

CHAPTER 11**PROCESSING OF DAMAGE CLAIMS PURSUANT TO
THE SANITARY LANDFILL FACILITY CLOSURE
AND CONTINGENCY FUND ACT****Authority**

N.J.S.A. 13:1B-3, 13:1D-9, 13:1E-100 et seq. (particularly
13:1E-106 and 13:1E-114), and 58:10-23.11 et seq.

Source and Effective Date

R.2004 d.329, effective July 29, 2004.
See: 36 N.J.R. 1269(a), 36 N.J.R. 4127(a).

Chapter Expiration Date

Pursuant to Executive Order No. 1(2010), the chapter expiration date is extended from January 25, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

Chapter Historical Note

Chapter 11, Processing of Damage Claims Pursuant to the Sanitary Landfill Facility Closure and Contingency Fund Act, was adopted as R.1983 d.571, effective December 5, 1983. See: 15 N.J.R. 1213(a), 15 N.J.R. 2034(d).

Chapter 11, Processing of Damage Claims Pursuant to the Sanitary Facility Closure and Contingency Fund Act, was repealed and Chapter 11, Processing of Damage Claims Pursuant to the Sanitary Facility Closure and Contingency Fund Act, was adopted as new rules by R.1988 d.337, effective July 18, 1988. See: 20 N.J.R. 443(a), 20 N.J.R. 1732(b).

Public Notice. See: 21 N.J.R. 1911(b).

Administrative Change. See: 23 N.J.R. 3325(b).

Chapter 11, Processing of Damage Claims Pursuant to the Sanitary Facility Closure and Contingency Fund Act, was repealed and Chapter 11, Processing of Damage Claims Pursuant to the Sanitary Facility Closure and Contingency Fund Act, was adopted as new rules by R.1994 d.83, effective February 22, 1994. See: 25 N.J.R. 5116(a), 26 N.J.R. 1114(a).

Pursuant to Executive Order No. 66(1978), Chapter 11, Processing of Damage Claims Pursuant to the Sanitary Facility Closure and Contingency Fund Act, was readopted as R.1999 d.91, effective February 22, 1999. See: 30 N.J.R. 4157(a), 31 N.J.R. 763(a).

Chapter 11, Processing of Damage Claims Pursuant to the Sanitary Landfill Facility Closure and Contingency Fund Act, was readopted as R.2004 d.329, effective July 29, 2004. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 11, Processing of Damage Claims Pursuant to the Sanitary Landfill Facility Closure and Contingency Fund Act, was scheduled to expire on January 25, 2010. See: 41 N.J.R. 2759(a).

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SUBCHAPTER 1. GENERAL PROVISIONS**7:11-1.1 Purpose and scope**

(a) This chapter constitutes the rules of the Department concerning the processing of all claims under the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq. (the "Act"), for damages proximately resulting from the improper operation or improper closure of a sanitary landfill facility, pursuant to the Act, including Department procedures for review and decision making regarding such claims.

(b) This chapter is promulgated for the following purposes:

1. To implement the purposes and objectives of the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq.;
2. To establish rules for administration of the Sanitary Landfill Facility Contingency Fund, established pursuant to the Act, for the purpose of providing prompt and adequate compensation for damages as defined herein; and
3. To protect and insure that the taxes credited to the Fund are spent in a proper manner and for the intended purposes.

7:11-1.2 Construction and applicability

(a) This chapter shall be liberally construed to allow the Department to fulfill the purposes of the Act concerning claims for compensation for damages proximately resulting from the improper operation or improper closure of a sanitary landfill facility. This chapter shall be construed in conformity with, and not in derogation of, the Act.

(b) This chapter shall apply to the processing of all claims which have not been paid, settled, denied or the subject of a final decision by the Commissioner of the Department on or before February 22, 1994, notwithstanding the date upon which any such claim was filed with the Department.

Case Notes

Township that consented to installation and maintenance of leachate monitoring wells on property, which was former sanitary landfill site, and assumed obligation to do work and provide funding work was not barred from applying for statutory damages under Sanitary Landfill Closure and Contingency Fund Act. Matter of Adoption of N.J.A.C. 7:11, 291 N.J.Super. 183, 677 A.2d 218 (A.D.1996).

