



COLORADO

Solid & Hazardous
Waste Commission

Department of Public Health & Environment

NOTICE OF PROPOSED RULEMAKING HEARING BEFORE THE COLORADO SOLID AND HAZARDOUS WASTE COMMISSION

SUBJECT:

For consideration of the amendments to 6 CCR 1007-2, Part 1, for the addition of Section 19 - Closed Landfill Remediation Grant Program, along with the accompanying Statement of Basis and Purpose, the following will be considered:

Amendment of 6 CCR 1007-2, Part 1, - Regulations Pertaining to Solid Waste Sites and Facilities - Addition of Section 19 - Closed Landfill Remediation Grant Program

These modifications are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Section 30-20-124(3), C.R.S.

The purpose of proposed regulation 6 CCR 1007-2, Part 1, Section 19 (the Regulation) is to promulgate rules establishing how the Colorado Department of Public Health and Environment (CDPHE) will administer the grant program for the remediation of closed solid waste landfills owned by eligible local governments in Colorado. These proposed revisions to the regulations were developed in response to House Bill 23-1194, passed by the legislature in 2023 and as codified at Section 30-20-124, C.R.S.

Any information that is incorporated by reference in these proposed rules is available for review at the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division and any state publications depository library.

Pursuant to Section 24-4-103(3), C.R.S., a notice of proposed rulemaking was submitted to the Secretary of State on April 15, 2024. Copies of the proposed amendments will be provided to all persons on the Solid and Hazardous Waste Commission's mailing list on or before the date of publication of the notice of proposed rulemaking in the Colorado Register on April 25, 2024.

The proposed rulemaking materials may also be accessed at <https://cdphe.colorado.gov/shwc-rulemaking-hearings>.

WRITTEN TESTIMONY

The Commission will consider any alternative proposals for rules or written comments relating to the proposed amendment of the regulation. The Commission will accept written testimony and materials regarding the proposed alternatives. **The Commission strongly encourages interested parties to submit written testimony or materials to the Commission Office, via email to cdphe.hwcrequests@state.co.us by Wednesday, May 8, 2024, at 11:59 p.m.**



Written materials submitted in advance will be distributed to the commission members prior to the day of the hearing. Submittal of written testimony and materials on the day of the hearing will be accepted, but is strongly discouraged.

HEARING SCHEDULE:

DATE: Tuesday, May 21, 2024
TIME: 9:00 a.m.
PLACE: This meeting will be held online only at:

<https://us02web.zoom.us/meeting/register/tZlud-CrrzkeE9N6iMyAtTFgK7dti4MOh04y#/registration>

Oral testimony at the hearing regarding the proposed amendments may be limited.



Jojo La, Interim Administrator



1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2 **Solid and Hazardous Waste Commission/Hazardous Materials and**
3 **Waste Management Division**

4 **6 CCR 1007-2**

5 **PART 1 - REGULATIONS PERTAINING TO SOLID WASTE SITES AND FACILITIES**

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7
8 **Addition of Section 19, Administration of the Closed Landfill Remediation Grant**
9 **Program**

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13 **1) The Table of Contents of the Solid Waste Regulations is being amended by adding**
14 **Section 19 to read as follows:**

15
16
17 **PART 1 - REGULATIONS PERTAINING TO SOLID WASTE SITES AND FACILITIES**

18
19
20 **TABLE OF CONTENTS**

21
22 **PART B**
23 **REQUIREMENTS AND INFORMATION CONCERNING**
24 **ALL SOLID WASTE DISPOSAL SITES AND FACILITIES**
25 **IN THE STATE OF COLORADO**

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28
29 **SECTION 19 ADMINISTRATION OF THE CLOSED LANDFILL REMEDIATION GRANT PROGRAM**

- 30 **19.1 General Provisions**
31 **19.2 Applicant Eligibility Criteria**
32 **19.3 Cost Eligibility Criteria**
33 **19.4 Application Evaluation Criteria**
34 **19.5 Application Submittal**
35 **19.6 Application Review**
36 **19.7 Grant Award and Grant Recipient Reporting Requirements**

