

A bill for an act
relating to landfills; modifying provisions of landfill cleanup program; amending
Minnesota Statutes 2008, sections 115B.39, subdivision 2; 115B.40, subdivision
6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 115B.39, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) In addition to the definitions in this subdivision, the
definitions in sections 115A.03 and 115B.02 apply to sections 115B.39 to 115B.445,
except as specifically modified in this subdivision.

(b) "Cleanup order" means a consent order between responsible persons and the
agency or an order issued by the United States Environmental Protection Agency under
section 106 of the federal Superfund Act.

(c) "Closure" means actions to prevent or minimize the threat to public health and
the environment posed by a mixed municipal solid waste disposal facility that has stopped
accepting waste by controlling the sources of releases or threatened releases at the facility.
"Closure" includes removing contaminated equipment and liners; applying final cover;
grading and seeding final cover; installing wells, borings, and other monitoring devices;
constructing groundwater and surface water diversion structures; and installing gas control
systems and site security systems, as necessary. The commissioner may authorize use of
final cover that includes processed materials that meet the requirements in Code of Federal
Regulations, title 40, section 503.32, paragraph (a).

(d) "Closure upgrade" means construction activity that will, at a minimum, modify
an existing cover so that it satisfies current rule requirements for mixed municipal solid
waste land disposal facilities.

(e) "Contingency action" means organized, planned, or coordinated courses of action to be followed in case of fire, explosion, or release of solid waste, waste by-products, or leachate that could threaten human health or the environment.

(f) "Corrective action" means steps taken to repair facility structures including liners, monitoring wells, separation equipment, covers, and aeration devices and to bring the facility into compliance with design, construction, groundwater, surface water, and air emission standards.

(g) "Decomposition gases" means gases produced by chemical or microbial activity during the decomposition of solid waste.

(h) "Dump materials" means nonhazardous mixed municipal solid wastes disposed at a Minnesota waste disposal site other than a qualified facility prior to 1973.

(i) "Environmental response action" means response action at a qualified facility, including corrective action, closure, postclosure care; contingency action; environmental studies, including remedial investigations and feasibility studies; engineering, including remedial design; removal; remedial action; site construction; and other similar cleanup-related activities.

(j) "Environmental response costs" means:

(1) costs of environmental response action, not including legal or administrative expenses; and

(2) costs required to be paid to the federal government under section 107(a) of the federal Superfund Act, as amended.

(k) "Postclosure" or "postclosure care" means actions taken for the care, maintenance, and monitoring of closure actions at a mixed municipal solid waste disposal facility.

(l) "Qualified facility" means a mixed municipal solid waste disposal facility as described in the most recent agency permit, including adjacent property used for solid waste disposal that did not occur under a permit from the agency, that:

(1)(i) is or was permitted by the agency;

(ii) stopped accepting solid waste, except demolition debris, for disposal by April 9, 1994; and

(iii) stopped accepting demolition debris for disposal by June 1, 1994, except that demolition debris may be accepted until May 1, 1995, at a permitted area where disposal of demolition debris is allowed, if the area where the demolition debris is deposited is at least 50 feet from the fill boundary of the area where mixed municipal solid waste was deposited; ~~or~~

(2)(i) is or was permitted by the agency; and

(ii) stopped accepting waste by January 1, 2000, except that demolition debris, industrial waste, and municipal solid waste combustor ash may be accepted until January 1, 2001, at a permitted area where disposal of such waste is allowed, if the area where the waste is deposited is at least 50 feet from the fill boundary of the area where mixed municipal solid waste was deposited; or

(3)(i) is or was permitted by the agency; and

(ii) stopped accepting all waste by January 1, 1998, except for municipal solid waste combustor ash from a permitted waste-to-energy combustor facility that is modified to include a materials reduction facility and has the capacity to produce ash residue that is less than ten percent of the weight of waste inputs, if the area where the ash is deposited is at least 50 feet from the known fill boundary of the area where mixed municipal waste was deposited.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2008, section 115B.40, subdivision 6, is amended to read:

Subd. 6. **Commissioner; duties.** (a) If the owner or operator of a qualified facility that is subject to the requirements of subdivision 4, paragraph (a), fails to comply with subdivision 4, paragraph (a), clause (1) or (2), the commissioner shall:

(1) undertake or complete closure activities at the facility in compliance with the solid waste rules in effect at the time the commissioner takes action under this clause; and

(2) undertake or continue postclosure care at the facility as required under subdivision 2.

(b) If a facility has been properly closed under subdivision 4, but the applicable closure requirements are less environmentally protective than closure requirements in the solid waste rules in effect on January 1, 1993, the commissioner shall determine whether the facility should be closed to the higher standards and, if so, shall undertake additional closure activities at the facility to meet those standards. The commissioner may determine that additional closure activities are unnecessary only if it is likely that response actions will be taken in the near future and that those response actions will result in removal or significant alteration of the closure activities or render the closure activities unnecessary.

(c) Notwithstanding subdivision 4, for a qualified facility defined under section 115B.39, subdivision 2, paragraph (l), clause (3), the commissioner must assume financial responsibility for all postclosure care and contingency actions and any other related actions required at the facility.

EFFECTIVE DATE. This section is effective the day following final enactment.