

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

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Chapters 1 - 590

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J.S. McCarthy Company
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PUBLIC LAWS
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1991

registration fee schedule for adult education courses and determine the use of those registration fees.

2. Materials fee. A ~~school administrative~~ unit may charge a ~~student person~~ attending ~~a~~ an adult education course a fee to cover the ~~actual~~ cost of materials used in such a course.

Sec. 42. 20-A MRSA §8610, as amended by PL 1983, c. 806, §72, is repealed.

Sec. 43. 20-A MRSA §8611, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§8611. Transportation

A ~~school administrative~~ unit may provide transportation for adults to and from adult education ~~programs~~ courses.

See title page for effective date.

CHAPTER 519

S.P. 639 - L.D. 1687

An Act to Clarify the Solid Waste Landfill Remediation and Closure Program

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1310-C, sub-§4, ¶¶A to C, as enacted by PL 1987, c. 517, §25, are amended to read:

A. "Abandoned" with reference to a solid waste landfill means ~~not no longer~~ handling solid waste on or after ~~the effective date of this article~~ February 1, 1976 when the cessation of handling operations has not been approved by the department.

B. "Closed" with reference to a solid waste landfill means ~~not no longer~~ handling solid waste ~~on or after the effective date of this article~~ when the cessation of handling operations has occurred in accordance with the provisions of a permanent closure plan approved by the department.

C. "~~Municipal~~ 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.

Sec. 2. 38 MRSA §1310-C, sub-§4, ¶D, as enacted by PL 1987, c. 517, §25, is repealed.

Sec. 3. 38 MRSA §1310-C, sub-§4, ¶E, as enacted by PL 1987, c. 517, §25, is amended to read:

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.

Sec. 4. 38 MRSA §1310-D, sub-§2, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §236, is further amended to read:

2. Evaluation. ~~In the order of response to the priorities established in the initial open-municipal solid waste landfill ranking and the objectives of paragraphs A to D C,~~ the commissioner shall conduct and complete by January 1, 1993, subject to the availability of funding, environmental evaluations of each open-municipal solid waste landfill. The commissioner may employ private consultants to avoid additions to departmental staff and to accomplish the evaluations in a timely manner. The commissioner may utilize existing analyses of facilities, subject to the provisions of this subsection. When the commissioner has sufficient knowledge of existing hazards to the environment and public health posed by a specific site, the commissioner may take measures necessary to effect proper remediation and closure of the landfill, notwithstanding the site's listed priority. In those cases, the commissioner shall ensure that the requirements of this subsection are substantially met. The commissioner shall ~~design~~ ensure that each evaluation ~~to achieve~~ achieves the following objectives:

A. To identify the actual hazards, if any, to the environment and public health posed by the landfill and to determine the closure and remediation requirements of the landfill;

B. ~~To~~ When appropriate, to establish a ground-water monitoring system, including which may include monitoring wells and test borings sufficient to assure ensure identification and monitoring of potential hazards;

C. When potential hazards are identified, to provide:

(1) A complete description of the movement of surface ~~and~~ waters, ground waters and landfill gases on or near the landfill;

(2) An identification of pollutants in those waters;

(3) An evaluation of the scope, direction and rate of movement of the contamination plume, if any; and

(4) Any other information that the commissioner determines necessary to prepare the clo-

sure or remediation recommendations pursuant to this subchapter;

D. To provide a recommended closure plan for the landfill and, when necessary, a recommended plan for the remediation of any hazards identified by the evaluation. Closure and remediation recommendations must ensure a level or standard of control of pollutants in surface waters at least as stringent as the water quality criteria established under chapter 3, subchapter I, article 4-A. Those recommendations must also seek to achieve a level or standard of control of pollutants in ground water at least as stringent as the water quality criteria established under sections 465-C and 470, unless the commissioner finds that meeting those standards is technically and economically infeasible and that other measures can be implemented to ensure protection of public health and safety; and

E. To consult with and involve the affected municipality or municipalities in the conduct of the evaluation and the analysis of its results.

Sec. 5. 38 MRSA §1310-D, sub-§3, as enacted by PL 1987, c. 517, §25, is repealed and the following enacted in its place:

3. Closing orders. The commissioner may incorporate the recommendations of the landfill evaluations into a department closing order and, if appropriate, remediation order subject to the following provisions.

A. Within 90 days of the receipt of a landfill evaluation, together with the recommendations for closure and, if any, remediation actions, the commissioner shall issue an order for closure and, if appropriate, remediation. Subject to the provisions of sections 1310-F and 1310-G, a timetable for implementation and all pertinent cost-sharing must be included as part of the order.