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38 *****

39 **2) Section 19 (Administration of the Closed Landfill Remediation Grant Program) is being**
40 **added to read as follows:**

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42
43 **SECTION 19 Administration of the Closed Landfill Remediation Grant Program**

44
45 **19.1 General Provisions**

- 46
47 19.1.1 Purpose
48 19.1.2 Definitions

49
50 **19.2 Applicant Eligibility Criteria**

51
52 **19.3 Cost Eligibility Criteria**

53
54 **19.4 Application Evaluation Criteria**

55
56 **19.5 Application Submittal**

57
58 **19.6 Application Review**

- 59
60 19.6.1 Department Initial Review
61 19.6.2 Advisory Committee and Department Review
62 19.6.3 Interview
63 19.6.4 Determination of Approval, Partial Approval, or Denial and Grant Amount

64
65 **19.7 Grant Award and Grant Recipient Reporting Requirements**

66 **19.1 General Provisions**

67
68 **19.1.1 Purpose**

69
70 These regulations are promulgated to establish rules for administration of the closed landfill remediation
71 grant program pursuant to C.R.S. 30-20-124. The closed landfill remediation grant program is intended
72 to provide grants to eligible local governments to help pay the costs of environmental remediation and
73 mitigation efforts for and management of closed landfills that are owned by the eligible local
74 governments in order to protect the public health, safety, and welfare and the environment.

75
76 **19.1.2 Definitions**

77
78 Terms in these regulations have the same definitions as those found in Section 1.2. In addition, unless
79 the context otherwise requires, under this Section 19:

80
81 **“Advisory Committee”** means the closed landfill remediation grant program Advisory Committee
82 created in the Department by C.R.S. 30-20-124.

83
84 **“Applicant”** means an eligible local government that submits an application.

85
86 **“Application”** means an application submitted to the Department to be eligible to receive grant funding
87 through the closed landfill remediation grant program.

88
89 **“Cleanup program”** means an investigation or remediation conducted and funded pursuant to a state
90 or federal law or program other than 6 CCR 1007-2, Part 1, the Regulations Pertaining to Solid Waste
91 Sites and Facilities, such as:

92
93 (A) The federal “Comprehensive Environmental Response, Compensation, and Liability Act of 1980”,
94 42 U.S.C. sec. 9601 et seq., as amended;

95
96 (B) The brownfields program of the federal Environmental Protection Agency and the Department;

97
98 (C) A federal radiation control program such as the “Uranium Mill Tailings Radiation Control Act”, 42
99 U.S.C. sec. 7901 et seq., as amended;

100
101 (D) Article 11 of title 25 concerning radiation control;

102
103 (E) Article 15 of title 25 concerning hazardous waste; or

104
105 (F) The federal “Resource Conservation and Recovery Act of 1976”, 42 U.S.C. sec. 6901 et seq., as
106 amended.

107
108 **“Closed landfill”** means a landfill that no longer accepts new waste for disposal.

109
110 **“Eligible costs”** means costs necessary to assess, mitigate, and remediate risks posed by the local
111 government’s closed landfill, costs to comply with applicable law, and costs for meeting the compliance
112 requirements of any standing administrative order negotiated with, or issued by, the Department.

113
114 **“Eligible local government”** means a local government that owns a closed landfill that:

115
116 (A) Was formerly but is no longer operated by the local government or by any state or federal agency
117 and for which the local government is solely financially responsible for closure and post-closure care;

118
119 (B) Is not subject to any investigation or remediation pursuant to a cleanup program; and
120

121 (C) Does not have any fully funded private sector financial assurance mechanism in place that
122 adequately resolves the public health and environmental risks associated with the landfill.

123
124 **“Grant program”** means the closed landfill remediation grant program created by C.R.S. 30-20-124.

125
126 **“High risk”** means one or more of the following conditions:

127
128 (A) Groundwater concentrations greater than applicable groundwater standards in a well used to
129 provide water for human consumption;

130
131 (B) Indoor air concentrations greater than applicable air screening levels within an occupied building;

132
133 (C) Methane in buildings greater than 25% of lower explosive limit (1% by volume in air for methane);

134
135 (D) Surface water concentrations greater than applicable surface water standards;

136
137 (E) Waste mass instability or final cover system instability that threatens surface water or
138 infrastructure such as roads, utilities, or buildings; or

139
140 (F) Exposed waste and/or inadequate run-on or run-off control that threatens surface water or
141 infrastructure such as roads, utilities, or buildings.