7:11-1.3 Severability

If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof.

7:11-1.4 Delegation

The Department may delegate administrative, supervisory, or investigatory authority to members of the Department's staff. The Department may enter into contracts on behalf of the Fund or the Department for the performance of services ancillary to the powers and duties of the Department under the Act, including, but not limited to, the performance of claims adjustment services.

7:11-1.5 Definitions

The following words and terms, when used in this chapter, shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions found at N.J.A.C. 7:26-1.4.

"Act" means the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq.

"Claim" means the claim for damages filed with the Department for recovery from the Fund. The claim includes all documents submitted under this chapter in support of the claim, including without limitation any amendments thereto under N.J.A.C. 7:11-3.4.

"Claimant" means the person filing a claim.

"Closure" means all activities and costs associated with the design, purchase, construction or maintenance of all measures required by the Department, pursuant to law, in order to prevent, minimize or monitor pollution or health hazards resulting from sanitary landfill facilities subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the costs of the placement of earthen or vegetative cover, the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility, and the cost of general liability insurance, including environmental impairment liability insurance, or an amount sufficient to create a self-insurance fund as may be determined by the Board of Public Utilities pursuant to section 10 of P.L. 1981, c.306 (N.J.S.A. 13:1E-109), to fund potential claims against the owner or operator of the sanitary landfill facility during the closure and post-closure period.

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Covenant not to sue" means a covenant pursuant to N.J.S.A. 58:10B-13.1 or 13.2.

"Damages" means and includes, but is not limited to, the following:

1. The cost of restoring, repairing or replacing any real or personal property damaged or destroyed;
2. The diminution in fair market value of any real property where such diminution can be shown by a preponderance of the evidence to have solely resulted from the improper operation or improper closure of a sanitary landfill facility. Any property valuation calculations made for the purpose of this chapter shall expressly take into consideration any and all other factors which directly or indirectly affect the fair market value of the property;
3. The cost of any personal injuries, including any medical expenses incurred and income lost as a result thereof; and

4. The costs of the design, construction, installation, operation and maintenance of any device or action deemed necessary by the Department to clean up, remedy, mitigate, monitor or analyze any threat to the environment and public health, safety or welfare of the citizens of this State, including the installation and maintenance of methane gas monitors and vents and leachate monitoring wells and collection systems, and the sampling and analysis of any public or private potable water supply.

5. Damages do not include legal fees incurred in filing claims or for participation in an administrative hearing or any legal action against the Fund and costs normally associated with the listing, sale and transfer of property which is the subject of a claim. Additionally, damages do not include interest on any monetary award assessed against the Fund.

“Department” means the New Jersey Department of Environmental Protection.

“Discovery” means the time at which the claimant discovers, or by the exercise of reasonable diligence and intelligence should have discovered, that he or she has incurred damages.

“Disposal” or “disposed” means the use of the term which is expressly discussed and defined at N.J.S.A. 13:1E-3.

“Engineering controls” means any physical mechanism defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

“Final remediation document” means a document defined as such pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules, at N.J.A.C. 7:26C-1.3.

“Fund” means the Sanitary Landfill Facility Contingency Fund established pursuant to the Act.

“Government entity” means a governing body, department, agency, authority or any other unit of any Federal, State, county or local government or governments, including without limitation a municipal utilities authority.

“Improper operation” or “improper closure” of a sanitary landfill facility means the operation or closure of a sanitary landfill facility that results in a substantial deviation from applicable operation and closure requirements. A de minimis deviation from such applicable operation and closure requirements shall not constitute grounds for a determination that a sanitary landfill facility is being improperly operated or has at any time been improperly closed. A finding of improper operation or improper closure shall only be made upon the basis of a preponderance of the evidence being introduced by the claimant.

“Institutional controls” means a mechanism defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

“Notice of Intent,” or “NOI,” means a notice issued by the Department to a claimant pursuant to N.J.A.C. 7:11-5.4, informing the claimant that the Department intends to pay or deny his or her claim.

