



**WASTE MANAGEMENT and PREVENTION DIVISION
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AGENCY OF NATURAL RESOURCES
STATE OF VERMONT**

Policy for Characterization and Disposal of Development Soils (Act 52)

Date: May 2016

§ 1. APPLICABILITY AND PURPOSE

- (a) Applicability. This Procedure applies to the management of development soils when managed at any of the following:
 - (1) A receiving site that has been approved for the management of development soils by the Secretary;
 - (2) A categorical solid waste facility that has been permitted to accept development soils;
 - (3) A solid waste landfill when used as alternative daily cover at the landfill.
- (b) Purpose. The purpose of this Procedure is to provide guidance regarding the implementation of 10 V.S.A. § 6604c that allows for alternative disposal of development soils.
- (c) Effective Date / Sunset. This Procedure shall take effect on the date of signature and shall expire upon final signature of the Investigation and Remediation of Contaminated Properties Rule.

Note: Title 10 V.S.A. § 6604c requires the Secretary to establish in rule background concentration levels for PAHs, arsenic and lead in Vermont. Until such time as background concentration levels for these contaminants are established, the Secretary will utilize the applicable Regional Screening Level (RSL) or Vermont Department of Health value located in Appendix A of the Investigation and Remediation of Contaminated Properties (IROCP) Procedure (dated April 2012) for each contaminant.

§ 2. PROHIBITIONS

- (a) No person may manage development soils at the facilities identified in § 1(a) of this Procedure unless the development soils are sampled and managed under plans approved by the Secretary prior to the initiation of construction activities.
- (b) No person intending to manage development soils at facilities identified pursuant to § 1(a) of this Procedure may stockpile the development soils unless approval is obtained through an Insignificant Waste Management Event Authorization (IWMEA), issued by the Secretary. The requirement to obtain an IWMEA shall not apply to development soils stockpiled prior to June 8, 2015 that are located on municipal property.
- (c) No person may manage or dispose of development soils under this Procedure at an origin site or receiving site that is:
 - (1) The subject of a planned or ongoing removal action under the Comprehensive Environmental, Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 6901 et seq.; or

- (2) Listed or proposed for listing as a CERCLA site under 42 U.S.C. § 9605.

§ 3. DEFINITIONS

As used in this Procedure:

- (1) **“Applicant”** means any person who submits an investigation work plan or a final report and management plan to the Secretary for review.
- (2) **“Background concentration level”** means the concentration level of PAHs, arsenic, or lead in soils, expressed in units of mass per mass, that is attributable to site contamination caused by atmospheric deposition or is naturally occurring and determined to be representative of statewide or regional concentrations through a scientifically valid means as determined by the Secretary.
- (3) **“Commencement of construction”** means the construction of the first improvement on the land or to any structure or facility located on the land. “Commencement of construction” shall not mean soil testing or other work necessary for assessment of the environmental conditions of the land and subsurface of the land.
- (4) **“Development soils”** means unconsolidated mineral and organic matter overlying bedrock that contains PAHs, arsenic, or lead in concentrations that: (A) exceed the relevant soil screening level for residential soil; (B) when managed in compliance with section 6604c, 6605, or 6605c of this title: (i) pose no greater risk than the Agency-established soil screening value for the intended reuse of the property; and (ii) pose no unreasonable risk to human health through a dermal, inhalation, or ingestion exposure pathway; (C) does not leach compounds at concentrations that exceed groundwater enforcement standards; and (D) does not result in an exceedance of Vermont groundwater enforcement standards.
- (5) **“Downtown development district”** shall have the meaning stated in 24 V.S.A. § 2791(4).
- (6) **“Environmental professional”** shall have the meaning stated in 40 C.F.R. § 312.10.
- (7) **“Growth center”** shall have the meaning stated in 24 V.S.A. § 2793c.
- (8) **“Neighborhood development area”** shall have the meaning stated in 24 V.S.A. § 2793e.
- (9) **“Origin site”** means a location where development soils originate.
- (10) **“PAHs”** means polycyclic aromatic hydrocarbons.
- (11) **“Receiving site”** means a location where development soils are deposited.
- (12) **“Receiving site concentration level”** means those levels of PAHs, arsenic, or lead, expressed in units of mass per mass, that exist in soils at a receiving site.

