

ENROLLED ACT NO. 58, SENATE

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to environmental quality; providing for municipal solid waste landfill lifetime permits; requiring annual reports; providing definitions; establishing priorities for municipal solid waste landfill remediation; providing for orphan landfill site remediation; making conforming amendments; expanding the use of previously appropriated funds for environmental assessments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-11-523 through 35-11-525 are created to read:

35-11-523. Annual report.

(a) Effective January 1, 2012, every operator shall file an annual report with the administrator on or within thirty (30) days prior to the anniversary date of each lifetime permit. The report shall include:

(i) The facility name, the name and address of the operator and the permit number;

(ii) A report in such detail as the administrator shall require supplemented with maps, cross sections, aerial photographs, photographs or other material indicating:

(A) The extent to which the landfill operations have been carried out;

(B) The progress of all landfill work;

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(C) The extent to which regulatory requirements, expectations and predictions made in the original permit or any previous annual reports have been fulfilled, and any deviation there from, including but not limited to the capacity of landfill used, the results of any environmental monitoring, any remediation required or completed and the remaining usable municipal solid waste landfill capacity.

(iii) A revised schedule or timetable of landfill operations and an estimate of the available capacity to be affected during the next one (1) year period.

(b) Upon receipt of the annual report the administrator shall make such further inquiry as deemed necessary. If the administrator objects to any part of the report or requires further information he shall notify the operator as soon as possible and shall allow a reasonable opportunity to provide the required information, or take such action as necessary to resolve the objection.

(c) Within forty-five (45) days after the receipt of the annual report the administrator shall conduct an inspection of the landfill. A report of this inspection shall be made a part of the operator's annual report and a copy shall be delivered to the operator.

(d) Within sixty (60) days after receipt of the annual report, inspection report and other required materials, if the administrator finds the annual report in order and consistent with the landfill operation plan and solid waste management plan as set forth in the permit, or as amended to adjust to conditions encountered during landfill operations as provided by law, the director shall determine if any adjustment is necessary to the size of the bond required pursuant to W.S. 35-11-504.

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**35-11-524. Municipal solid waste landfill assessments;
priority list; monitoring.**

(a) The department shall conduct an assessment of the needs for municipal solid waste landfill monitoring and the necessity for any remediation on leaking municipal solid waste landfills in Wyoming.

(b) The department shall establish a priority list for municipal solid waste landfills that need remediation. The criteria used to establish this priority list shall be developed and reviewed with the water and waste advisory board. The criteria shall include, but not be limited to the:

(i) Type of leachate;

(ii) Volume of leachate;

(iii) Proximity of the leachate to the nearest surface or ground water;

(iv) Ability of the responsible municipality to remediate the contamination;

(v) The nature of contaminants in surface or ground water affected by the municipal solid waste landfill, including whether a contaminant is naturally occurring or manmade; and

(vi) Maximum contaminant levels.

(c) For high priority sites identified on the list established under subsection (b) of this section, the department shall work with the local managers of the high

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priority municipal solid waste landfills to gather data necessary for the report due under subsection (d) of this section.

(d) The department shall submit to the joint minerals, business and economic development interim committee:

(i) No later than December 31, 2012, an initial report describing an assessment of the clean-up costs at the high priority municipal solid waste landfills;

(ii) No later than June 30, 2013, and annually thereafter, a report including, but not limited to:

(A) Monitoring results;

(B) Remediation results;

(C) The assessment of the clean-up costs at municipal solid waste landfills, including high, medium and low priority landfills;

(D) Estimated high priority sites to be addressed in the coming year;

(E) Orphan landfill sites information and data as required pursuant to W.S. 35-11-525(e).

35-11-525. Orphan landfill sites.

(a) The director may expend funds contained within the account for remediation of orphan landfill sites and the performance of any other activity as defined in this article.

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(b) As used in this section, "orphan landfill site" means:

(i) A landfill where the department determines:

(A) There is no viable party responsible for causing or contributing to the landfill site; and

(B) The landfill site is not the result of activities conducted on the site after September 13, 1989.

(ii) A landfill site, where the department determines that the person responsible for the landfill cannot be identified;

(iii) A landfill site where the department must take prompt action to prevent hazards to human health or the environment where a responsible party fails to act promptly.

