

Chapter NR 685

CLOSURE, LONG-TERM CARE AND FINANCIAL
RESPONSIBILITY

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

NR 685.01 Purpose. The purpose of this chapter is to specify the requirements for closure, long-term care and financial responsibility for hazardous waste facilities.

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

NR 685.02 Applicability. Except as otherwise provided, this chapter applies to owners and operators of hazardous waste storage, treatment or disposal facilities. This chapter does not apply to solid waste facilities that store, treat or dispose of only:

- (1) Non-hazardous solid waste,
- (2) Metallic mining wastes resulting from a mining operation as defined in s. 144.81 (5), Stats.,
- (3) Polychlorinated biphenyls (PCBs), except where portions of this chapter are referenced in ch. NR 157, or
- (4) A combination of wastes described in subs. (1) to (3)

History: Cr. Register, February, 1991, No. 422, eff. 3-1-91; correction made under s. 13.93 (2m) (b) 1, Stats., Register, August, 1992, No. 440.

NR 685.03 Definitions. The definitions in s. NR 600.03 apply to this chapter.

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

NR 685.04 Termination of regulated activity. Any person who owns or operates a hazardous waste facility and who wishes or is required to terminate the regulated activity shall submit a closure plan for department approval and implement an approved closure plan that meets the requirements specified in s. NR 685.05, as well as the requirements of ss. NR 640.16, 645.17, 655.11 and 670.10 for storage facilities, s. NR 660.15 or, if applicable s. NR 660.16, for landfills and surface impoundments, s. NR 665.10 for incinerators, s. NR 640.16, 645.17, 655.11, 665.10 and 670.10 for treatment facilities, or s. NR 660.19 (14) for surface impoundments. Any person who owns or operates a disposal facility and who wishes or is required to terminate the regulated activity shall submit a long-term care plan for approval and implement an approved long-term care plan that meets the requirements specified in s. NR 685.06, as well as the requirements of s. NR 660.17. In accordance with ss. NR 655.11 (2), 660.15 (2) and 660.16 (4), long-term care plans may be required for

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certain waste piles or surface impoundments where the department approves of in-place disposal of wastes.

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

NR 685.05 Closure. (1) This subsection specifies the closure performance standard for all hazardous waste facilities. The owner or operator of a facility shall close the facility in a manner that:

(a) Minimizes the need for further maintenance;

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post closure escape of wastes, hazardous leachate, contaminated runoff or waste decomposition products to ground or surface waters, or to the atmosphere;

(c) Meets the additional closure requirements for landfills and surface impoundments as specified in s. NR 660.15, where required for all disposal facilities, or other facilities where required under s. NR 640.16, 645.17, 655.11, 665.10 or 670.10, where the facilities have not obtained an operating license under ch. NR 680;

(d) Meets the additional closure requirements for landfills and surface impoundments as specified in s. NR 660.16, where required for all disposal facilities or other facilities where required under s. NR 640.16, 645.17, 655.11, 665.10 or 670.10, where the facilities have obtained an operating license under ch. NR 680; and

(e) Complies with the requirements of this chapter and the requirements of ss. NR 640.16, 645.17, 655.06, 655.10, 655.12 and 660.19 (14).

(2) The owner or operator of a facility shall have a written closure plan demonstrating compliance with this subsection. The plan closure shall be submitted to the department for approval as part of the reports or plans required under chs. NR 635 to 680. Closure plans may be required by the department for a facility which is no longer in operation, if the facility was in existence on August 1, 1981 and has not been properly closed. A copy of the approved closure plan and all revisions to the closure plan shall be provided to the department upon request, including a written request by mail, and kept at the facility until final closure is completed and certified in accordance with sub. (10). The closure plan shall identify the steps necessary to finally or partially close the facility at any point during its active life and to finally close the facility at the end of its active life. The department's approval of the closure plan shall require that the approved closure plan is consistent with this section and the applicable requirements of ss. NR 640.13, 645.12, 650.11, 655.09, 660.09, 660.093, 660.095, 665.10 and 670.07. The closure plan shall identify steps necessary to perform partial or final closure of the facility at any point during its active life. The closure plan shall include, but not be limited to:

(a) A description of how each hazardous waste management unit at the facility will be closed in accordance with sub. (1);

(b) A description of how final closure of the facility will be conducted in accordance with sub. (1). The description shall identify the maximum extent of the operations which will be unclosed during the active life of the facility;

(c) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the

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methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing or disposing of all hazardous wastes, and identification of the types of the off-site hazardous waste management units to be used, if applicable;

(d) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(e) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection and run-on and run-off control;

(f) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule shall include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure;

Note: For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover shall be included.

