

ENROLLED ACT NO. 114, 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 facility cease and transfer program; creating criteria for the program; creating municipal solid waste facility cease and transfer accounts; providing qualifications for applicants to receive funds under the program; providing authority for the state loan and investment board to award funds under the program; providing for the department of environmental quality to administer the program; providing that the department shall develop a general permit as specified; providing assistance for closure of small landfills; requiring financial responsibility of municipal solid waste facility operators as specified; requiring financial reporting to the department of environmental quality; providing ineligibility for state funding for failure to perform financial responsibility actions as specified; providing rulemaking authority; providing for reports; providing appropriations; 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 facilities cease and transfer program created; criteria for grants and loans; loan terms; availability of other state funding sources.**

(a) There is created the municipal solid waste facilities cease and transfer program. Grants and loans under the program shall be awarded by the state loan and investment board. 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

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advisory board as provided in W.S. 35-11-528 through 35-11-531.

(b) Grants and loans shall be made from the municipal solid waste facilities cease and transfer accounts for all cease and transfer activities as provided in this section and by rule and regulation of the board. Grants and loans shall be made for:

(i) Capping of a closed landfill;

(ii) Other closure related expenses including engineering, geological and other professional services;

(iii) Construction or acquisition of appropriate solid waste transfer facilities and equipment, including acquisition of real property.

(c) Total costs of cease and transfer activities for a municipal solid waste facility shall be determined by the department in consultation with the local municipal solid waste facility operator. Grants shall be awarded in an amount determined by the state loan and investment board after consultation with the department and pursuant to the criteria contained in subsection (d) of this section. A municipal solid waste facility which is ceasing operations shall be eligible to receive loans for the costs of cease and transfer activities not funded by a grant pursuant to subsection (e) of this section.

(d) Grants and loans for cease and transfer activities shall be awarded in an amount determined by the state loan and investment board not to exceed seventy-five percent (75%) of the total cost of all cease and transfer activities of the municipal solid waste facility. The state loan and investment board shall base its

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determination of the percentage of grants and loans awarded for cease and transfer projects under the program on an equitable distribution of available funds among eligible municipal solid waste landfills and rules and regulations adopted pursuant to W.S. 35-11-530. To be eligible for funding under the program the following criteria shall be met:

(i) The local operator enters into a written agreement with the department to meet all regulatory obligations under the program;

(ii) The local operator implements and revises the community's solid waste management plan as necessary to comply with all regulatory obligations;

(iii) The local operator ceases disposal of all municipal solid waste streams at the closed municipal solid waste facility;

(iv) The local operator conforms to the requirements of W.S. 35-11-532;

(v) The local operator ceases 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.

(e) Loans may be made under the program at zero interest rate, up to an annual interest rate equal to the average prime interest rate as determined in accordance with this subsection. Loans provided under the program shall be adequately collateralized as determined by the state loan and investment board. Principal and interest payments shall be deposited in the budget reserve account. The state loan and investment board shall establish

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interest rates to be charged for loans under the program, but the interest rate shall not exceed an annual interest rate equal to the average prime interest rate as determined by the state treasurer. To determine the average prime interest rate, the state treasurer shall average the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States. The interest rate shall be adjusted on January 1 of each year. Interest rates shall be established in recognition of the repayment abilities and needs of the local municipal solid waste facility operator eligible for loans under the program. The state loan and investment board shall establish loan amortization schedules, terms and conditions for each loan approved based on an applicant's need, financial condition of the landfill operator or the entity responsible for solid waste funding, the projected life of the transfer facility and the ability of that entity to repay the loan in a timely manner.

(f) Participation in the program shall not restrict funding for a municipal solid waste facility from any other program created or supported by the state.

(g) Funds under the program shall not be expended on:

(i) Salaries or benefits for employees of the municipal solid waste facility;

(ii) Long-term monitoring at a closed municipal solid waste facility or a closed cell of a still operating municipal solid waste facility;

(iii) Operational costs of municipal solid waste facilities.