(c) To the extent funds are available, the department may expend funds from the account to conduct orphan landfill site evaluations and testing, evaluate remedial measures, select remediation requirements and construct, install, maintain and operate systems to remedy contamination in accordance with a remediation work plan prescribed by the director for the orphan landfill site.

(d) Revenue to the account shall include any monies which may be deposited in the account for use in identification, characterization, prioritization, remediation and monitoring of orphan landfill sites. The liability of the state to fulfill the requirements of this section is limited to the amount of funds available in the account.

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(e) The department shall provide a report to the joint appropriations interim committee and the joint minerals, business and economic development interim committee. The report shall be included in the report required under W.S. 35-11-524(d) and shall include:

(i) The work completed on the identification, characterization, prioritization, remediation and monitoring of orphan landfill sites within the state;

(ii) The estimated funding need for the identification, characterization, prioritization, remediation and monitoring of orphan landfill sites within the state for:

(A) The next year or the next biennium, as applicable; and

(B) The next ten (10) years.

(f) In any case under paragraph (b)(iii) of this section where the department expends funds to remediate or contain contamination resulting from a landfill, and where the department has identified a responsible party, the responsible party shall reimburse the department in an amount equal to two (2) times the expenditure from the account. The attorney general shall bring suit to recover the reimbursement amount required in this subsection where recovery is deemed possible.

(g) For purposes of this section, "account" means the account created under W.S. 35-11-515(a).

Section 2. W.S. 35-11-103 by creating a new subsection (h) and 35-11-502 by creating new subsections (o) through (r) are amended to read:

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35-11-103. Definitions.

(h) Specific definitions applying to municipal solid waste landfills:

(i) "Aquifer" means an underground geologic formation:

(A) Which has boundaries that may be ascertained or reasonably inferred;

(B) In which water stands, flows or percolates;

(C) Which is capable of yielding to wells or springs significant quantities of groundwater that may be put to beneficial use; and

(D) Which is capable of yielding to wells or springs which produce a sustainable volume of more than one-half (1/2) gallon of water per minute.

(ii) "Credible data" means as defined in paragraph (c)(xix) of this section;

(iii) "Groundwater" means any water, including hot water and geothermal steam, under the surface of the land or the bed of any stream, lake, reservoir or other body of surface water, including water that has been exposed to the surface by an excavation such as a pit which:

(A) Stands, flows or percolates; and

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(B) Is capable of being produced to the ground surface in sufficient quantity to be put to beneficial use.

(iv) "Lifetime" means the estimated time to fill and close a municipal solid waste landfill, not to exceed twenty-five (25) years.

35-11-502. Solid waste management facilities permits; term; renewals.

(o) Effective July 1, 2012, the term for a new or renewed municipal solid waste landfill permit shall be for the lifetime of the solid waste landfill, through closure, not to exceed twenty-five (25) years.

(p) Effective July 1, 2012, for any existing municipal solid waste landfill permit, the next renewal permit shall be converted to a lifetime municipal solid waste permit.

(q) If, during the operation of the municipal solid waste landfill, the life of the municipal solid waste landfill is anticipated to exceed the term specified in the permit, the operator shall:

(i) Submit a municipal solid waste landfill permit amendment which shall include updates on any necessary provisions of the permit;

(ii) No later than three (3) years prior to the expiration of the lifetime municipal solid waste landfill permit, submit permit renewal information as required by the department. The municipal solid waste landfill permit may be renewed for another lifetime period, not to exceed twenty-five (25) years.

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(r) Notice and opportunity for hearing for an amended municipal solid waste landfill permit shall be as provided for a new municipal solid waste landfill permit under this section.

Section 3. W.S. 35-11-522(e) is repealed.

Section 4.

(a) Funds appropriated under 2006 Wyoming Session Laws, Chapter 101, not awarded or encumbered by the director for purposes of that act prior to June 30, 2011, shall be available to the department for the purposes of conducting priority assessments, evaluating high priority municipal solid waste landfills and refining clean-up cost estimates for those sites. These sites may include orphaned, abandoned, closed and operating landfills that have indications of more serious groundwater contamination as identified in the report submitted under W.S 35-11-522.

(b) To complete work under subsection (a) of this section, the amount the department may expend shall not exceed one million seven hundred fifty thousand dollars (\$1,750,000.00) of the appropriation under 2006 Wyoming Session Laws, Chapter 101.

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Section 5. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk