

Solid Waste and Materials Management Program
Hazardous Materials and Waste Management Division
CDPHE

Old Closed Landfills – Compliance Assistance Initiative

Old closed landfills in Colorado, some of which were closed decades ago, can present significant risks to human health and the environment. Some landfills were inadequately designed and capped; others become impacted by nearby development pressures that can cause ground water and landfill gas migration concerns, as well as utility corridor issues; and some are not well maintained and cap erosion and illegal dumping become problems. A large number of these closed landfills ceased operations in the late 1980s and early 1990s when it became clear that without significant investment, they would not be able to comply with the new federal landfill regulations that became effective in 1993. A smaller number have closed in more recent times as they reached capacity and waste disposal shifted to new landfills.

CDPHE's Solid Waste Program regulates certain aspects of some of these closed landfills. However, due to historical staffing levels in the Program, we have never been able to routinely visit these sites to ensure compliance with post-closure requirements that protect human health and the environment. In fact, even now, many times we only get involved when some type of problem emerges in a community at the landfill, or because of the landfill. With Colorado's rapid growth and development pressures, more of these problems are emerging, so in an effort to get out in front of this situation, we are proposing to begin a "Closed Landfill Compliance Assistance Initiative." This initiative will have several components.

1. The July 2016 Policy, "End of Post-Closure Care at Solid Waste Sites and Facilities," which defines how closed landfills will exit post-closure responsibilities, will be applied only to landfills closed under the current landfills regulations. It will not be applied retroactively to landfills that closed in the 1980s and early 1990s as a result of the 1993 federal Subtitle D regulations. This means that old closed landfills will be allowed to close under the existing requirements at the time of their closure.
2. Working with owners, operators and local governments, closed landfills will be inventoried, and the facility's records will be reviewed, by the Solid Waste Program. This inventory will include, but not be limited to:
 - a. Years of operation;
 - b. Closure date;
 - c. Past ownership and current ownership of landfill property;
 - d. Past and present property boundaries; and
 - e. Closure documentation and status.
3. Working with owners, operators, local governments, and the Attorney General's Office, the regulatory status of each closed landfill will be determined using such items as:

- a. Was the landfill closed before or after federal regulations became effective (1993);
 - b. Was the landfill closed before or after Colorado Solid Waste Act passed (1967);
 - c. Does the landfill have a current and enforceable post-closure mechanism in place;
 - d. Does the landfill have verified ground water contamination;
 - e. Does the landfill have nearby downgradient domestic water supply wells, homes, or surface water; and
 - f. Has the landfill been released from post-closure care responsibilities by CDPHE.
4. Once determined, each closed landfill will be notified as to the regulatory status of the closed landfill.
 5. For those landfills where CDPHE has authority, we will set up site visits and meetings with all interested parties as soon as possible after the regulatory notification.
 6. Following those site visits and meetings, CDPHE will begin the process of getting each closed landfill under the appropriate post-closure requirements associated with its regulatory status. To be clear, this may include placing the post-closure requirements in to a negotiated long-term enforceable mechanism such as a Compliance Order on Consent or a Post-Closure Permit.
 7. Once the appropriate post-closure requirements and documents are in place, CDPHE will assist the owners, operators, and local governments in understanding and complying with the post-closure requirements going forward. If compliance with these requirements requires significant investments of money, the program will help communities pursue funding options through the EPA, USDA, and the state legislature. CDPHE will also commit to remaining in regular (at least annual) communication with the owners, operators, and local governments as to the status of each landfill.
 8. CDPHE will put an enforcement moratorium in place for each closed landfill until it is under a long-term enforceable Order on Consent or Permit so long as a) the owner and operator of the closed landfill work cooperatively with CDPHE in getting appropriate enforceable post-closure requirements in place, b) the site has not been subject to illegal disposal activities with the need for immediate or interim cleanup, and c) the landfill does not present any type of immediate endangerment or nuisance to public health or the environment. This enforcement moratorium would remain in place until each owner, operator and local government is specifically notified of its termination for each landfill.