facility site.

Sec. 2. 38 MRSA §542, sub-§6, as amended by PL 2015, c. 319, §11, is further amended to read:

6. Oil. "Oil" means oil, oil additives, petroleum products and their by-products of any kind and in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other wastes, liquid asphalt, bunker fuel, crude oils and all other liquid hydrocarbons regardless of specific gravity. "Oil" does not include liquid natural gas.

Sec. 3. 38 MRSA §542, sub-§7, as amended by PL 1993, c. 355, §7, is further amended to read:

7. Oil terminal facility or facility. "Oil terminal facility" or "facility" means any facility of any kind and related appurtenances, located in, on or under the surface of any land or water, including submerged lands, ~~which~~ that is used or capable of being used for

the purpose of transferring, processing or refining oil, or for the purpose of storing the same, but does not include any facility used or capable of being used to store no more than ~~4500~~ 1,500 barrels or 63,000 gallons, nor any facility not engaged in the transfer of oil to or from waters of the State. A vessel is considered an oil terminal facility only in the event of a ship-to-ship transfer of oil, but only that vessel going to or coming from the place of ship-to-ship transfer and a permanent or fixed oil terminal facility. The term does not include vessels engaged in oil spill response activities.

Sec. 4. 38 MRSA §542, sub-§9-D is enacted to read:

9-D. Related appurtenances. "Related appurtenances" means pumps, valves, piping, loading racks, secondary containment and, as determined by the department, any other structures related to the operation of an oil terminal facility.

Sec. 5. 38 MRSA §546, as amended by PL 1991, c. 698, §6, is further amended to read:

§546. Regulatory powers of ~~board~~ department

4. Extent of regulatory powers. ~~The board~~ department shall ~~have the power to~~ adopt rules ~~and regulations~~ including but not limited to rules governing the following matters:

A. Operating and inspection requirements for facilities, vessels, personnel and other matters relating to licensee operations under this subchapter, including annual inspections of oil terminal facilities;

B. Procedures and methods of reporting discharges and other occurrences prohibited by this subchapter;

C. Procedures, methods, means and equipment to be used by persons subject to ~~regulations~~ regulation by this subchapter;

D. Procedures, methods, means and equipment to be used in the removal of oil and petroleum pollutants;

E. Development and implementation of criteria and plans to meet oil and petroleum pollution occurrences of various degrees and kinds, including the state marine oil spill contingency plan required under section 546-A. Those plans must include provision for annual drills, sometimes unannounced, to determine the adequacy of response plans and the preparedness of the response teams;

E-1. Standards for establishing liability insurance for liabilities under section 552;

E-2. Development and implementation of criteria and plans for cleaning and securing a facility that is out of service but not subject to facility closure requirements under section 552-B;

E-3. Development and implementation of criteria and plans for facility closure required under section 552-B, including standards, procedures and reporting requirements for removal of tanks and related appurtenances and remediation of the facility site;

E-4. Standards for establishing financial ability adequate to guarantee the performance of licensee obligations under section 552-B;

F. The establishment from time to time of control districts comprising sections of the Maine coast and the establishment of rules ~~and regulations~~ to meet the particular requirements of each such district;

G. Requirements for the safety and operation of vessels, barges, tugs, motor vehicles, motorized equipment and other equipment relating to the use and operation of terminals, facilities and refineries and the approach and departure from terminals, facilities and refineries;

H. Such other rules ~~and regulations~~ as the exigencies of any condition may require or such as may reasonably be necessary to carry out the intent of this subchapter; and

K. Operation and inspection requirements for interstate and intrastate oil pipelines excluding natural gas and artificial gas pipelines.

5. Facility response plans. Every facility subject to licensing under this section shall file with the department a copy of any oil discharge response plan submitted to the President of the United States under the federal Oil Pollution Act of 1990, Public Law 101-380, Section 4202, 104 Stat. 484, or a statement that a plan is not required under federal law.

6. Vessel response plans. Every tank vessel, as defined under 56 United States Code, Section 2101, entering state waters shall have available for inspection by the commissioner or an agent of the commissioner a copy of any oil discharge response plan required to be submitted to the President of the United States under the federal Oil Pollution Act of 1990, Public Law 101-380, Section 4202, 104 Stat. 484.

Sec. 6. 38 MRSA §552-B is enacted to read:

§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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

Sec. 7. Effective date. This Act takes effect January 1, 2021.