“Owner or operator” means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land whereon a sanitary landfill facility is located, has been located, had been located or at any time was located, and any person or corporation which owns a majority interest in any other corporation which is the owner or operator of any sanitary landfill facility and every person who operates or operated a sanitary landfill facility at any point in time and every agent or representative of such operator.

“Person” means any public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, individuals, the United States, the State of New Jersey and any of its political subdivisions or agents.

“Physical intrusion” means the existence of methane gas, leachate or other material emanating from the sanitary landfill facility on or under a claimant’s real property.

“Potable water” means drinking water, water for other personal uses, and water for purposes requiring a supply of water which the Department determines is suitable for human consumption pursuant to the Safe Drinking Water regulations set forth at N.J.A.C. 7:10. “Potable water” does not include water for use in fire fighting or for agricultural purposes.

“Responsible party” means any person who directly or indirectly contributed at any point in time to the occurrence, event, action or damages upon which any person’s claim or other claims are based.

“Sanitary landfill facility” means a governmentally approved solid waste facility at which solid waste is deposited, or has ever been deposited, on or in the land as fill for the purpose of permanent disposal or storage for a period exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste.

“Solid waste” means the use of the term which is expressly discussed and defined at N.J.S.A. 13:1E-3(a).

Amended by R.1999 d.91, effective March 15, 1999.
See: 30 N.J.R. 4157(a), 31 N.J.R. 763(a).

In “Closure” substituted a reference to the Board of Public Utilities for a reference to the Board of Regulatory Commissioners; in “Commissioner”, substituted a reference to the Commissioner of the Department of Environmental Protection for a reference to the Commissioner of Environmental Protection and Energy in the State Department of Environmental Protection; inserted “Covenant not to sue”, “Engineering controls”, “Institutional controls” and “No further action letter”; rewrote “Person”; and in “Sanitary landfill facility”, inserted “, or has ever been deposited,” following “is deposited”.
Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Rewrote definition “Covenant not to sue”; added definition “Final remediation document”; and deleted definition “No further action letter”.
Administrative correction.

See: 42 N.J.R. 778(a).

Case Notes

Landfill was "sanitary landfill". State of N.J. Dept. of Environmental Protection and Energy v. Gloucester Environmental Management Services, Inc., D.N.J.1994, 866 F.Supp. 826.

Township that consented to installation and maintenance of leachate monitoring wells on property, which was former sanitary landfill site, and assumed obligation to do work and provide funding work was not barred from applying for statutory damages under Sanitary Landfill Closure and Contingency Fund Act. Matter of Adoption of N.J.A.C. 711, 291 N.J.Super. 183, 677 A.2d 218 (A.D.1996).

Sanitary Landfill Facility Closure and Contingency Fund Act regulations defined "sanitary landfill" and "governmental approval." Johnson Machinery Co., Inc. v. Manville Sales Corp., 248 N.J.Super. 285, 590 A.2d 1206 (A.D.1991).

Township qualified as owner of sanitary landfill and could not recover costs of installing monitoring wells. Township of Voorhees v. Department of Environmental Protection and Energy, 95 N.J.A.R.2d (EPE) 104, reversed 291 N.J.Super 183, 677 A.2d 218.

7:II-1.6 Liabilities for damages

(a) Every owner or operator of a sanitary landfill facility shall be jointly and severally liable for the proper operation and closure of the sanitary landfill facility, as required by law, and for any damages, no matter by whom sustained, proximately resulting from the operation or closure of the sanitary landfill facility.

(b) The Fund shall be strictly liable for all direct and indirect damages proximately resulting from the improper operation or improper closure of any sanitary landfill facility. The Fund shall not be liable for any damages resulting from the proper operation or proper closure of any sanitary landfill facility.

Case Notes

Diminution in fair market value of real property in absence of tangible physical damage could be compensable under Sanitary Landfill Closure and Contingency Fund Act. State of N.J. Dept. of Environmental Protection and Energy v. Gloucester Environmental Management Services, Inc., D.N.J.1994, 866 F.Supp. 826.

Former procedure of deducting 25% to reflect estimated decrease in property's fair market value. State of N.J. Dept. of Environmental Protection and Energy v. Gloucester Environmental Management Services, Inc., D.N.J.1994, 866 F.Supp. 826.

Amended mechanism for paying diminution of value claims was not arbitrary or capricious. State of N.J. Dept. of Environmental Protection and Energy v. Gloucester Environmental Management Services, Inc., D.N.J.1994, 866 F.Supp. 826.

Township qualified as owner of sanitary landfill and could not recover costs of installing monitoring wells. Township of Voorhees v. Department of Environmental Protection and Energy, 95 N.J.A.R.2d (EPE) 104, reversed 291 N.J.Super. 183, 677 A.2d 218.

7:II-1.7 Signatures; certifications

(a) All claims, and all affidavits required under this chapter, shall be signed by the claimant and notarized, as follows:

1. If the claimant or affiant is a corporation, the claim or affidavit shall be signed by a person authorized by a resolution of the claimant's board of directors to sign the document in question. The claimant or affiant shall submit with the document a copy of the resolution of the claimant's board of directors authorizing the person to sign the document. The copy of the resolution shall be certified as a true copy by the secretary of the corporation.

2. If the claimant or affiant is a partnership, the claim or affidavit shall be signed by a general partner of the partnership.

3. If the claimant or affiant is a sole proprietorship, the claim or affidavit shall be signed by the proprietor of the proprietorship.

4. If the claimant or affiant is a municipality, local unit, State, Federal or other public agency, the claim or affidavit shall be signed by a principal executive officer of such entity, the ranking elected official of such entity, or the designee of such principal executive officer or ranking elected official. If the claim or affidavit is signed by a designee, the claimant shall submit with the claim or affidavit a copy of the document authorizing the designee to sign the claim or affidavit.

5. If the claimant or affiant is a natural person, the claim or affidavit shall be signed by the claimant or affiant, provided however, that if the claimant or affiant is a minor, is incompetent as defined under New Jersey law, or is deceased, the claim or affidavit shall be signed by the claimant's parent, guardian, executor, or court appointed representative, as applicable.

(b) All claims, and all affidavits required by this chapter, shall contain the following certification, signed by the person required to sign the claim or affidavit:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted herein and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, to the best of my knowledge, I believe the information submitted is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information, and that I am committing a crime in the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for penalties."

Amended by R.1999 d.91, effective March 15, 1999.

See: 30 N.J.R. 4157(a), 31 N.J.R. 763(a).

Rewrote (b).

Case Notes

Sanitary Landfill Facility Contingency Fund award regulation reducing award by any prior compensation for damages is valid. Citizens for Equity v. New Jersey Dept. of Environmental Protection, 252 N.J.Super. 62, 599 A.2d 516 (A.D.1990), affirmed 126 N.J. 391, 599 A.2d 507.

7:II-1.8 Notices and other communications

(a) All claims, notices, requests, and other communications required or permitted under this chapter shall be given in writing and sent by certified mail, return receipt requested or by other means which provides a receipt showing the date of mailing and the date of delivery. All such communications sent to the Department by certified mail shall be sent to the following address:

Department of Environmental Protection
Environmental Claims Administration
PO Box 028
Trenton, New Jersey 08625-0028

(b) All such communications sent to the Department by means for which a street address is required by the carrier shall be sent to the following address:

Department of Environmental Protection
Environmental Claims Administration
401 East State Street
Trenton, New Jersey 08609

(c) All such communications to the claimant shall be sent to the mailing address set forth in the claim under N.J.A.C. 7:II-3.3(a)3 unless the claimant directs otherwise under N.J.A.C. 7:II-3.6.

Amended by R.1999 d.91, effective March 15, 1999.
See: 30 N.J.R. 4157(a), 31 N.J.R. 763(a).

In (b), changed the street address.

7:II-1.9 Computation of time

(a) In computing any period of time fixed by or under this chapter, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(b) In computing any period of time fixed by or under any provision of this chapter, "days" shall mean calendar days, unless the provision specifies working days.