(13) **“TIF district”** means a tax increment financing district created by a municipality pursuant to 24 V.S.A. § 1892.

(14) **“Village center”** shall have the meaning stated in 24 V.S.A. § 2791(10).

§ 4. DOCUMENT SUBMISSION

- (a) All reports submitted to the Secretary shall have a title page with the following information: (1) Sites Management Section (SMS) site name and identification number, if applicable; (2) site address; (3) mailing address, and (4) the names and contact information for the following: (A) all responsible parties; (B) all property owners; and (C) environmental professional(s) and experts utilized by applicant.
- (b) All reports and correspondence must be submitted in digital format, unless a paper copy is requested by the Secretary.
- (c) Reports and correspondence, including all figures, tables, images and attachments, including laboratory reports, shall be provided as Adobe Acrobat (.pdf) text-searchable files and shall allow copying and extraction. The Secretary may, on a case-by-case basis, require site data, including data from field instrumentation, field analytical results, and lab analytical results as Microsoft Excel spreadsheets (.xls) or Microsoft Access database (.mda) files. Microsoft Office files must be compatible with Microsoft Office 97 or later versions.
- (d) Electronic report copies shall be submitted to the Secretary by email, up-loaded to the DEC file transfer protocol (ftp) web site at <ftp.anr.state.vt.us>, or on a CD or DVD. Contact the SMS directly for instructions on using the ftp site.

§ 5. ORIGIN SITE DELIVERABLES

The following deliverables are required and shall be approved by the Secretary prior to management of development soils under this Procedure: Investigation Work plan, Final Report, Management Plan, and Completion Report. Each deliverable shall be completed by an environmental professional. The location for soil management or disposal must also be identified.

§ 6. RECEIVING SITE DELIVERABLES

The following deliverables are required and shall be approved by the Secretary prior to management of development soils under this Procedure: Investigation Work plan, Final Report, Management Plan, and Completion Report. Each deliverable shall be completed by an environmental professional.

§ 7. INVESTIGATION WORKPLAN

- (a) An Investigation Work plan shall include the following:
 - (1) Site characterization. A conceptual site model that is based on:

(A) An ASTM 1527-13 Phase I Environmental Site Assessment; and

Note: An ASTM site assessment developed for this Procedure, as opposed to for all appropriate inquiry/due diligence, does not have to be within the timeframes required by the ASTM guidance provided that the consultant and Secretary concur that no activities have occurred between the time of the Assessment and implementation of the work plan that would have created new Recognized Environmental Conditions (RECs).

(B) Conceptual site model. A conceptual site model (CSM) shall:

- (i) be based on available data and/or knowledge and developed either prior to or concurrently with the Investigation Work plan;
- (ii) describe how any contaminants might have first entered the environment or first contacted environmental media. This may be accomplished using professional knowledge of the types of residential, industrial or commercial operations and activities that are inherent to the current and historic uses of the property, known or inferred as identified in the Phase I Assessment.
- (iii) consider the characteristics of engineered structures, features, and containers present or known or inferred to have been present at the property, from which or through which the suspected contaminants may have been released or dispersed on the property.
- (iv) includes the following elements, described in text and technical illustrations (where applicable):
 - (a) General site description;
 - (b) Objective of the Investigation Work plan;
 - (c) Current and past site uses;
 - (d) Physical and environmental setting;
 - (e) Known and/or suspected contaminants of concern;
 - (f) Known and/or suspected contaminant sources;
 - (g) Locations of known and/or suspected contaminants of concern;
 - (h) Fate and transport characteristics of suspected contaminants;
 - (i) Potential risks and sensitive receptors;