B. Any person who is aggrieved by the department order may appeal it as provided in section 341-D, subsection 4.

Sec. 6. 38 MRSA §1310-D, sub-§5, as enacted by PL 1989, c. 870, §3, is amended to read:

5. Certification of completion. A municipality that engages a contractor to close a landfill under ~~a plan approved~~ an order issued by the department shall hire a licensed engineer independent of the contractor or the municipality to, at a minimum, monitor, evaluate and report on all on-site landfill closure activities performed by the contractor. Upon completion of the closure work in compliance with the ~~plan approved~~ order issued by the department, that engineer shall provide the department and municipality with a written report that certifies that the work performed by the contractor conforms with the ~~plan ap-~~

proved order issued by the department and all applicable laws and regulations. The cost to the municipality to engage the licensed engineer is a cost of closure under section 1310-F. No later than 60 days after receipt of the engineer's report, the department shall accept, conditionally accept or reject the engineer's certification. If the department either conditionally accepts or rejects the certification, the department shall identify and direct the municipality to undertake any measures necessary for completion of the closure in compliance with the ~~plan~~ order.

Sec. 7. 38 MRSA §1310-E, sub-§1, ¶D, as enacted by PL 1987, c. 517, §25, is amended to read:

D. Any person may request the department to include ~~a closed or an abandoned or improperly closed~~ solid waste landfill site in its subsequent evaluations. In considering such a request, the department shall consider the potential environmental and public health hazards posed by the solid waste landfill and the availability of funds for such an evaluation.

Sec. 8. 38 MRSA 1310-F, first ¶, as repealed and replaced by PL 1991, c. 66, Pt. A, §35, is amended to read:

The commissioner shall administer a closure and remediation ~~grants~~ 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 ~~plans~~ orders. The program is subject to the following provisions.

Sec. 9. 38 MRSA §1310-F, sub-§1, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §238, is further amended to read:

1. Cost-share fraction. Subject to the availability of funds, the commissioner shall issue grants or payments to eligible municipalities for 75% of the planning and implementation costs of closure and for 90% of the planning and implementation costs of remediation.

Sec. 10. 38 MRSA §1310-F, sub-§2, as amended by PL 1991, c. 215, is further amended to read:

2. Eligibility. Any municipality that owns, rents or leases a solid waste landfill for which a remediation or closure plan has been adopted is eligible for grants. A municipality that has acted 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 ac-

tions conform to that plan. Any interest paid by a municipality prior to reimbursement on a municipal bond issued to raise funds for remediation and closure activities during this period is a cost eligible for reimbursement under this section. The commissioner shall use at least 1/3 of the available funds for municipalities eligible for reimbursement of closure and remediation costs under this subsection until all those municipalities have been reimbursed. A landfill that is privately owned and privately operated is not eligible for reimbursement under this subchapter.

A. The commissioner may act to abate public health, safety and environmental threats at sites identified as uncontrolled hazardous substance sites under section 1362, subsection 3 or at federally declared Superfund sites. Notwithstanding any other provision of this article, the commissioner shall determine the amount of funds expended at such sites.

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.

Sec. 11. 38 MRSA §1310-F, sub-§3, as repealed and replaced by PL 1991, c. 66, Pt. A, §36, is amended to read:

3. Sanitary and refuse disposal districts. Any of the following public entities owning or operating a solid waste landfill for which a remediation or closure plan has been adopted is eligible for grants under this section 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

B. A regional association as defined in section 1303-C, subsection 24.

Sec. 12. 38 MRSA §1310-F, sub-§5 is enacted to read:

5. Audit. A municipality or other public entity receiving grants or reimbursement of interest 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.

See title page for effective date.

CHAPTER 520

H.P. 1171 - L.D. 1712

An Act to Clarify Provisions of and Provide Funding for Toxics Use, Toxics Release and Hazardous Waste Reduction Programs

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §342, sub-§4, ¶B is enacted to read:

B. The Office of Pollution Prevention is established within the department to review department programs and make recommendations to the commissioner on means of integrating pollution prevention into department programs. The Office of Pollution Prevention has the following functions:

(1) To establish pollution prevention priorities within the department;

(2) To coordinate department pollution prevention activities with those of other agencies and entities;

(3) To ensure that rules, programs and activities of the department are consistent with pollution prevention goals and do not hinder pollution prevention initiatives;

(4) To provide technical assistance, training and educational activities to assist the general public, governmental entities and the regulated community with development and implementation of pollution prevention programs as funds allow;

(5) To establish an award program to recognize businesses, local governments, department staff and others that have implemented outstanding or innovative pollution prevention programs, activities or methods;

(6) To identify opportunities to use the state procurement system to encourage pollution prevention;

(7) To develop procedures to determine the effectiveness of the department's pollution prevention programs and activities; and

(8) To assume responsibility for the administration and implementation of chapter 26.

Sec. 2. 38 MRSA c. 2, sub-c. IV is enacted to read: