

Attachment 2

Minnesota Closed Landfill Program (CLP)

Introduction

The Closed Landfill Program (CLP) was established in 1994 as an alternative to the Superfund process as a means to eliminate the costly and controversial issue of identifying responsible parties. The Minnesota CLP is the first program of its kind in the nation. Qualifying landfills had to be State permitted mixed municipal solid waste disposal facilities that stopped accepting municipal solid waste by April 1994. Qualifying landfills were required to be in compliance with closure requirements that typically included:

- application of final cover (barrier layer consisting of 2 feet of 1×10^{-6} cm/sec permeability soil),
- grading and seeding;
- passive gas venting;
- installation of groundwater monitoring systems.

Entry into the CLP required a binding agreement between the State and the owner. The binding agreements provided the following measures:

- Allowed the State to take any environmental response action deemed necessary at a qualifying facility
- transferred any unspent financial assurance funds to the State
- allowed the State to pursue owner / operator insurance coverage
- prohibited the State from seeking recovery from the owner / operator or any RP except for potential insurance coverage or in response to illegal actions
- the owner / operator waived the right to seek recovery against response costs incurred prior to entering the CLP
- the owner / operator agreed to refrain from developing or altering the use of the property unless approved by the State.

Participating Facilities

- Initially, 94 landfills were in the CLP; amendments in 1999 and 2000 allowed the addition of additional landfills to the program such that 109 landfills have been accepted through fiscal year 2005.
- Both public and private landfills, ranging in size from < 5 acres up to 190 acres are in the CLP; average size is approximately 22 fill acres.
- The hydrogeologic settings include all those common to the State; groundwater contamination susceptibility ranges from low (glacial till settings) to very high (sand plains and karst areas). Many of the facilities were sited in sand and gravel mines.

- The facilities date as far back as the late 1960's, most were permitted in the early 1970's; significant portions of the waste footprint for all, or nearly all of the facilities are without liners and leachate collection systems.

Program Management / Implementation

- In accordance with the Landfill Cleanup Act, the State must update the priority list each fiscal year to reflect any changes due to environmental monitoring results and remediation activities.
- Each facility is put into one of four classifications from A (immediate threat to public health and/or environment) to D (no threat to public health or environment, may meet current standards for closure). Within each class each facility is given a score. Corrective action expenditures are allotted based on the annual ranking of the facilities in the CLP.
- The ranking system is not static; when constructed remedies improve conditions (through active gas systems, improved covers, etc.) the classification and score may be lowered; conversely if monitoring indicates greater threat to human health and the environment a classification and score may be raised.

Scoring changes / No. of Landfills

<i>Classification 1994</i>		<i>Classification 2005</i>	
A	9	A	1
B	34	B	21
C	29	C	29
D	22	D	61
Total Facilities	94		112

Source: 2005 Minnesota Closed Landfill Program Annual Report to the Legislature

- Through fiscal year 2005, 99 major response actions have been completed. The State estimates that 80 percent of the CLP goal to limit leachate and landfill gas generated by the CLP sites has been achieved.
- Response actions have included waste relocation (reduction of fill area), capping, landfill gas management (deep vents, flares, gas to energy), and groundwater treatment.
- Upon completion of response actions, the CLP transitions into operation and maintenance of the landfills.
- Environmental monitoring continues, but may be reduced in frequency and scope dependant upon hydrogeologic conditions and potential risk to human health and the environment.

CLP Funding Mechanisms & Expenditures

Funding of the CLP is provided through the following sources:

- Waste Management Tax (applicable to any party that directly bills a waste generator or self-hauler)
- Funds transferred from financial assurance accounts of closed landfill accepted by the CLP.
- Settlements from landfill-related insurance coverage
- General obligation bonds

Total expenditures for the CLP program since its inception in 1994 through fiscal year 2005 for all of the 112 landfills in the program are summarized below:

<u>Expenditures</u>	<u>Cumulative Total</u>
CLP Administration / Support	\$22,966,393
Design, Investigation, Construction	\$94,362,729
Operation & Maintenance	\$30,623,220
CLP Legal Counsel (AG)	\$ 1,880,297
Insurance Recovery Legal Counsel (AG)	\$ 2,439,784
Insurance Recovery Legal Counsel (special Attorneys)	\$29,461,969
EPA Reimbursement	\$ 4,014,550
Responsible Party Reimbursement	\$37,107,759
TOTAL (1994 – 2005)	\$222,856,702

Source: 2005 Minnesota Closed Landfill Program Annual Report to the Legislature