- (j) Potential exposure pathways including direct contact, ingestion, vapor intrusion, and any other identified exposure pathway; and
 - (k) Hydrology and geochemistry of the site and/or known release area
- (2) Maps. Maps for the origin and receiving site (if applicable) shall include the following (where applicable):
 - (A) Vicinity map and property map/figure. The maps/figure contain the following information:
 - (i) property boundary lines;
 - (ii) surrounding land use;
 - (iii) buildings; (iv) street names;
 - (v) sensitive receptors;
 - (vi) engineered structures, including asphalt parking surfaces, concrete sidewalks, drainage ways, diversion ditches, drain tiles, manholes, lined areas, leachate collection systems, septic systems, sewer lines;
 - (vii) chemical storage or process areas;
 - (viii) waste storage and disposal areas;
 - (ix) hazardous materials, drums, tanks and;
 - (x) any other pertinent property features.
 - (C) Area map. The area map shall consist of either:
 - (i) the most recent USGS 7.5 minute topographic quadrangle that includes the site, and shall include contour interval and name and date of USGS quadrangle.
 - (D) Orthophoto or NAIP color aerial photos. A copy of the most recent coverage that includes the site. Photo should include sheet name and date the photo was taken, if applicable.
 - (E) Site Map, which shall identify locations for proposed soil sampling and depth of sampling.
- (3) Latitude/longitude of the site referenced to the WGS1984 coordinate system, (Mercator) in decimal degrees. The minimum acceptable accuracy is plus-or-minus 30 feet.

- (4) Color photographs or digital images showing the site and pertinent features.
- (5) A sampling plan that provides the following:
 - (A) A description of the proposed area of disturbance, the areas and depth of proposed soil excavation, and volume of soils expected to be removed;
 - (B) Identification of contaminants to be sampled based on RECs identified in the Phase I and based on historic, current and neighboring property uses;
 - (C) Identification of minimum detection limits of all proposed testing methods proposed to be used for all analytes of concern. All proposed methods must be below RSLs or Vermont Department of Health Values located in Appendix A of the IROCP.
 - (D) Identification of any field screening technologies or protocols that will be implemented at the site and SOP for instrument use.
 - (E) Identification of soil sampling locations based on the following:
 - (i) Soil sampling locations shall be presented by using one of the following methods:
 - (I) Discrete sampling methodology in a grid pattern. The sample grid must be every 25'x 25'. Depth of samples must be every 2' (vertically) starting at the surface and continuing to 2' below the base of the planned excavation. The sampling grid must cover the entire area proposed for excavation and sample points must be collocated in areas of concern or where RECs exist.
 - (II) Application of Incremental Sampling Methodology consistent with ITRC Incremental Sampling Methodology (February 2012) that has been preapproved by the Secretary.
 - (F) SPLP Testing Plan. The plan shall identify the number and location of sample locations that will be tested using Synthetic Precipitation Leaching Procedure (EPA Method 1312) (SPLP). The number of locations shall be based on volume of soils planned for management and there shall be one sample for every 200 tons of soil. Samples shall be taken from the soils most likely to leach contaminants and from the most impacted soil locations based on field screening and visual and olfactory evidence (origin site only).
- (6) A detailed schedule for the following:
 - (i) construction activities;

- (ii) proposed investigation; and
 - (iv) estimated investigation report provided to the Secretary.
- (7) Certification from the Agency of Commerce and Community Development that the origin site is located within one of the eligible designations (downtown development district, growth center, neighborhood development area, TIF district, or village center).
- (8) Investigation work plans for **receiving sites** shall contain the following additional information:
- (A) A document granting Department of Environmental Conservation (DEC) approval from the landowner to access the property to ensure conformance with this Procedure including any testing or management activities taking place at the property.
 - (B) Discrete sampling methodology in a grid pattern. The sample grid must be every 25'x 25'. Depth of samples must be every 0-6" (vertically). Depth of samples must be every 2' (vertically) starting at the surface and continuing to 2' below the base of the planned excavation. The sampling grid for both scenarios must cover the entire area proposed for excavation and sample points must be collocated in areas of concern or where RECs exist.
 - (C) A discussion of site hydrogeology that includes regional and site specific hydrogeologic information, horizontal and vertical groundwater flow gradients and direction, and an assessment of the potential for preferential pathways and multiple aquifers. Hydraulic conductivity, transmissivity, and other parameters should also be included, as appropriate.
 - (D) A determination of seasonal groundwater elevations determined through subsurface characterization (i.e.: soil borings)
 - (E) Documentation that waste management areas within the receiving site are:
 - (i) not located in a Class I or Class II Groundwater Area; in a watershed for Class A Waters; in Class I or Class II wetlands or their associated buffer zones, as defined in the Vermont Wetlands Rules;
 - (ii) not located within a mapped river corridor;
 - (iii) not located within 300 feet of a public highway, or the property line(s) of lands owned by others unless the applicant can demonstrate that a reduced distance will not result in objectionable odors off site of the property, unreasonable visual impact off site of the property,

unreasonable increase in level of noise detected off site of the property, creates a nuisance and shall not create a condition that otherwise adversely affects public health. In no instance shall the distance be less than 50 feet;