(g) For facilities subject to sub. (1) (c) or (d) and required to provide long-term care in accordance with s. NR 685.06, the anticipated time until final closure and any anticipated partial closures and the time required for any intervening closure activities which will allow tracking of the progress of closure;

(h) The most recent closure cost estimates required under s. NR 685.07 (2) and (3) (b);

(i) A description of how the requirements of subs. (5), (6), (7) and (8) will be met;

(j) A description of how the applicable closure requirements in ss. NR 640.16, 645.17, 655.11, 660.15, 660.16, 665.10, 660.19 (14) and 670.10 will be met; and

(k) For facilities that use trust funds to establish proof of financial responsibility under s. NR 685.07 (5) and that are expected to close prior to the expiration of the license, or in the case of interim licensed facilities whose remaining operating life is less than 20 years, an estimate of the expected year of final closure.

(3) (a) The owner or operator shall submit any request for modifications of a closure plan approval to the department in accordance with ss. NR 620.15 (5) (e), 680.07 and 680.42 (5). The written request shall include a copy of the amended closure plan required by s. NR 680.07 for approval by the department. Requests shall be submitted at least 60 days prior to any proposed change in facility design or operation that affects the closure plan, or no later than 60 days after an unexpected event has occurred that affects the closure plan. If an unexpected event that affects the closure plan occurs during the time a partial or final closure is being conducted, the owner or operator shall submit the request

no later than 30 days after the unexpected event. Owners or operators of a surface impoundment or waste pile that do not have an approved closure plan allowing for any hazardous waste or waste contaminated materials to be disposed of in-place in accordance with s. NR 655.11 (2) (b), 660.15 (1) (d) or 660.16 (4) who may leave hazardous waste or waste contaminated materials in-place at closure shall request department approval for such action by submitting, to the department, an amendment to the closure plan no later than 60 days after the owner or operator determines the hazardous waste or hazardous waste contaminated materials will remain in-place at closure. If the determination that hazardous waste or hazardous waste contaminated materials will remain in-place at closure is made during the time a partial or final closure is being conducted, the owner or operator shall submit an amendment to the closure plan no later than 30 days from the date the determination is made.

Note: Sections NR 655.11 (2) (b), 660.15 (1) (d), 660.16 (4) and 685.06 (6) require additional submittals, including a long-term care plan, in addition to an amended closure plan, when a request for approval for in-place disposal is made.

(b) The owner or operator shall submit a request for modification of a closure plan approval in accordance with par. (a) whenever:

1. Changes in operating plans or facility design affect the closure plan;
2. There is a change in the expected year of closure;
3. In conducting partial or final closure activities, unexpected events require an amendment of the closure plan; or
4. The department requests an amendment to the closure plan to meet any of the closure requirements of this chapter, any plan approval requirements or license conditions. The owner or operator shall submit the modified plan within 60 days of the department's request or within 30 days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the department will be approved in accordance with this subdivision.

(c) The owner or operator may submit a request for modification of a closure plan approval in accordance with par. (a) at any time prior to the notification to the department of partial or final closure under sub. (4). After notification, a request may be submitted by the owner or operator only for the reasons specified in par. (b) 3. or 4.

(4) (a) At least 180 days prior to beginning the final closure or any partial closure of a facility, the owner or operator shall notify the department in writing of the intent to close the facility. No later than this date, for final closures, the owner or operator shall notify current users of the facility of the intent to close the facility. When, after July 1, 1985, notice is received by the department for a facility which has applied for or received an interim license under ss. NR 680.20, 680.21, 680.22, 680.23 and 680.24, but which has not obtained an operating license under ch. NR 680, the department shall provide the public, through a newspaper notice, the opportunity to submit written comments on, and request modifications of, the closure plan within 30 days of the date of the notice. The department may also, in response to a request, or at its own discretion, hold an informational hearing pursuant to s. 144.431 (2), Stats., whenever a hearing might clarify one or more issues concerning a closure plan. The department shall 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. The department shall approve, deny or modify the closure plan within 65 business days after the close of the comment period or 65 business days after the public hearing, whichever is later, regardless of any prior approval under s. NR 680.24. If the department denies the closure plan, the owner or operator shall submit a modified or new plan for approval within 30 days. A new or modified plan, if required, shall be approved or modified by the department within 65 business days of receipt. If the department modifies the plan, this modified plan becomes the approved closure plan.

