

**§1310-F. Cost sharing**

The commissioner shall administer a closure and remediation cost-sharing program to assist municipalities and other public entities as provided in subsection 3 in the planning and implementation of the closure and remediation orders. The program is subject to the following provisions. [PL 1991, c. 519, §8 (AMD).]

**1. Cost-share fraction.**

[PL 1993, c. 732, Pt. C, §13 (RP).]

**1-A. Remediation cost-share fraction.** Except as provided under subsection 2 and subject to the availability of funds, the commissioner shall issue grants or payments to eligible municipalities for 90% of the planning and implementation costs of remediation.

[PL 2007, c. 655, §9 (AMD).]

**1-B. Closure cost-share fraction.** Subject to the availability of funds, the commissioner shall issue grants or payments for the following percentages of landfill closure costs incurred by municipalities.

A. The state cost share is 75% of closure costs incurred before July 1, 1994. [PL 1997, c. 479, §1 (RPR).]

B. The state cost share is 50% of landfill cover costs and 75% of other closure costs incurred on or after July 1, 1994 and before January 1, 1996. [PL 1997, c. 479, §1 (RPR).]

C. The state cost share is 30% of landfill cover costs and 75% of other closure costs incurred on or after January 1, 1996 and before January 1, 2000. [PL 1997, c. 479, §1 (RPR).]

D. Notwithstanding paragraphs B and C, the state cost share is 75% of closure costs, including landfill cover costs, incurred on or after July 1, 1994 and before January 1, 2000, if:

(1) The costs are incurred pursuant to a written agreement between the municipality and the department executed before July 1, 1994; or

(2) The commissioner determines that the closure work was delayed for reasons beyond the control of the municipality and the costs are identified in and incurred pursuant to a written agreement between the municipality and the department. [PL 1997, c. 479, §1 (NEW).]

E. Notwithstanding paragraphs B, C and D, the state cost share is 75% of closure costs, including landfill cover costs, incurred on or after July 1, 1994 and before December 31, 2025, if:

(1) The commissioner originally issued a license on or before September 1, 1989 or accepted a license application for processing on or before September 1, 1989 that was approved by the commissioner within one year of acceptance for processing for operation of the landfill and found that the landfill met the design requirements and environmental protection standards at the time of licensing; and

(2) The commissioner has since determined that the landfill or portion of the landfill must be closed based on the finding that the landfill is contaminating groundwater and that corrective actions have not been successful. [PL 2019, c. 93, §1 (AMD).]

The state cost share is 0% of landfill closure costs incurred on or after January 1, 2000, except that the commissioner may issue grants or payments as provided in paragraph E or for 30% of those costs if incurred pursuant to an alternative closure commitment executed before January 1, 2000, and if specifically identified in a department order or license, schedule of compliance or consent agreement.

As used in this subsection, "landfill cover costs" means the cost of materials and the cost of placement of materials associated with the physical construction of that portion of a cover over a landfill that meets

the minimum landfill cover permeability of  $1 \times 10^{-5}$  cm./sec. and the thickness standards of 40 Code of Federal Regulations, Part 258, Section 258.60(a).

[PL 2019, c. 93, §1 (AMD).]

**2. Eligibility.** A municipality that owns, rents or leases a solid waste landfill for which obligations are required or permitted by this chapter or rules adopted under this chapter is eligible for cost-sharing grants or reimbursement payments. In order to receive reimbursement pursuant to this section, the municipality shall, at a minimum, provide reasonable proof of municipal expenditures as the department may require, as well as certification signed by the municipal officers that, to the best of their knowledge and the knowledge of all the pertinent municipal officials, closure activities were performed in accordance with the applicable standards established by section 1310-E-1 and remediation activities were performed in accordance with a plan approved or issued by the department. A municipality that has spent funds to close its solid waste landfill or to remedy environmental and public health hazards posed by the landfill prior to the adoption of a closure or remediation plan under this subchapter or that closed a landfill or remediated environmental or public health hazards posed by a landfill is also eligible for reimbursement of closure or remediation costs incurred after February 1, 1976, as long as the closure or remediation actions were in conformance with all applicable laws or rules in effect at the time. Costs incurred by closure or remediation actions taken after the adoption of a closure or remediation plan under this subchapter are eligible for reimbursement only if those actions conform to that plan. Grant or reimbursement payments may not be made to a municipality for a portion of payments to settle civil or criminal judgments against that municipality for damages or injuries caused by the landfill. In addition, for landfills in operation prior to January 1, 1993, grant payments may not be made to a municipality for remediation to mitigate a threat posed by that landfill to structures built after January 1, 1994 by that municipality, the county in which that municipality is located, a school administrative unit as defined in Title 20-A, section 1, a quasi-municipal corporation as defined in Title 30-A, section 2351 or a special district as defined in Title 30-A, section 5704 that includes any portion of the municipality unless the commissioner determines that the municipality could not have reasonably anticipated the threat. Any interest paid by a municipality prior to reimbursement on a municipal bond or commercial bank note issued to raise funds for remediation and closure activities is a cost eligible for reimbursement under this section. Unless otherwise directed by the terms of a bond issue approved by the voters, the commissioner shall use at least 1/3 of the funds approved by the voters for municipalities eligible for reimbursement of closure and remediation costs eligible under this subsection until all those municipalities have been reimbursed. The remainder of the available funds must be allocated in an equitable manner so that, at a minimum, an adequate cap is constructed over all identified high-risk landfills subject to closure. The department shall issue, upon the request of a municipality, a notice in writing that projects to a date certain the availability of cost-sharing funds for which the municipality is eligible. The inability or failure of the department to issue a written projection to a date certain means that the cost-sharing funds are not available for the foreseeable future. A landfill that is privately owned and operated is not eligible for reimbursement under this subchapter.

