

ENROLLED ACT NO. 43, HOUSE OF REPRESENTATIVES

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

AN ACT relating to public health and safety; creating the municipal solid waste landfill remediation program; creating criteria for the program; creating the municipal solid waste landfill remediation account; providing qualifications for expenditures from the account; providing for reimbursement for the cost of remediation and monitoring activities as specified; providing a definition; providing rulemaking authority; depositing funds into the account; and providing for an effective date.

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

Section 1. W.S. 35-11-528 through 35-11-532 are created to read:

35-11-528. Municipal solid waste landfill remediation program created; purpose.

(a) There is created the municipal solid waste landfill remediation program. The program shall be administered by the solid and hazardous waste division of the department of environmental quality with the input of the waste and water advisory board as provided in W.S. 35-11-528 through 35-11-532.

(b) The legislature recognizes the threat to the public health, safety, welfare and the environment caused by pollution to soil and water from leaking municipal solid waste landfills. The purpose of this program is to take state primacy of the municipal solid waste landfill remediation program and to provide funding to take remediation actions at eligible leaking municipal solid waste landfills.

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35-11-529. Program criteria; requirements for local operator.

(a) The department shall contract with entities, including contractors and local operators, to provide monitoring and remediation activities, including but not limited to groundwater remediation and monitoring, methane mitigation and monitoring and landfill capping, at eligible leaking municipal solid waste landfills. The department shall oversee and fund up to seventy-five percent (75%) of the cost of the investigation of contamination, the design and installation of monitoring and remediation systems and the operation and maintenance of monitoring and remediation systems for up to ten (10) years. The department may operate and maintain a system for a longer period of time in consideration of site specific circumstances. The period of time during which the department shall have responsibility for the monitoring and remediation activities at a leaking municipal solid waste landfill shall be communicated to the local operator prior to installation of the monitoring and remediation systems.

(b) The department shall contract for monitoring and remediation activities under the program at leaking municipal solid waste landfills based upon the priority list of landfills developed pursuant to W.S. 35-11-524 and other factors as provided in W.S. 35-11-531(a)(iv). The department shall update the priority list of leaking landfills requiring monitoring and remediation activities periodically as conditions warrant and may consider all relevant factors when developing and updating the priority list.

(c) To be eligible for enrollment under the program, the local operators of a leaking municipal solid waste landfill shall:

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(i) Enter into a written agreement with the department to meet all regulatory obligations under the program;

(ii) Implement and revise the community's solid waste management plan as necessary to comply with all regulatory obligations;

(iii) Cease disposal of all waste streams at a leaking closed facility or the leaking portion of an operating facility which is undergoing remediation activities pursuant to department rules and regulations and the written agreement between the department and the local operator;

(iv) Cease disposal into units and facilities regulated under this article which do not have engineered containment systems or do not conform to performance based design standards;

(v) Agree to provide funding from any available funding source for at least twenty-five percent (25%) of the total costs of monitoring and remediation under the program;

(vi) Control the source of releases of pollution so as to reduce or eliminate further releases from the leaking municipal solid waste landfill;

(vii) Ensure continued revenue or funding streams sufficient to provide for all foreseeable costs of solid waste facilities under the control of the local operator or political subdivision, including but not limited to the full costs of:

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- (A) Operations;
- (B) Monitoring;
- (C) Recycling, composting and other diversion activities;
- (D) Closure; and
- (E) Post-closure activities.

(viii) Employ generally accepted accounting principles in managing all solid waste facilities under the control of the local operator or political subdivision, including the recognition of liabilities associated with:

- (A) Closure and post-closure costs; and
- (B) The long-term cost of waste disposal compared to recycling, composting or other diversion activities.

(d) In carrying out monitoring and remediation activities under the program the department has the right to construct and maintain any structure, monitor well, recovery system or any other reasonable and necessary item associated with taking remediation and monitoring actions.

(e) The department shall notify the affected public of all confirmed releases requiring a plan for remediation, and upon request, provide or make available to the interested public information concerning the nature of the release and the remediation actions planned or taken.

(f) The department shall delegate and authorize a local operator to conduct or oversee monitoring and

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remediation under the program pursuant to a written agreement between the department and the local operator acknowledging that the local operator shall adhere to all regulatory requirements of the program in conducting monitoring and remediation activities. The department shall approve the local operator's monitoring and remediation plan prior to authorizing the local operator to conduct or oversee the monitoring and remediation program. The department shall take all actions necessary to ensure that a local operator granted authority to conduct or oversee monitoring and remediation activities under this subsection complies with all regulatory requirements of the program.

