

§1310-E-1. Closure of landfills

Notwithstanding closure schedules previously established by rule, unlicensed and licensed open-municipal solid waste landfills that have not been closed must be closed in accordance with the schedule established by federal law or rule; state law or rule; schedules of compliance; consent agreements; enforcement orders; or license conditions. Those landfills must be closed in accordance with one of the following procedures. [PL 1993, c. 732, Pt. C, §12 (NEW).]

1. Regulation procedure. This procedure involves the submission of a closure plan and the implementation of the closure plan as approved by the department in accordance with landfill closure standards included in rules adopted pursuant to section 1304. This closure process is required of all licensed municipal solid waste landfills and may be otherwise initiated in one of 3 ways:

A. At the discretion of the municipality; [PL 1993, c. 732, Pt. C, §12 (NEW).]

B. In response to an order issued by the department to close a landfill pursuant to section 1310-D, subsection 2 when the state cost share for the closure is immediately available. For the purposes of this section, "immediately available" means that the municipality is reimbursed the total eligible amount of the state cost share for the anticipated closure operation as ordered within 180 days of the municipality incurring the expense; or [PL 1993, c. 732, Pt. C, §12 (NEW).]

C. In response to an order issued by the department to close a landfill pursuant to section 1310-D, subsection 2 in conjunction with a finding by the commissioner that the landfill poses a "high risk." [PL 1993, c. 732, Pt. C, §12 (NEW).]

[PL 1993, c. 732, Pt. C, §12 (NEW).]

2. Reduced closure procedure. To achieve compliance with this section, a municipality has the option to close its landfill, in accordance with a reduced procedure as established by this subsection, except when:

A. The landfill is a licensed municipal solid waste landfill or the municipality has been ordered to close or remediate a landfill pursuant to section 1310-D, subsection 2 in which case the landfill must be closed in accordance with subsection 1; [PL 1999, c. 556, §37 (AMD).]

B. The landfill meets one of the following criteria, in which case the landfill must close in accordance with subsection 3:

(1) A drinking water supply well is located within 1,000 feet of the solid waste boundary of the landfill;

(2) The public water supply well is located within 10,000 feet of the solid waste boundary of the landfill and in the same aquifer, for landfills located on a sand and gravel aquifer as mapped by the Natural Resources Information and Mapping Center;

(3) An enclosed building is located within 100 feet of the solid waste boundary of the landfill; or

(4) The landfill has received hazardous industrial wastes. [PL 1999, c. 556, §38 (AMD).]

Those municipalities that are able to establish that their open-municipal landfill is not excluded from the closure option provided by this subsection may proceed with the option for a reduced closure procedure. This closure option is met if the closure complies with the landfill closure standards of 40 Code of Federal Regulations, Part 258, Section 258.60 (a). The municipal officers shall submit to the department a certification of completion of closure operations in accordance with the standards of this subsection no later than 60 days from the date of that completion. [PL 1999, c. 556, §§37, 38 (AMD).]

3. Alternative closure procedure. A municipality that determines that it owns or operates a landfill that by the terms of subsection 2, paragraph B is not automatically eligible for the reduced

closure option must notify the department in writing of that circumstance within 60 days of making the determination and the notification must be considered by the department as a request for permission to close the landfill in accordance with the closure standards established by subsection 2. Upon receipt of the notification and after further evaluating the circumstances of the landfill as may be necessary, the department must notify the municipality in writing that permission is granted to close the landfill in accordance with the standards established in subsection 2, or that permission is granted to close the landfill in accordance with the standards of subsection 2 and any reasonable additional closure or remediation standards that the department may require that are related to the identified characteristics that cause the landfill to not be automatically eligible for the reduced closure option.

[PL 1993, c. 732, Pt. C, §12 (NEW).]

4. Subsequent landfill closure activity. Any municipality that closes a landfill pursuant to subsection 1, 2 or 3 and that inspects, monitors and maintains the closure measures as required under subsection 6 is entitled to an assurance from the department that the municipality has met its closure obligations and that no further closure action other than inspection, monitoring and maintenance is required of the municipality by the department with regard to that landfill unless one or more of the following circumstances arises:

A. The commissioner finds that the landfill, although closed, is nonetheless a high-risk landfill and orders further closure or remediation activities; [PL 1993, c. 732, Pt. C, §12 (NEW).]

B. Additional closure or remediation activities are needed and the department's cost share of the additionally required activity is immediately available; or [PL 1993, c. 732, Pt. C, §12 (NEW).]

C. Additional closure or remediation activities are required as a result of an existing or pending formal department enforcement action with respect to the violation of the license conditions under which a landfill was operated. [PL 1993, c. 732, Pt. C, §12 (NEW).]

Nothing with regard to this assurance may be construed to limit the department's authority to act using its own resources as that activity may be otherwise authorized by law.

[PL 2007, c. 655, §7 (AMD).]

5. Existing closure procedures. The closure procedures established in this section do not override or impair closure procedures established prior to the effective date of this section pursuant to a legally binding consent agreement, license condition, enforcement order or other form of contract between a municipality and that department that was executed prior to the effective date of this section.

[PL 1993, c. 732, Pt. C, §12 (NEW).]

6. Post-closure maintenance. A municipality that closes a landfill pursuant to subsection 1, 2 or 3 shall inspect, monitor and maintain the closure measures required under those subsections as necessary to ensure that the closure remains effective.

[PL 2007, c. 655, §8 (NEW).]

SECTION HISTORY

PL 1993, c. 732, §C12 (NEW). PL 1995, c. 502, §E32 (AMD). PL 1999, c. 556, §§37,38 (AMD). PL 2007, c. 655, §§7, 8 (AMD).

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