Note: Closure should begin within 30 days of receiving the final volume of waste.

(b) If the facility's license is terminated or if the facility is otherwise ordered, by judicial decree or final order under 42 USC 6923, to cease receiving hazardous waste or to close, then the requirements of this subsection do not apply. The owner or operator shall, however, close the facility in accordance with the deadlines established in s. NR 685.05 (6) and (7).

Note: The publication containing title 42 of the United States code may be obtained from:

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

(5) Nothing in subs. (2) to (4) shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of final or partial closure.

(6) Within 90 days after receiving the final volume of hazardous wastes at the facility or any unit, or 90 days after approval of the closure plan under sub. (4), if that is later, the owner or operator shall remove from the facility or unit, or manage on site, all hazardous wastes in accordance with requirements of chs. NR 600 to 685 and an approved closure plan as specified in sub. (2). Prior to the end of the 90 day period, the owner or operator may obtain department approval for a longer period, in accordance with sub. (3), if the owner or operator demonstrates at least 30 days prior to the expiration of the 90 day period that:

(a) All steps necessary to prevent threats to human health and the environment have been taken and shall continue to be taken including compliance with all applicable license requirements; and

(b) The activities required to comply with this subsection shall, of necessity, take longer than 90 days to complete; or

(c) The facility or unit has the capacity to receive additional wastes, there is a reasonable likelihood that a person other than the owner or operator will recommence operation of the facility or unit, and closure of the facility or unit would be incompatible with continued operation of the site.

(7) The owner or operator shall complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of wastes at the facility or unit. Prior to the end of the 180 day period, the owner or operator may obtain department approval for a longer period, in accordance with sub. (3), if

the owner or operator demonstrates at least 30 days prior to the expiration of the 180 day period that:

(a) All steps necessary to prevent threats to human health and the environment from the unclosed but inactive facility have been taken and will continue to be taken; and

(b) The closure activities shall, of necessity, take longer than 180 days to complete; or

(c) The facility or unit has the capacity to receive additional wastes, there is reasonable likelihood that a person other than the owner or operator will recommence operation of the facility or unit, and closure of the facility or unit would be incompatible with continued operation of the site.

(8) During the partial and final closure periods, all contaminated soil, equipment and structures shall be properly disposed of or decontaminated except for landfills and miscellaneous units as provided in ss. NR 660.15, 660.16 and 670.10 and tank systems, waste piles and surface impoundments as provided in ss. NR 655.11 (2) (b), 660.15 (1) (d) and 660.16 (4). By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and shall handle that waste in accordance with all applicable requirements of chs. NR 610 and 615.

(9) At completion of closure of the facility or any unit, all required equipment shall be provided and arrangements shall be made to implement the long-term care provisions contained in the approved long-term care plan.

(10) (a) Except as provided in par. (b), at completion of closure, the owner or operator shall submit to the department a certification statement by the owner or operator that the facility or unit has been closed in accordance with the requirements of this chapter, the approved closure plan, any plan approval, any plan of operation and all applicable license conditions. The department may require submittal of a certification statement by an independent registered professional engineer for facilities or units that have the potential to impact public health, safety or welfare or the environment at the time of final or partial closure.

(b) Within 60 days after completion of partial closure of each hazardous waste surface impoundment, waste pile or landfill unit, or the completion of final closure of each hazardous waste surface impoundment, waste pile or landfill facility, the owner or operator shall submit to the department:

1. A certification statement, signed by both the owner or operator and an independent registered professional engineer, that the facility has been closed in accordance with the requirements of chs. NR 600 to 685, the approved closure plan, any plan approval, any plan of operation and all applicable license conditions; and

2. A construction documentation report that meets the applicable requirements of s. NR 660.11, documenting all the aspects of closure work, including the placement of any covers over disposal facilities or units.

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

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