142
143 **“Local government”** means a home rule or statutory city, county, or city and county.

144
145 **“Low risk”** means conditions not considered high or medium risk.

146
147 **“Medium risk”** means one or more of the following conditions:

148
149 (A) Groundwater concentrations greater than applicable groundwater standards that extends beyond
150 the point of compliance;

151
152 (B) Soil vapor concentrations greater than applicable air screening levels that extend beyond the
153 point of compliance or are confirmed beneath buildings;

154
155 (C) Methane at the point of compliance greater than 100% of the lower explosive limit (5% by volume
156 in air for methane);

157
158 (D) Surface water is at risk of being impacted based on distance or pathways from the closed landfill
159 to the nearest surface water body;

160
161 (E) Waste mass and/or final cover system is considered unstable; or

162
163 (F) Significant erosion and/or settlement compromises the integrity of the final cover system.

164
165 **“Reasonable costs”** means costs that are justifiable, reflect industry standards, are competitive, and
166 demonstrate efficient use of grant funding while supporting the purpose of the grant program.

167 168 169 **19.2 Applicant Eligibility Criteria**

170
171 Applicants must meet the definition of an eligible local government in Section 19.1.2 to be considered
172 for application approval. Applicants who have applied and/or received application approval for the grant
173 program in the past are eligible to apply for the grant program repeatedly.
174
175

176 **19.3 Cost Eligibility Criteria**

177
178 An eligible local government that receives a grant award from the grant program must use the grant
179 award only to pay for reasonable, eligible costs (as defined in Section 19.1.2), including retaining
180 private third parties such as consultants and contractors to advise the eligible local government and to
181 perform tasks, and also including local government staff time directly and exclusively attributable to the
182 activities listed below, necessary to:

183
184 19.3.1 Take emergency, preventive, or corrective actions at a closed landfill;

185
186 19.3.2 Identify and test affected or potentially affected water sources at the point of compliance and
187 drinking water sources which may be impacted by the landfill;

188
189 19.3.3 Investigate, design, and implement appropriate mitigation and remediation actions in accordance
190 with applicable regulations, standards, and orders that are subject to Department review;

191
192 19.3.4 Develop, prepare, and implement plans such as work plans, implementation plans, monitoring
193 plans, contingency plans, community relations plans, materials management plans, and post-closure
194 plans for Department review, including the Department’s document review and activity fees;

195
196 19.3.5 Design, acquire, install, startup, operate and maintain equipment used for remediation or
197 mitigation, including monitoring;

198
199 19.3.6 Restore or replace a private or public potable water supply;

200
201 19.3.7 Develop and implement a plan for public involvement in the development, implementation,
202 modification, or expansion of mitigation or remediation measures;

203
204 19.3.8 Perform post-closure care activities, including the use of institutional and engineering controls to
205 maintain site conditions that prevent nuisance conditions and remain protective of public health, safety,
206 and welfare and the environment, and post-closure monitoring and reporting;

207
208 19.3.9 Fulfilling requirements per the fully executed contract between the grant recipient and the State
209 of Colorado such as attending check-in calls with the Department, developing progress reports for
210 submittal to the Department, attending site visits with the Department, or other contract-related
211 requirements; or

212
213 19.3.10 Other costs identified by the Department as eligible, reasonable costs necessary to protect the
214 public health, safety, and welfare and the environment.