35-11-530. Municipal solid waste landfill remediation account; authorized expenditures from the account.

(a) There is created the municipal solid waste landfill remediation account. The department shall use monies from the municipal solid waste landfill remediation account as appropriated by the legislature for the administration of the program. Interest earned by this account shall be deposited in the general fund. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a), funds deposited in this account shall not revert without further action of the legislature.

(b) For a leaking municipal solid waste landfill to be eligible for use of monies in the account, the owner or operator of the site shall comply with all requirements of the program and regulations of the council adopted pursuant to W.S. 35-11-531.

(c) Pursuant to subsection (d) of this section, in addition to expenditures from the account authorized by W.S. 35-11-529(a), the department shall reimburse costs

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incurred by a local operator who performed remediation and monitoring activities from the account if:

(i) A work plan for the remediation and monitoring activities was submitted to and approved by the department;

(ii) The remediation and monitoring activities were initiated between July 1, 2006 and December 31, 2012;

(iii) The local operator of a municipal solid waste landfill provides the department with an accurate accounting of the costs of remediation and monitoring activities conducted at the municipal solid waste landfill between July 1, 2006 and December 31, 2012; and

(iv) The local operator conducts additional remediation and monitoring activities at the leaking municipal solid waste landfill which are eligible for funding under W.S. 35-11-529(a) on or after July 1, 2013.

(d) Reimbursement authorized under subsection (c) of this section shall not exceed:

(i) For all reimbursements, a total of four million dollars (\$4,000,000.00);

(ii) For any one (1) municipal solid waste landfill, an amount equal to the local operator's twenty-five percent (25%) share of the total cost of remediation and monitoring activities required by W.S. 35-11-529(c)(v) for remediation and monitoring activities eligible for funding under W.S. 35-11-529(a) conducted at the municipal solid waste landfill after July 1, 2013.

35-11-531. Rules and regulations.

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(a) The council shall promulgate rules and regulations necessary to administer the program after recommendation from the director of the department, the administrator of the solid and hazardous waste division and the water and waste advisory board. The rules shall include but shall not be limited to rules and regulations which:

(i) Provide for landfill monitoring and remediation system design, construction, installation and monitoring standards which shall be no less stringent than federal requirements;

(ii) Specify the requirements for delegating installation or modification inspection authority including but not limited to requirements for contractors and local operators;

(iii) Establish a procedure or procedures for reporting any release from a municipal solid waste landfill;

(iv) Include provisions under which priorities for remediation actions shall be established in addition to the priority list created pursuant to W.S. 35-11-524. Those priorities shall be established considering, but not limited to, the following factors:

(A) Funding availability;

(B) Cost efficiencies achieved by allocation of resources;

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(C) Opportunities for increased cost sharing between monitoring and remediation actions at multiple leaking municipal solid waste landfills;

(D) Timeliness of remediation in reducing risk to public health, safety and welfare or the environment;

(E) The likelihood that the remedy will reduce or eliminate the threat posed to public health, safety and welfare or the environment by continuing releases; and

(F) Whether the facility has completed closure and transfer actions at the leaking municipal solid waste facility. Priority shall be given to solid waste facilities which have completed closure and transfer actions.

(v) Require records for compliance with repairs and upgrades to be maintained for the operational life of the landfill remediation and monitoring system;

(vi) Create requirements for participation in the program and for the return of the facility to local control pursuant to W.S. 35-11-529(a); and

(vii) Specify standards for restoration of the environment.

35-11-532. Restoration standard.

Any owner or operator, the department or other person taking a corrective action shall restore the environment to a condition and quality consistent with standards established in rules and regulations.

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Section 2. W.S. 35-11-103(d) by creating a new paragraph (xi) is amended to read:

35-11-103. Definitions.

(d) Specific definitions applying to solid waste management:

(xi) "Eligible leaking municipal solid waste landfill" means the landfills identified by the department under the priority list for municipal solid waste landfills that need remediation created pursuant to W.S. 35-11-524(b) .

Section 3. Monies appropriated to the municipal solid waste landfill account by 2011 Wyoming Session Laws, Chapter 88, Section 354, and all other monies deposited or designated for that account shall be deposited in the municipal solid waste landfill remediation account created by this section.

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Section 4. 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 House.

Chief Clerk