A. The commissioner may act to abate public health, safety and environmental threats at municipal solid waste landfills identified as uncontrolled hazardous substance sites under section 1362, subsection 3 or at federally declared Superfund sites. Notwithstanding subsections 1-A and 1-B, the commissioner shall determine the amount of grants or payments issued to municipalities for the costs of remediation and closure at those sites. [PL 1997, c. 479, §2 (AMD).]

B. The commissioner may enter into contracts with the Maine Municipal Bond Bank to manage bonds issued under this article, as long as the management fee structure does not allow dilution of the bond principal. [PL 1995, c. 462, Pt. A, §77 (RPR).]

C. In a circumstance where the department finds that further closure or remediation activities are required for a landfill because the landfill was not closed in accordance with the standards of closure that the municipal officers certified to the department pursuant to this subsection and further finds

that the certification was a negligent misrepresentation of a material fact results in the ineligibility of the municipality for cost sharing for the additional activities that may be required as a result of the nonperformance of the previously certified activities. [PL 1995, c. 462, Pt. A, §77 (RPR).]

D. A municipality that is eligible or authorized by the department to use the closing procedure established in section 1310-E-1, subsection 1, 2 or 3 is not eligible for reimbursement of costs associated with closing activities that are more stringent than the minimum required by that section unless those additional activities are approved in writing by the department. [PL 1995, c. 462, Pt. A, §77 (RPR).]

E. If the municipality has taken reasonable steps to anticipate and abate threats posed by a municipal landfill, a municipality is eligible to receive a maximum reimbursement of 50% of the remediation costs related to any threat posed by the municipal landfill to wells or other structures constructed after December 31, 1999. [PL 1999, c. 334, §11 (NEW).]

[PL 2001, c. 315, §3 (AMD).]

**3. Sanitary and refuse disposal districts.** Any of the following public entities owning or operating a solid waste landfill is eligible for reimbursement of closure or remediation costs incurred after February 1, 1976, if the closure or remediation actions were in conformance with all applicable laws or rules in effect at the time:

A. A sanitary district created under chapter 11 or by special act of the Legislature; or [PL 1991, c. 66, Pt. A, §36 (RPR).]

B. A regional association as defined in section 1303-C, subsection 24. [PL 1991, c. 66, Pt. A, §36 (RPR).]

[PL 1991, c. 519, §11 (AMD).]

**4. Insurance.** Notwithstanding subsection 1-B, the commissioner may not issue a grant or reimbursement payment under this section to a municipality for the costs of closure unless the municipality demonstrates to the commissioner that each person who performs work to implement the closure plan is self-insured or is covered by a workers' compensation insurance policy in accordance with Title 39-A.

[PL 1993, c. 732, Pt. C, §16 (AMD).]

**5. Audit.** A municipality or other public entity receiving grants or reimbursement payments shall include the remediation or closure project in its annual independent audit to provide assurance of the proper expenditure of state funds. A copy of this audit must be provided in a timely manner to the solid waste closure and remediation program of the Department of Environmental Protection.

[PL 1993, c. 732, Pt. C, §17 (AMD).]

**6. Contract enforcement.** At the request of a recipient of state funds under this section, the commissioner may provide technical assistance and, through the Attorney General, legal assistance in the administration or enforcement of any contract entered into by or for the benefit of the recipient in connection with a landfill closure and remediation project assisted by these funds. When state funds have been disbursed pursuant to this section, the State, acting through the Attorney General, has a direct right of action against the recipient of the funds, or a contractor, subcontractor, architect, engineer or manufacturer of equipment purchased with the funds, to recover the funds which may be properly awarded as actual damages in an action alleging negligence or breach of contract.

[PL 1995, c. 642, §8 (NEW).]

#### SECTION HISTORY

PL 1987, c. 517, §25 (NEW). PL 1989, c. 273 (AMD). PL 1989, c. 869, §§A6,7 (AMD). PL 1989, c. 870, §4 (AMD). PL 1989, c. 890, §§A40,B238 (AMD). PL 1991, c. 66, §§A35-37 (AMD). PL 1991, c. 215 (AMD). PL 1991, c. 519, §§8-12 (AMD). PL 1991, c. 885, §E46 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1993, c. 355, §49 (AMD). PL 1993, c. 621, §6 (AMD). PL

1993, c. 732, §§C13-17 (AMD). PL 1995, c. 462, §A77 (AMD). PL 1995, c. 642, §8 (AMD). PL 1995, c. 665, §HH1 (AMD). PL 1997, c. 479, §§1,2 (AMD). PL 1999, c. 334, §11 (AMD). PL 2001, c. 315, §3 (AMD). PL 2007, c. 655, §9 (AMD). PL 2011, c. 435, §1 (AMD). PL 2015, c. 302, §1 (AMD). PL 2019, c. 93, §1 (AMD).

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