- (iv) not located within zone 1 of a source protection area of a public water supply or within 200 feet of the source of a public drinking water supply, whichever is greater. If disposal is proposed within zones 2 or 3 of the source protection area of a public water supply, the location of the disposal area and the delineated source protection area shall be identified on a site map
- (v) not located within 200 feet of the source of a private drinking water supply.
- (vi) not located within 100 feet of Class B Waters.

- (9) Notwithstanding any other requirement of this section, the Secretary may allow a person seeking approval of a work plan under this section to rely on other information presented to the Secretary as the part of a previous site investigation of that site. Preapproval of the Secretary is required to substitute information under this subsection.

§ 8. INVESTIGATION WORKPLAN; REVIEW AND IMPLEMENTATION

- (a) The Secretary shall approve an investigation work plan upon making the following determinations:
 - (1) The investigation work plan contains all the elements required in § 7 of this Procedure.
 - (2) The investigation work plan adequately characterizes the area where development soils are proposed to be removed under this Procedure.
 - (3) The proposed management of soils will not present a threat to human health, the environment or otherwise worsen environmental conditions.
- (b) The Secretary shall issue a final decision regarding the investigation work plan or management plan within 45 days of the receipt of each respective plan.
- (c) The applicant shall implement the investigation work plan within 60 days of the date of the Secretary's approval unless the Secretary first approves an extension for implementation in writing. A request for an extension must be submitted no later than 30 days from the end of the 60-day implementation period.

§ 9. INVESTIGATION FINAL REPORT; PROPOSED MANAGEMENT PLAN, PUBLIC OUTREACH PLAN

- (a) The final report shall include the following:
- (1) An executive summary that includes a brief summary of findings and conclusions of the investigation and recommendations for next steps.
 - (2) A discussion of the geology at the origin site and the receiving site. This shall include:
 - (i) regional and site specific soils and bedrock information;
 - (ii) boring logs, well logs and groundwater confining layers;

Upon the Secretary's request the following information shall be included to aid in understanding environmental conditions at the property: values for soil bulk density, porosity, fraction organic content, pH, and reduction-oxidation potential;

- (3) A description of the chosen corrective action technology (i.e., if residual contamination will remain at the origin site), a statement of site operations and monitoring activities, and an estimate of the duration of the implementation;
- (4) A report of all the data developed as part of the investigation must be submitted by the applicant. The data report shall comply with the following requirements:
 - (A) Only data which passes Quality Assurance/Quality Control QA/QC criteria may be included in the data report (see Section 2.5.6 of IROCP for QA/QC requirements).
 - (B) Data shall be organized in narrative and tabular and graphical form, including maps and cross sections. At sites in which multiple contaminants are present and samples of various media are collected at different depths, the SMS encourages the data be reported in a manner such as what is shown in the table in Appendix A.
 - (C) When providing data in tabular form, compare sample results against applicable VTGWES, Vermont Water Quality Standards (VWQS) Maximum Contaminant Levels (MCLs), health advisories of the Vermont Department of Health (VDH), or other risk-based screening levels that are included in IROCP Appendices A, C and D as applicable to the contaminants detected.
 - (D) All PAHs will be presented as a Toxicity Equivalent Quotient (TEQ) to Benzo(a)Pyrene (B(a)P).
 - (E) All data should be calculated as a site wide average for comparison purposes.
 - (F) SPLP samples will be compared to the Vermont Groundwater Enforcement Standards (VGES) to determine the potential to impact groundwater above VGES.
- (5) An investigation map (or set of maps for large or complex sites) that clearly identifies:
 - (A) all sampling locations, including soil borings, ground water monitoring wells,