215
216
217 **19.4 Application Evaluation Criteria**

218
219 The following application evaluation criteria will be used by the Department and the Advisory
220 Committee as safeguards to support the fair and equitable basis for application review; approval, partial
221 approval, or denial of applications; and for determining grant award amounts:

222
223 19.4.1 Applicant eligibility criteria (Section 19.2);

224
225 19.4.2 Cost eligibility criteria (Section 19.3);

226
227 19.4.3 If the costs are associated with mitigation or remediation of a release of substance(s) to the
228 environment that cause (A) through (D) under the definitions for high risk or medium risk in Section
229 19.1.2, the release that is the subject of the mitigation or remediation must be attributable to the closed
230 landfill;

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19.4.4 The Advisory Committee may develop or approve additional application evaluation criteria. Any additional application evaluation criteria will be provided in the Request for Application for the grant cycle;

19.4.5 In the event the amount of funds requested in pending applications exceed available grant funds, priority will be given to applications that demonstrate one or more of the following:

- (A) Local governments subject to an existing compliance order for the closed landfill; or
- (B) Closed landfills posing the greatest risk, where the Department will evaluate risk conditions based on information provided in the application considering:
 - (1) Remediation or mitigation that protects human health and the environment in a manner that makes efficient use of limited grant funding; and
 - (2) The local government’s technical assessment of the actual risk posed to public health and the environment.

19.4.6 In the event the amount of funds requested in pending applications exceed available grant funds, priority may be given to applications that demonstrate one or more of the following:

- (A) Local government resources:
 - (1) Local governments commit matching funds from other sources to pay for reasonable, eligible costs, considering the local government’s ability to match funds; or
 - (2) Local governments have expenditures to-date in attempting to implement the remediation or mitigation that is the basis of their application, and amounts of those expenditures to-date.
- (B) The closed landfill is in or near a disproportionately impacted community, as defined under C.R.S. 24-4-109 (2024), or
- (C) Multi-year activities that have previously received approval or partial approval of applications.

19.5 Application Submittal

19.5.1 The Department will publish a Request for Applications for the grant cycle at the Department’s website on or before October 1, 2024, and at least one time per calendar year thereafter. The application may be received by the Department when the application window is open, as indicated in the Request for Applications for the grant cycle.

19.5.2 The applicant must submit a complete application on the form(s) and template(s) provided in the Request for Applications at the Department’s website on or before the due date as indicated in the Request for Applications for the grant cycle.

19.6 Application Review

19.6.1 Department Initial Review:

- (A) The Department will conduct an initial review of the application for completeness.
- (B) If the Department’s initial review indicates the application is complete, the Department will refer

286 the application to the Advisory Committee. If the Department's initial review indicates the application
287 is incomplete or if additional information or clarification is required, the Department will notify the
288 applicant and include a summary of information necessary to continue the application review prior to
289 Advisory Committee review.
290

291 **19.6.2 Advisory Committee and Department Review:**
292

293 (A) The Advisory Committee must meet at least one time per calendar year, but may meet more
294 frequently or as needed as determined by the Advisory Committee. The Advisory Committee must
295 publish their meeting schedule online, available at the Department's website. Advisory Committee
296 meetings are public meetings. The Department will notify applicants in advance whose applications
297 will be considered at the meeting. While applicant participation in the Advisory Committee meetings
298 is not mandatory, the Advisory Committee may ask questions of an applicant's representatives that
299 are present at the meeting. Each applicant will have the opportunity to present their application to the
300 Advisory Committee, subject to any limitations and guidelines established by the Advisory
301 Committee.
302

303 (B) The Department will attend Advisory Committee meetings to consult with the Advisory Committee
304 regarding the Advisory Committee's evaluation of applications.
305

306 (C) The Advisory Committee must review each grant application and provide its recommendation to
307 the Department. The Advisory Committee may recommend partial application approval. The Advisory
308 Committee's recommendation must describe how the Advisory Committee evaluated the application
309 using the application evaluation criteria established in Section 19.4.
310

311 **19.6.3 Interview:**
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313 Before finalizing a decision to approve, partially approve, or deny an application, the Department will
314 interview an official of the applicant eligible local government who is familiar with the closed landfill site
315 that is the basis of the application.
316

317 **19.6.4 Determination of Approval, Partial Approval, or Denial and Grant Amount:**
318

319 (A) The Department will issue a written decision approving, approving in part, or denying the
320 application. The Department will notify applicants of application results. The Department may
321 approve part of an application, or approve an application subject to conditions specified by the
322 Department. In its decision, the Department will specify the following:
323

324 (1) The amount of approved costs;
325

326 (2) The circumstances, if any, under which a grant applicant may be required to demonstrate
327 matching funds, including consideration for whether or not local governments are required to
328 contribute a lower amount or percentage of matching funds than other local governments based
329 on population, as determined pursuant to the most recently published population estimates from
330 the State Demographer appointed by the Executive Director of the Department of Local Affairs;
331

332 (3) Denied costs and the reasons for the denial. The denial decision will identify the specific
333 reasons why the application did not meet the application evaluation criteria or was considered a
334 lower priority than other applications; and
335

336 (4) Reasons for differences between the Advisory Committee's recommendations and the
337 Department's decision.
338

339 (B) The approved grant amount is determined based on the application evaluation criteria (Section
340 19.4). The Department may consider the remaining grant funding available and the application

341 priority when determining approval, partial approval, or denial of grant amounts or in approving the
342 duration of the grant period.

343
344 (C) The Department shall have final authority to approve, partially approve, or deny the applications
345 based upon the documentation submitted or otherwise obtained by the Department.

346
347 (D) Department approval of the action(s) in the application shall not be considered a finding or
348 guarantee of safety or effectiveness of the action(s).

349
350 (E) Nothing in this Section 19 shall be construed to abrogate or limit the immunity or exemption from
351 civil liability of any agency, entity or person under any statute including the Colorado Governmental
352 Immunity Act, Article 10 of Title 24 or C.R.S. 13-21-108.5 (2024).

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355 **19.7 Grant Award and Grant Recipient Reporting Requirements**

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358 19.7.1 Subject to annual appropriation and the grant recipient's compliance with the contract between
359 the grant recipient and the State of Colorado, grant funds will be paid to grant recipients from the closed
360 landfill remediation grant program fund created by C.R.S. 30-20-124.

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362

363 19.7.2 Grant recipient reporting requirements will consist of the reporting required per the contract
364 between the grant recipient and the State of Colorado. The reporting requirements will be dependent on
365 the grant recipient's approved scope of work, and the Department will communicate these reporting
documentation.

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

2 Solid and Hazardous Waste Commission

3 Hazardous Materials and Waste Management Division

4
5 6 CCR 1007-2 Part 1

6 STATEMENT OF BASIS AND PURPOSE

7 AND SPECIFIC STATUTORY AUTHORITY FOR

8
9 Revision to Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-
10 2, Part 1) - Addition of Section 19, Administration of the Closed Landfill
11 Remediation Grant Program

12
13 **Statutory Authority**

14 These regulations are promulgated pursuant to the authority granted to the Solid and
15 Hazardous Waste Commission (the “Commission”) in Section 30-20-124, C.R.S. (the
16 “Statute”), created by House Bill (HB) 23-1194, and passed by the legislature in 2023. These
17 proposed regulations were developed in response to HB 23-1194 in which the General
18 Assembly created the closed landfill remediation grant program (the “Grant Program”) and
19 directed the Commission to promulgate rules for the administration of the Grant Program by
20 June 1, 2024.

21 **Overview of the Statute**

22 The Grant Program was created to assist local governments in paying for closed landfill
23 remediation and maintenance costs for the closed landfills they own. HB 23-1194 effectively
24 codified the Grant Program in 30-20-124, C.R.S., creating the Grant Program fund. The
25 Statute directs the Colorado Department of Public Health and Environment (the
26 “Department”) to oversee the administration of the fund. Additionally, HB 23-1194 directs
27 the Commission to promulgate rules for the administration of the Grant Program, specifying
28 uses of Grant Program funds and the minimum criteria that must be included in the rules.
29 Another key provision of the Statute is the creation of an advisory committee (the
30 “committee”) to review grant applications and advise the Department on the award of grants

31 and the evaluation of grant applications. Per the Statute, the Grant Program funding is only
32 available to local governments that own a closed landfill.

33 **Overview of the Proposed Regulations**

34 A new Section 19 is being added to the Regulations Pertaining to Solid Waste Sites and
35 Facilities (6 CCR 1007-2, Part 1) (the “Regulations”) to meet the requirements of HB 23-1194
36 and the Statute. The intention in drafting Section 19 is to keep the rules as flexible and
37 inclusive as the Statute and available funding allows. The Department does not wish to
38 unnecessarily limit the conditions for which grant funding might be available, beyond such
39 limitations already set in the Statute. Section 19 contains criteria for applicant eligibility,
40 cost eligibility and application evaluation. Section 19 also includes procedures for application
41 submittal, application review, and grant award and grant recipient reporting requirements.
42 Section 19 contains all of the elements required in the Statute.

43 The Statute establishes minimum requirements for the Grant Program. The Statute requires
44 the Commission and the Department to give priority to grant applications that concern
45 mitigating or remediating actual risk. The Statute also requires that the Grant Program rules
46 include criteria for evaluating grant applications and awarding grants. The Statute does not
47 define “actual risk,” therefore, in drafting Section 19, the Department identified the need to
48 add definitions in Section 19.1.3 describing what constitutes high and medium risk to provide
49 clarity on the types of conditions at closed landfills that would be given priority for grant
50 funding in the event that the amounts of funds requested in applications exceed available
51 grant funds. Other additions for providing priority for grant funding include proximity to a
52 disproportionately impacted community and multi-year projects that have previously received
53 approval or partial approval of applications.

54 The Statute describes uses of Grant Program funds, and Section 19 includes and expands on
55 these criteria in describing “cost eligibility criteria.” Having cost eligibility criteria in Section
56 19 will allow the Department and the committee to review applications more effectively. In
57 drafting Section 19, the Department identified the need to add definitions in Section 19.1.3
58 for eligible costs and for reasonable costs. A significant addition to Section 19.3, the Cost
59 Eligibility Criteria, is to allow for testing of potentially affected drinking water sources in
60 proximity to a closed landfill. Other significant additions to Section 19.3 include costs to
61 design, acquire, install, startup, operate, and maintain equipment used for remediation,
62 including monitoring, and costs to restore or replace a private or public potable water supply.
63 While not specified in the Statute, the Department maintains such costs are consistent with
64 the purposes of the Statute relative to identifying and remediating risks from closed landfills.
65 Similarly, the word “mitigation” was added to multiple subsections of Section 19.3 in
66 recognition of the fact that reducing the exposure attributable to a groundwater release from
67 a closed landfill can be an important factor in achieving risk reduction and is therefore
68 consistent with the purposes of the Statute.

69 With respect to the committee operations, the Department has included some basic
70 operational parameters in Section 19 consistent with the Statute. Examples of these are the
71 minimum frequency of committee meetings, publishing the meeting schedule online, an
72 initial Department review for completeness prior to applications being referred to the
73 committee, the opportunity for applicants to present at committee meetings, and the
74 requirement for the committee to provide recommendations to the Department. These are
75 deemed to be basic and necessary procedures to facilitate committee operations.
76 Nevertheless, Section 19 leaves sufficient flexibility such that the committee may develop
77 additional policies and operating procedures as it sees fit.

78 With respect to the Department operations, the Department included some basic operational
79 parameters in Section 19 consistent with the Statute. Examples of these include a timeline
80 and frequency for publishing a request for applications for the grant cycle (Section 19.5.1),
81 how application results are communicated, how grant amounts are determined (Section
82 19.6.4), and how grant funds are paid to the grant recipient (Section 19.7).

83 **Stakeholder Process**

84 In response to HB 23-1194, the Department initiated the process to include administration of
85 the Grant Program in the Regulations. The Department held three stakeholder meetings on
86 Section 19, which were well attended. These meetings were held on January 22, 2024,
87 February 5, 2024 and March 18, 2024. During these meetings, the Department presented
88 background information about the Grant Program, proposed Section 19, developed revisions
89 to Section 19, and engaged with a variety of different stakeholders, including local
90 government officials, elected officials, and consultants. In conjunction with these stakeholder
91 meetings, the Department solicited three rounds of written comments on Section 19 and
92 made multiple revisions of Section 19 in response to stakeholder comments received.

