

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3531. Definitions.

For the purpose of this chapter:

(a) The term “advance disposal fee” means fees assessed at the point of entry to the Commonwealth which are intended to cover a portion of the costs of the management of specific materials which end up in the waste stream.

(b) The term “importer” means the person, business or agency who brings into the Commonwealth for first use or sale those articles which are subject to the provisions of this chapter.

(c) The term “permitted recycler” means a person or business organization licensed by the Commonwealth and permitted by the DEQ to receive, collect, or process specific materials for diversion.

(d) The term “consumer” means end user or purchaser

(e) The term “person” means any real person, business corporate entity, corporate entity, or governmental body or agency

(f) The term “avoided cost payments” means payments made to permitted recyclers or other organization for material diverted from the waste stream. Payments are made on a tonnage basis and reflect long term savings to the community by conserving landfill capacity. Payments may be a flat rate for all recovered material, or a variable rate based on a products marketability. Payments are to be used to offset processing costs and may require a minimum amount to be paid out to the collector/hauler by the processor.

(g) The term “retailer” means any vendor who sells products to end-users.

(h) The term “wholesaler” means any vendor who sells products for resale.

(i) The term “buy back center” means a business or organization which operates a collection center for recyclable material and provides rebates or other payments to businesses or individuals who return them.

Source: PL 11-122, § 3, modified.

Commission Comment: PL 11-122 that created this chapter took effect February 10, 2000. PL 11-122 contained title, findings and purpose, severability, and savings clause provisions as follows:

Section 1. Title. This Act shall be known and may be cited as the “Commonwealth Recycling Act of 1999.”

Section 2. Findings and Purpose. The Legislature finds that there is a serious problem in the Commonwealth concerning the growing volume of solid waste generated by our residents and businesses. With the completion of the new Municipal Solid Waste Landfill at Marpi, the need to insure sufficient long-term disposal capacity for the Commonwealth will become even more critical. Thus it is imperative that we maximize all efforts to divert material from the landfill and extend the life of our disposal facility.

Inherent in our goal of diverting material from disposal in our landfills is the proper management of materials containing toxic substances; reduction of the quantities and toxicity of the leachate generated by landfill operations, the minimization of air pollution and the generation of

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

“Greenhouse” gasses; and the reduction of illegal dumping and litter and their impacts on our environment and our tourist economy.

In addition, the legislature recognizes the multiple benefits of waster diversion and recycling. Not only will the promotion of recycling programs extend the limited life of our Landfills; diversion efforts can reduce the environmental impacts of certain wastes, conserve the valuable resources, provide needed skilled jobs for our residents, expand the Commonwealth tax base and result in reduced long term costs of waste management to our business. We further find that this program can be self-sustaining, and not require government subsidies.

Too often waste disposal activities are considered services, and the full costs of disposal are not calculated in developing alternatives to landfilling. Waste diversion activities, on the other hand, are generally expected to “pay for themselves” while competing with disposal costs which do not reflect the true value of the limited capacity of the disposal facility. We believe that by assessing advanced disposal fees, we can eliminate many toxic and hazardous materials from our landfills. This Act will require shared responsibility and cooperation between the Division of Solid Waste management, the Department of Public works, and the Department of Lands and Natural resources.

Advance Disposal Fees are fees assessed at the point of entry to the Commonwealth which are intended to cover a portion of the costs of the management of specific materials which end up in the waste stream. These fees should reflect the total cost of waste management and provide funding for alternative management activities such as recycling, reuse or re-manufacturing. It is the intent of the Legislature to focus initially on those materials which have been found to have significant environmental impacts, pose substantial costs to the existing waste management infrastructure, and/or have an identified potential for economic diversion. Preliminary economic research indicates that this program will be self-sustaining, with minimal impact on the cost of goods to end-users. Overall, we feel that a cleaner, safer place to live is worth the minimal cost add on to certain consumer good.

It is the intent of this Act to establish the authority within the Division of Environmental Quality, to assess fees on certain imported materials which due to their environmental, economic or social impact should be diverted from disposal within the Commonwealth. In order to equitably support diversion activities, and provide for a stable funding base for recycling of targeted materials the Legislature is directing the Division of Environment Quality, to develop, through regulation, Advance Disposal Fees (ADF's) for specific materials deemed viable for diversion.

. . .

Section 9. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 10. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule,

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

In subsection (e) of this section, after the word “means”, the word “and” has been revised to “any” to correct a manifest typographical error pursuant to the authority to do so provided in 1 CMC § 3806(g). Moreover, DEQ is the acronym for Division of Environmental Quality.