

(2) The closure requirements of this chapter shall be incorporated in and made part of the reclamation plan submitted pursuant to s. 144.85 (3) (b), Stats. and s. NR 132.08 but shall be referenced in the plan of operation submitted pursuant to s. NR 182.09. The financial responsibility requirements of sub. (1) shall be fulfilled by increasing or otherwise adjusting the amount of the reclamation bond which the department requires to be submitted pursuant to s. 144.86, Stats., and s. NR 132.09 (2) (a) so as to reflect the projected costs of closure. Release of the amount bonded to ensure closure according to the reclamation plan shall be processed pursuant to the provisions of s. 144.90, Stats., and s. NR 132.12 relating to the release of reclamation bonds.

History: Cr. Register, August, 1982, No. 320, eff. 9-1-82; reprinted to restore dropped copy, Register, July, 1984, No. 343.

**NR 182.17 Financial responsibility for long-term care: (1) DEFINITIONS.**

(a) "Actual dollar inpayments" means equal annual payments made by the facility owner into a long-term care account.

(b) "Approved mining waste facility" means an approved waste facility which is part of a mining site, as defined under s. 144.81 (8), Stats., used for the disposal of waste resulting from mining as defined under s. 144.81 (5), Stats., or prospecting, as defined under s. 144.81 (12), Stats.

(c) "Certificate of deposit" means a certificate issued by a bank or financial institution acknowledging receipt of a specified sum of money in a special kind of time deposit, drawing interest and requiring written notice for withdrawal.

(d) "Closure period" means the 90-day period after the facility ceases to accept waste, unless otherwise specified in the approved plan of operation.

(e) "Equal annual outpayments" means estimated payments for long-term care which are the same amount in each year of the period of owner responsibility for the long-term care of the facility.

(f) "Interest bearing accounts" means escrow accounts, trust accounts or cash deposits with the department.

(g) "Non-interest bearing accounts" means letters of credit, performance bonds or forfeiture bonds.

(h) "Real dollar inpayments" means payments made by the facility owner, which increase each year at the rate of inflation, into a long-term care account.

(i) "Unequal annual outpayments" means estimated payments for long-term care which are higher in the early years of the period of owner responsibility for long-term care than they are later in the long-term care period after the facility has stabilized.

(j) "U.S. government securities" includes treasury bills, treasury bonds, treasury certificates, treasury notes, and treasury stocks guaranteed by the federal government.

(2) **APPLICABILITY.** (a) *Purpose.* The intent of this section is to coordinate the financial responsibility requirements of ch. NR 132 and this chapter as they affect the long-term care of an approved mining waste facility as defined in s. 144.441 (2), Stats. The long-term care require-

ments of this chapter are to be incorporated in and made part of the mine reclamation plan. Financial responsibility for long-term care and release of the same, however, shall be made according to the provisions of this section. A demonstration of financial responsibility by whatever means shall not be required twice for the same obligation regardless of whether the same is set forth in more than one chapter of the administrative code. No plan of operation for a mining waste disposal facility may be approved unless the applicant submits, as part of the initial operating license application and annually thereafter for the period of active facility life, proof of financial responsibility ensuring that the applicant and any successor in interest will comply with the long-term care requirements referenced in the plan and incorporated in and made part of the reclamation plan.

(b) An owner of an approved mining waste facility shall be responsible for the long-term care of the facility for 30 years after closure. The long-term care requirements of this chapter shall be incorporated in and made part of the reclamation plan submitted under s. 144.85 (3) (b), Stats., and s. NR 132.08 but shall be referenced in the plan of operation submitted under s. NR 182.09. The financial responsibility requirements of par. (a) for such long-term care, however, shall be fulfilled by compliance with the provisions of any of sub. (3) (a) to (h).

(c) *Successors in interest.* Any person acquiring rights of ownership, possession or operation of a licensed facility shall be subject to all requirements of the license for the facility and shall provide any required proof of financial responsibility to the department in accordance with this section. The previous owner is responsible for long-term care, and shall maintain any required proof of financial responsibility, until the person acquiring ownership, possession or operation of the facility establishes any required proof of financial responsibility.

(3) **METHODS OF PROVIDING PROOF OF FINANCIAL RESPONSIBILITY.** The owner shall specify, as part of the plan of operation submittal, which method of providing proof of financial responsibility will be used for long-term care. To provide proof of financial responsibility, the applicant shall use one of the following methods:

(a) *Performance or forfeiture bond.* 1. If the owner chooses to submit a bond, it shall be in the amount determined according to sub. (5) (b) conditioned upon faithful performance by the owner and any successor in interest, of all long-term care requirements of the approved plan of operation. The bond shall be delivered to the department as part of the initial operating license application. Bond forms shall be supplied by the department.

2. Bonds shall be issued by a surety company authorized to do surety business in this state. At the option of the owner a performance bond or a forfeiture bond may be filed. The department shall be the obligee of the bond. Surety companies may have the opportunity to complete the long-term care of the facility in lieu of cash payment to the department if the owner or any successor in interest fails to carry out the long-term care requirements of the approved plan of operation. The department shall mail notification of its intent to use the funds for that purpose to the last known address of the owner. If the owner submits a written request for a hearing to the secretary of the department within 20 days after the mailing of the notification, the department shall, prior to using the funds,

DEPARTMENT OF NATURAL RESOURCES 686-242 a  
NR 182

hold a hearing for the purpose of determining whether or not the long-term care requirements of the approved plan of operation have been carried out.

3. Each bond shall provide that, as long as any obligation of the owner for long-term care remains, the bond may not be cancelled by the surety, unless a replacement bond or other proof of financial responsibility under

Next page is numbered 686-243