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**35-11-529. Municipal solid waste facilities cease and transfer accounts created; authorized expenditures from the accounts.**

(a) There is created the municipal solid waste cease and transfer grant account. Monies from the account shall be awarded for grants to fund approved activities pursuant to W.S. 35-11-528. Interest earned by this account shall be deposited in the budget reserve account. 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) There is created the municipal solid waste cease and transfer loan account. Monies from the account shall be awarded for loans to fund approved activities pursuant to W.S. 35-11-528. Interest earned by this account shall be deposited in the budget reserve account. 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.

**35-11-530. Rules and regulations.**

(a) The state loan and investment board in consultation with the department of environmental quality shall promulgate rules and regulations necessary to administer the municipal solid waste facility cease and transfer program. Those rules shall include:

(i) Criteria for eligibility under the program based on W.S. 35-11-528(d);

(ii) Specific cease and transfer activities which are eligible for funding under the program;

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(iii) Application form and procedure under the program;

(iv) Criteria for grant and loan prioritization based on:

(A) Funding availability;

(B) Cost efficiencies achieved by allocation of resources;

(C) Opportunities for increased cost sharing between cease and transfer actions at multiple leaking municipal solid waste facilities;

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

(E) Remaining life of the existing municipal solid waste facility;

(F) Whether the proposed actions are a cost-effective alternative in accordance with the integrated solid waste management plan approved for the municipal solid waste facility;

(G) Whether the proposed action is reasonable and appropriate for the current and projected volumes of all solid waste for the area served by the facility;

(H) Whether the proposal contains recycling and other forms of waste diversion as a component of the proposed facilities and management practices; and

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(J) The likelihood that the cease and transfer actions will reduce or eliminate the threat posed to public health, safety and welfare or the environment by continuing releases.

**35-11-531. General permit for cease and closure for small landfills; rulemaking authority.**

(a) The department shall develop a general permit in accordance with W.S. 35-11-801(d) for closing municipal solid waste landfills with a total surface area of less than thirty (30) acres, and shall provide assistance to municipalities in the general permitting process. The general permit shall comply with federal requirements for municipal solid waste landfill closure and post-closure.

(b) The department shall provide assistance for permitting municipal solid waste transfer facility activities at closing municipal solid waste landfills with a total surface area of less than thirty (30) acres.

(c) The department shall promulgate rules and regulations necessary to achieve the purposes of this section.

(d) The department shall report to the joint minerals, business and economic development interim committee on or before July 1, 2014 on the assistance provided under subsections (a) and (b) of this section.

**35-11-532. Municipal solid waste facility operator financial responsibility; penalties.**

(a) Municipal solid waste facility operators shall ensure continued revenue or funding streams sufficient to

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provide for all foreseeable costs of the facility, including but not limited to the full costs of:

- (i) Operations;
- (ii) Monitoring;
- (iii) Recycling, composting and other diversion activities;
- (iv) Closure; and
- (v) Post-closure activities.

(b) On or before January 1, 2014 and at least once every four (4) years thereafter, municipal solid waste facility operators shall submit to the department written documentation demonstrating compliance with subsection (a) of this section.

(c) Municipal solid waste facility operators shall employ generally accepted accounting principles, including the recognition of liabilities associated with:

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

(d) Compliance with this section shall be a prerequisite for eligibility for any state grant and loan program available to a municipal solid waste facility and state funding for solid waste landfill monitoring and remediation.



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**Section 2.**

(a) Notwithstanding any other provision of law, there is appropriated four million dollars (\$4,000,000.00) from the general fund to the municipal solid waste facilities cease and transfer grant account for the purposes of this act. No funds shall be expended from this account until the legislature has approved a prioritized list of projects that qualify for these grants.

(b) Notwithstanding any other provision of law, there is appropriated one million five hundred thousand dollars (\$1,500,000.00) from the general fund to the municipal solid waste facilities cease and transfer loan account for the purposes of this act. No funds shall be expended from this account until the legislature has approved a prioritized list of projects that qualify for these loans.

(c) There is appropriated fifty thousand dollars (\$50,000.00) from the general fund to the office of state lands and investments for the administration of the municipal solid waste landfill cease and transfer program. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2014.

(d) There is appropriated one hundred fifty thousand dollars (\$150,000.00) from the general fund to the department of environmental quality to fulfill the purposes of this act. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2014.

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**Section 3.** 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