Case Notes

Developer's claim against Sanitary Landfill Contingency Fund was properly denied due to out-of-time filing. *Bruce & Riiff v. Department of Environmental Protection*, 96 N.J.A.R.2d (EPE) 334.

SUBCHAPTER 2. CLAIMS GENERALLY**7:II-2.1 Persons who may submit a claim**

Any person claiming to have incurred damages proximately resulting from the improper operation or improper closure of a sanitary landfill facility may submit to the Department a claim for such damages. No subrogee or assignee of a person who has incurred damages may submit a claim.

No claim by a subrogee or assignee of a person who has incurred damages shall be eligible for compensation from the Fund.

Case Notes

Sale was prerequisite to claim for damages to property located next to old dump site. *Russell v. Department of Environmental Protection*, 95 N.J.A.R.2d (EPE) 67.

7:II-2.2 Burden of proof

(a) No claim shall be eligible for compensation from the Fund unless the claimant shows by a preponderance of the evidence that the claim satisfies all requirements for eligibility under the Act and this chapter, and that the amount of the claim correctly reflects and is reasonable in relation to the damages which the claimant has sustained. No claimant shall be entitled to payment from the Fund unless the claimant shows by a preponderance of the evidence that the damages sustained are a proximate result of the improper operation or improper closure of a sanitary landfill facility.

(b) A claimant shall affirmatively rebut any and all reasons for denial as stated in a Notice of Intent (NOI) to deny pursuant to N.J.A.C. 7:II-5.4 or a Denial pursuant to N.J.A.C. 7:II-5.5.

Case Notes

Diminution in fair market value of real property in absence of tangible physical damage could be compensable under Sanitary Landfill Closure and Contingency Fund Act. *State of N.J. Dept. of Environmental Protection and Energy v. Gloucester Environmental Management Services, Inc.*, D.N.J.1994, 866 F.Supp. 826.

Former procedure of deducting 25% to reflect estimated decrease in property's fair market value was arbitrary and capricious. *State of N.J. Dept. of Environmental Protection and Energy v. Gloucester Environmental Management Services, Inc.*, D.N.J.1994, 866 F.Supp. 826.

Amended mechanism for paying diminution of value claims was not arbitrary or capricious. *State of N.J. Dept. of Environmental Protection and Energy v. Gloucester Environmental Management Services, Inc.*, D.N.J.1994, 866 F.Supp. 826.

7:II-2.3 Damages actually incurred; mitigation

(a) A claim shall be ineligible for compensation from the Fund unless the claimant has actually incurred the damages which are the subject of the claim. A claim shall be ineligible for compensation from the Fund to the extent that the damages which are the subject of the claim are contingent or speculative.

(b) A claim shall be ineligible for compensation from the Fund to the extent that the claimant has received compensation from any other source for damages which are the subject of the claim. The claimant shall exercise best efforts to obtain compensation from any other source from which compensation is reasonably likely to be available, including, without limitation, insurance policies, court awards, contractual rights, grants or other financial assistance from the Hazardous Discharge Site Remediation Fund, N.J.S.A. 58:10B-4, the Petroleum Underground Storage Tank Reme-

diation, Upgrade and Closure Fund, N.J.S.A. 58:10A-37.3 and any other remedies provided under statutory or common law. The Department may suspend processing of any claim pending the completion of the claimant's efforts to obtain compensation from such other sources. In determining the amount of an award, if any, the Department shall reduce the award by the amount of compensation already received by the claimant for the damage which is the subject of the claim.

(c) Claimants must fully disclose an award or settlement received or sought from any other source within 10 days of receiving compensation or within 10 days of seeking compensation from any other source. Failure to disclose such action shall result in denial of the claim.

(d) A claim involving the purchase and subsequent sale of property near a sanitary landfill facility shall be ineligible for compensation if the claimant knew or reasonably should have known of the potential that damages, including, but not limited to, property value diminution, could result by virtue of purchasing property near the particular sanitary landfill facility in question.

(e) The claimant shall exercise reasonable diligence and ordinary care and take affirmative measures to mitigate or prevent the damages incurred by the claimant from occurring in the first instance or from increasing or being aggravated. Additional damages that are the result of claimant's failure to mitigate damages shall not be eligible for compensation from the Fund.

(f) Any costs incurred by the claimant prior to filing of a claim or during the pendency of a claim shall not prejudice the rights of the Department to evaluate the reasonableness of said costs prior to the granting of an award.

Amended by R.1999 d.91, effective March 15, 1999.

See: 30 N.J.R. 4157(a), 31 N.J.R. 763(a).

Rewrote (b); in (d), inserted "; including, but not limited to, property value diminution," following "damages"; and in (e), added a second sentence.

Case Notes

Township that consented to installation and maintenance of leachate monitoring wells on property, which was former sanitary landfill site, and assumed obligation to do work and provide funding work was not barred from applying for statutory damages under Sanitary Landfill Closure and Contingency Fund Act. Matter of Adoption of N.J.A.C. 7:11, 291 N.J.Super. 183, 677 A.2d 218 (A.D.1996).

Sanitary Landfill Contingency Fund claimants should have been notified processing was temporarily suspended. *Citizens for Equity v. New Jersey Dept. of Environmental Protection*, 126 N.J. 391, 599 A.2d 507 (1991).

Department of Environmental Protection's newly adopted claims processing regulations applied to pending claims. *Citizens for Equity v. New Jersey Dept. of Environmental Protection*, 126 N.J. 391, 599 A.2d 507 (1991).

Department of Environmental Protection regulation requiring sale of property as precondition to value diminution damage award was valid. *Citizens for Equity v. New Jersey Dept. of Environmental Protection*, 126 N.J. 391, 599 A.2d 507 (1991).

7:11-2.4 Overlapping claims

(a) A claim shall be ineligible for compensation from the Fund to the extent that the Fund has already paid or settled another claim for the same damages.

(b) If two or more claims include an assertion of the same damages, the Department shall apportion payment for such damages among the claimants or exclude certain of the claims from payment. The Department shall base the apportionment or exclusion upon the Department's determination of which claimants have actually incurred the damages in question.

7:11-2.5 Waiver of damages not set forth in claim

The claimant shall be deemed to have waived any damages which are not set forth in the claim or in any response to the Department's request for information under N.J.A.C. 7:11-3.3, or in any amendment to such claim or response under N.J.A.C. 7:11-3.4.

7:11-2.6 Claims by responsible parties or by owners or operators of a sanitary landfill facility

(a) No responsible party for a particular sanitary landfill facility shall receive compensation from the Fund for damages proximately resulting from the very sanitary landfill facility for which they are a responsible party.

(b) No owner or operator for a particular sanitary landfill facility shall receive compensation from the Fund for damages proximately resulting from the very sanitary landfill facility for which they are an owner or operator.

(c) No person who at any time deposited, disposed or otherwise discarded solid waste on or into any land at a particular sanitary landfill facility shall receive compensation from the Fund for damages proximately resulting from the very sanitary landfill facility at which they, at any time, deposited, disposed or otherwise discarded solid waste. This express prohibition shall particularly apply to any person who at any time hauled or carted solid waste to the sanitary landfill facility in question.

(d) No person who benefits from a covenant not to sue pursuant to N.J.S.A. 58:10B-13.1 or 13.2 for a remediation that involves the use of engineering controls at a sanitary landfill facility, or who acquired the sanitary landfill facility after the issuance of a final remediation document for a remediation at the sanitary landfill facility that involves the use of engineering controls and seeks payment for damages relating to the real property and remediation covered by the covenant not to sue, shall receive compensation from the Fund for damages proximately resulting from the very sanitary landfill facility for which they are an owner, operator, or otherwise responsible party.

(e) No person who benefits from a covenant not to sue pursuant to N.J.S.A. 58:10B-13.1 or 13.2 for a remediation that involves only the use of institutional controls at a sanitary landfill facility, or who acquired the sanitary landfill facility