93 **Issues Encountered During the Stakeholder Process**

94 **Applicant Opportunity to Present to the Committee**

95 The original Section 19 left it to the discretion of the committee on a per-application basis as
96 to whether the applicant would be asked to present information during committee meetings.
97 The Grant Program is for the benefit of local governments that own closed landfills, and these
98 entities represent a broad spectrum of financial ability, ranging from small towns of a few
99 hundred residents up to large well-resourced counties and cities. The Department was averse
100 to drafting the rule in such a way as to mandate that all applicants are required to present to
101 the committee, out of concerns that such a requirement could put under-resourced
102 communities at a disadvantage. However, a local government stakeholder commented that
103 they felt it was important to have the opportunity to present their application directly to the
104 committee. After receiving the same comment on the first two versions of Section 19, the
105 Department has revised Section 19 to provide an unequivocal opportunity for applicants to
106 present to the committee. Section 19.6 is worded so that presenting to the committee is not

107 a mandate, but an opportunity that applicants can make use of if they choose to do so, and is
108 an equal opportunity for all applicants.

109 A similar comment was provided during a stakeholder meeting asking why participation by an
110 applicant at the committee meeting is not mandatory. Reasons the Department doesn't
111 believe attendance should be mandatory include: Local governments may have limited
112 resources and may not be able to attend the meeting; there may be circumstances in remote
113 areas that prevent an applicant from attending; there may be costs for having a
114 "representative" available such as having a consultant present; there may be no questions for
115 applicants and the committee may plan to approve the application in its entirety; and
116 requiring attendance at the committee meetings would be a requirement of applicants above
117 and beyond what the Statute requires and is not consistent with the purpose of the Statute,
118 which is intended to help local governments with limited resources and not to add resource-
119 related barriers to participation in the program. In cases where an applicant is asked to be
120 present to answer questions the committee has regarding the application and the applicant
121 does not attend, the committee would ultimately have to decide if enough information exists
122 to make a recommendation for funding.

123 Reasonableness of Costs

124 A stakeholder provided comments urging the Department to include detail on what
125 constitutes a reasonable cost. The stakeholder proposed a definition of the term "reasonable
126 cost", and in response, the Department largely accepted that suggestion, with minor wording
127 changes.

128 Timelines and Procedures

129 A stakeholder provided comments indicating the level of detail provided in Section 19.5 for
130 Application Submittal was not sufficient per the Statute. The Statute requires the rules to
131 include timelines and procedures by which an eligible local government may apply for a
132 grant. The Department believes that specific details about timelines and procedures are more
133 appropriate in the details specified for each individual grant cycle as the Grant Program
134 processes develop to accommodate local government's needs, and will be communicated in
135 requests for applications. The Department revised Section 19.5 to include an initial date and
136 frequency to release requests for applications, specifying when applications can be received,
137 and that complete applications must be submitted on the form(s) and template(s) provided in
138 the request for applications on or before the due date as indicated in the request for
139 applications for the grant cycle.

140 Department Reporting to the Committee

141 A stakeholder provided comments urging the Department to modify the rules to state that the
142 Department will provide a detailed, comprehensive report to the committee for each grant
143 application for transparency and public awareness. The Department did not include the

144 Department's preparation of detailed, comprehensive reports in Section 19 because the
145 committee is required to review the applications per the criteria set forth in the rules and
146 provide recommendations to the Department. The rules require the Department to ensure the
147 committee receives a complete application. The Department will consult with the committee
148 during committee meetings. During the committee meeting, the Department expects to
149 provide details the committee will need about the funds available and details about the
150 complete applications to help streamline the discussion. This is not a detailed report on each
151 application, but rather a summary of the objective requirements in the rules (for example, do
152 the costs meet eligibility criteria). The Department does not evaluate on behalf of the
153 committee. If there is a difference between the committee recommendations and the
154 Department's decision to award grant funds, the Department will specify the reason for the
155 difference per Section 19.6.1(A).

156 **Alternatives Considered and Why Rejected**

157 No other regulatory alternatives were considered.

158 **Cost Benefit Analysis**

159 A cost benefit analysis will be performed if requested by the Colorado Department of
160 Regulatory Agencies.