

### §1310-C. Program established

There is established within the Department of Environmental Protection a remediation and closure program for solid waste landfills. [PL 1987, c. 517, §25 (NEW).]

**1. Objectives.** The program has the following objectives:

A. To accomplish the prompt closure of solid waste landfills which, through inappropriate siting, inadequate design and construction or improper operation, pose an actual or potential hazard to the environment and public health; [PL 1991, c. 374, §3 (AMD).]

B. To accomplish remedial activities to eliminate the existing hazards posed by those landfills; and [PL 1991, c. 374, §3 (AMD).]

C. To provide markets for compost and reclaimed materials. [PL 1991, c. 374, §3 (NEW).]  
[PL 1991, c. 374, §3 (AMD).]

**2. Open and closed or abandoned landfills.** The commissioner shall organize the program into 2 components to address the problems created by:

A. Open-municipal solid waste landfills; and [PL 1987, c. 517, §25 (NEW).]

B. Abandoned or improperly or inadequately closed, municipal solid waste landfills. [PL 1993, c. 732, Pt. C, §1 (AMD).]  
[PL 1993, c. 732, Pt. C, §1 (AMD).]

**3. New facilities.** The department shall ensure that the siting, design, operating and closure requirements imposed on new solid waste disposal facilities pursuant to this chapter and chapter 3, subchapter 1, article 6, site location of development, are consistent with the provisions of this article. [RR 2015, c. 2, §28 (COR).]

**4. Definitions.** As used in this article, unless the context indicates otherwise, the following terms have the following meanings.

A. "Abandoned" with reference to a solid waste landfill means no longer handling solid waste on or after February 1, 1976 when the cessation of handling operations and the covering of the landfill have not been approved by the department or otherwise accomplished in accordance with the procedures and standards established in this article. [PL 1993, c. 732, Pt. C, §2 (AMD).]

B. "Closed" with reference to a solid waste landfill means no longer handling solid waste when the cessation of handling operations has occurred in accordance with the provisions of a closure plan approved by the department or the closure of the landfill has occurred in accordance with the procedures established by this article. [PL 1993, c. 732, Pt. C, §2 (AMD).]

B-1. "Closure" means the completion of those activities specified in this article or in rules adopted pursuant to this article or a department closing order as appropriate, including, but not limited to, the placement of a cover or cap as a barrier over a landfill in order to minimize the infiltration of precipitation into the waste contained in the landfill. [PL 1993, c. 732, Pt. C, §3 (NEW).]

C. "Open-municipal solid waste landfill" means a solid waste landfill owned by a municipality or group of municipalities, the Passamaquoddy Tribe, the Penobscot Nation or a quasi-municipal entity, such as a county or legislatively chartered village corporation, handling solid waste on or after February 1, 1976. [PL 1991, c. 519, §1 (AMD).]

D. [PL 1991, c. 519, §2 (RP).]

E. "Solid waste landfill" means a waste facility for the permanent disposal of solid waste on or in land. This term does not include land spreading sites used in programs approved by the department, but includes publicly owned sludge landfills. [PL 1991, c. 519, §3 (AMD).]

F. "Contractor" means a business entity that engages in, or intends to engage in, landfill closure activities as a business service on property that it does not own. [PL 1989, c. 870, §1 (NEW).]

G. "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, disposing, emptying or dumping of pollutants onto the land or into the water or ambient air. [PL 1989, c. 870, §1 (AMD).]

H. "Contamination," with respect to subsection 6, means exceeding water quality standards, attributable to the solid waste facility, specified in:

- (1) Primary drinking water standards adopted under Title 22, section 2611;
- (2) Maximum exposure guidelines adopted under Title 22, section 2602-A; or
- (3) A statistically significant increase in concentration of measured parameters above an established baseline, whether or not the existing concentration already exceeds the maximum concentration levels specified in this section, using the 95% confidence interval when the student's t-test is applied. The use of other statistical tests and confidence intervals must be approved by the department. [PL 1993, c. 732, Pt. C, §4 (AMD).]

I. "Pollutant" means dredged spoils, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind, or any constituent thereof. [PL 1989, c. 870, §1 (NEW).]

J. "Remediation" means those actions, other than closure activities, taken at or near a solid waste landfill to prevent or minimize public health impacts or environmental impacts and to prevent or minimize the release of pollutants beyond the boundary of the property on which the landfill is located. The term "remediation" includes but is not limited to installation of landfill leachate collection and treatment systems; vapor extraction systems; ground water collection and treatment; or slurry walls. Other measures such as property purchases and water supply replacements may be defined as remediation only if they are determined to be cost-effective and as protective of public health and the environment as measures defined above as "remediation". [PL 1993, c. 732, Pt. C, §5 (NEW).]

[PL 1993, c. 732, Pt. C, §§2 - 5 (AMD).]

**5. Coordination with uncontrolled sites program.** Nothing in this article may be construed to limit the authority of the department under any other provisions of law administered by the department. At any time prior to or following the evaluations conducted pursuant to section 1310-D, subsection 2, the commissioner may proceed under chapter 13-B to properly close any landfill or mitigate any threats posed by the landfill to public health, safety or the environment.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §234 (AMD).]

**6. Contractor liability.** Except as provided in subsection 7, a contractor that closes a municipal solid waste landfill in compliance with a closure plan approved by the department or in compliance with the procedures and standards established in section 1310-E-1 is not liable for the death of or injury to persons or for property damages resulting from contamination or a discharge of pollutants if:

A. The discharge is at or from the landfill site or the contamination resulted from a discharge at or from the landfill site; and [PL 1989, c. 870, §2 (NEW).]

B. The contamination or discharge is related to on-site landfill closure activities. [PL 1989, c. 870, §2 (NEW).]

[PL 1993, c. 732, Pt. A, §6 (AMD).]

**7. Exceptions.** Nothing in subsection 6 affects the liability of a contractor:

A. For its employees under former Title 39 or Title 39-A; or [PL 1991, c. 885, Pt. E, §45 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

B. Under state and federal criminal laws. [PL 1989, c. 870, §2 (NEW).]  
[PL 1991, c. 885, Pt. E, §45 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

#### SECTION HISTORY

PL 1987, c. 517, §25 (NEW). PL 1989, c. 870, §§1,2 (AMD). PL 1989, c. 890, §§A40,B234 (AMD). PL 1991, c. 374, §3 (AMD). PL 1991, c. 519, §§1-3 (AMD). PL 1991, c. 885, §E45 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1993, c. 732, §§A6,C1-5 (AMD). RR 2015, c. 2, §28 (COR).

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