

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2001

bridges from
municipalities to the
Department of
Transportation.

DEPARTMENT OF
TRANSPORTATION
TOTAL _____ _____
((\$1,100,000)) (\$1,100,000)

Sec. 4. Retroactivity. This Act applies retroactively to July 1, 2001.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 30, 2001.

CHAPTER 315

S.P. 564 - L.D. 1724

An Act to Provide for Remediation of Abandoned Landfills

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

Sec. 1. 38 MRSA §1310-D, as amended by PL 1993, c. 732, Pt. C, §§6 to 10, is further amended to read:

§1310-D. Closure of open-municipal landfills

The provisions of this article govern open-municipal solid waste landfills.

1. Landfill ranking. The department shall create and maintain a list of all open-municipal solid waste landfills ranked on the basis of the hazard each poses or potentially poses to the public health and environment. The list must establish no less than 2 categories of landfills: "high risk" landfills, which include those landfills that are known to pose a public health or environmental threat so immediate or substantial that corrective action must be taken without delay, and landfills that are not known to be "high risk." The department shall inform each affected municipality in writing whenever there are changes made to the priority list and publish the most current version of that list on or about February 1st of each year. All pertinent and related rules adopted by the department establishing standards governing landfill ~~remediation and~~ closure must be designed so that the costs of ~~remediation and~~ closure are coordinated with and reasonably proportionate to the relative public health risk and environmental risk indicated by the specific rank of the municipal landfill.

2. Evaluation. In response to the priorities established in the open-municipal solid waste landfill

ranking and the objectives of paragraphs A to C, the commissioner shall conduct, 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. Municipalities shall cooperate with the efforts of the department by providing reasonably available and relevant material that the department may require with regard to the purposes of this section. When the commissioner has sufficient knowledge of existing hazards to the environment and public health posed by a specific site, the commissioner may designate the landfill as a high-risk landfill and 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 met. The commissioner shall ensure that each evaluation 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. When appropriate, to establish a monitoring system, which may include monitoring wells and test borings sufficient to ensure identification and monitoring of potential hazards;

C. When potential hazards are identified, to provide:

- (1) A complete description of the movement of surface 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 closure ~~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.

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. Following 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. This~~ The order must specify the use of compost or reclaimed soil materials for landfill cover to the maximum extent practical and consistent with sound environmental practices. Subject to sections 1310-F and 1310-G, a time schedule 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.

4. Implementation. The municipality owning or operating the landfill is the party responsible for the implementation of the plan issued by the commissioner.

5. Certification of completion. A municipality that engages a contractor to close a landfill under 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 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 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. Following 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 order.

Sec. 2. 38 MRSA §1310-E-2 is enacted to read:

§1310-E-2. Investigation and remediation of landfills

1. Investigation. The commissioner may investigate a solid waste landfill, including an abandoned landfill, when there is a reasonable basis to believe that an unauthorized discharge has occurred or may be occurring. The commissioner shall consult with and involve the affected municipality or municipalities in the conduct of the investigation and evaluation of the results of the investigation.

2. Remediation recommendations. When, after investigation, the commissioner has sufficient knowledge that a solid waste landfill poses a hazard to public health or the environment, the commissioner may undertake additional evaluations to develop a recommended plan for remediation of the hazard. 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 may be implemented to ensure protection of public health and safety.

3. Remediation orders. The commissioner may take measures necessary to effect a recommended plan for remediation or may incorporate the plan recommendations into a remediation order. The order must include the time schedule for implementation as required under section 1310-G. The person or municipality owning or operating the landfill is the party responsible for the implementation of the order. Any person aggrieved by the order may appeal the order as provided in section 341-D, subsection 4.

Sec. 3. 38 MRSA §1310-F, sub-§2, as amended by PL 1999, c. 334, §11, is further amended to read:

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 ~~must~~ shall, at a minimum, provide ~~such~~ 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, ~~the~~ 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.

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.

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.

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.

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.

Sec. 4. 38 MRSA §1310-Y, first ¶, as amended by PL 1995, c. 44, §1, is further amended to read:

An owner or operator of a solid waste disposal facility licensed under section 1310-N shall provide the department assurance of its financial ability to satisfy the estimated cost of corrective action for known releases from the facility and its financial capacity to satisfy the estimated cost of closure and postclosure care and maintenance at the facility for a

period of at least 30 years after closure. The board may adopt rules that increase or decrease that postclosure care period, as long as those rules are consistent with applicable federal rules. This section applies to all privately owned solid waste disposal facilities licensed by the department, including facilities licensed by the department before June 16, 1993. This section does not apply to a municipally owned or operated solid waste disposal facility that accepts exclusively special waste, construction and demolition debris, land-clearing debris or any combination of those types of waste or to a municipally owned or operated solid waste disposal facility licensed before June 16, 1993.

Sec. 5. 38 MRSA §2201, 3rd ¶, as amended by PL 1997, c. 24, Pt. C, §15 and c. 526, §14, is further amended to read:

Funds related to administration may be expended only in accordance with allocations approved by the Legislature for administrative expenses directly related to the office's and the department's programs, including actions by the department necessary to abate ~~imminent~~ threats to public health, safety and welfare posed by the ~~illegal~~ disposal of solid waste. Funds related to operations may be expended only in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the office and for the repayment of any obligations of the office incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the office and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Revenue Services incurred in the administration of Title 36, section 5219-D and Title 36, chapter 719. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all office activities other than those included in the operations account.

See title page for effective date.

CHAPTER 316

H.P. 768 - L.D. 987

**An Act to Change Certain
Educational Requirements for
Licensed Social Workers**

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

Sec. 1. 32 MRSA §7001-A, sub-§8, as enacted by PL 1985, c. 736, §2, is amended to read:

8. Licensed social worker. A "licensed social worker" is a person who has received a license as a licensed social worker from the board. In accordance with the provisions of section 7053, subsection 3-A, "licensed social worker" includes a person who has received a conditional license as a licensed social worker.

Sec. 2. 32 MRSA §7053, sub-§3, as repealed and replaced by PL 1989, c. 682, is amended to read:

3. Requirements to be a licensed social worker on or before June 30, 2002. ~~To be qualified to be licensed as a social worker an applicant must meet one of the following requirements. On or before June 30, 2002, the board may issue a license to an applicant who meets at least one of the requirements set out in this subsection:~~

- A. The applicant must have received a bachelor's degree in social work or social welfare from an accredited educational institution; demonstrated to the satisfaction of the board adherence to the ethics of the social worker profession; and successfully completed the examination prescribed by the board; or
- B. The applicant must have received a bachelor's degree in a related field from an institution that, at the time the degree was received, did not have a program accredited by the Council on Social Work Education but subsequently offered such a program; demonstrated to the satisfaction of the board adherence to the ethics of the social worker profession; and successfully completed the examination prescribed by the board.

The board shall issue rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, by which an individual who has a bachelor's degree that does not qualify under paragraph A or B may be eligible for a license.

The board may not issue a licensed social worker conditional license under this subsection after June 30, 2002. Individuals who have met the requirements of this subsection and have a licensed social worker conditional license issued prior to June 30, 2002, may continue to work towards full licensure as a licensed social worker under this subsection.

Sec. 3. 32 MRSA §7053, sub-§3-A is enacted to read:

3-A. Requirements for licensed social worker after June 30, 2002. Except for those who meet the requirements for licensure as a social worker under section 7053, subsection 3, after June 30, 2002, the