- drinking water wells, test pits, sediment and surface water sampling, background sampling locations;
- (B) contaminant source areas including former or current tank locations, contaminant release areas, waste disposal locations.
- (6) A justification for any deviations from the approved work plan that were not approved by the Secretary.
- (7) An analysis of the data gathered from the site investigation that includes conclusions drawn from that analysis and any recommendations for next steps. At a minimum this discussion shall include:
- (A) whether the data collected were sufficient to draw conclusions with respect to the conceptual site model and to determine the risks posed to human health and the environment. This discussion shall include an identification of any data gaps and any additional investigation that may be required.
 - (B) an assessment of the risk that the development soils pose to identified receptors.
 - (C) an analysis of how the data gathered supports the conceptual site model or refinement of the model in light of the data.
- (8) Appendices:
- (A) Soil Boring Logs. A description and discussion of soil borings. Logs must include boring total depth, depth to groundwater (if encountered), soil descriptions, and field screening results. This should include an explanation of any problems encountered or anomalies discovered. Soil borings must also be shown graphically on appropriate site maps;
 - (B) Field Notes. Copies of the original field notes. Field notes shall include documentation of weather conditions, sampling timeline with locations, low flow sampling logs, and calibration information for each field analytical equipment;
 - (C) Laboratory Results. A copy of the actual laboratory results, chains of custody and all QA/QC data, as specified in the approved work plan. Any deviations from QA/QC procedures or acceptable limits must be identified and discussed; and
 - (D) Calculations. All calculations (e.g., TEQ, average calculations).
- (9) The proposed management plan shall include the following:
- (A) A description of all remedial goals including a list of any regulatory standards and screening values that must be addressed as part of the management plan.

- (B) A schedule for implementation of construction activities and remedial activities on the site.
 - (C) A list of all permits required for the project, and the contact person responsible for permit approval.
 - (D) A list of all proposed contractors and sub-contractors to be utilized to implement the project and names of municipal officials in the municipality the receiving site is located and any adjacent Vermont municipality if the facility is located on a boundary including contact information (address and phone number) for each.
 - (E) A current Health & Safety Plan.
 - (F) An estimate of the contaminant mass or volume, expected removal rates, and the estimated duration of the soil removal, including a maximum volume of soils to be removed.
 - (G) A detailed plan for how the development soils will be managed during construction activities. This plan shall include identification of proposed site controls (i.e., polyencapsulation or capping, weekly field reports to SMS).
 - (H) Detailed plans and specifications of the design and management of development soils at the origin site including how the soils will meet all applicable Vermont Water Quality Standards and will not present an unreasonable threat to groundwater, surface water, human health, or the environment. This plan shall also discuss the need for institutional controls and identify future use restrictions that are necessary on the origin site.
- (10) A public outreach plan that contains:
- (A) A one-page News Brief (under separate cover).
 - (B) A list of all interested or impacted third parties including contact names, locations and addresses, and phone numbers.
 - (C) A certification that the final report and management plan has been sent to:
 - (1) the municipality the receiving site is located and any adjacent Vermont municipality if the facility is located on a boundary; and (2) all adjoining residences and landowners.

Notice. Upon submission of a complete management plan or on or before the submittal of an application for a development soils categorical facility to the Secretary, the applicant shall send notice and a copy of the application to:

- (i) The municipality where the soil disposal is proposed to be or is located and any adjacent Vermont municipality if the disposal property is located on a boundary.

(ii) All adjoining residences and landowners.

(iii) The Agency shall accept and consider comments for at least 14 days after receipt of the management plan or application.

(E) If a Public informational meeting is requested:

(1) the Secretary shall hold a public informational meeting on an application for a receiving site or categorical facility; and

(2) the Secretary shall provide notice of the public informational meeting to the persons identified (10) (B) and (C) of this section. The notice shall include the time, date, and location of the public informational meeting. The public informational meeting shall take place during the comment period.

§ 10. FINAL REPORT, PROPOSED MANAGEMENT PLAN; SUBMISSION AND REVIEW

(a) A Final Report and Proposed Management Plan may be included as part of a Corrective Action Plan submitted to SMS.

(b) Upon receipt of a complete Investigation Final Report or Proposed Management Plan, the Secretary shall make a final determination within 45 days.

§ 11. CLOSURE REPORT

(a) A Closure Report shall be submitted within 30 days of the completion of site work. The report shall be certified by an environmental professional and shall document all site work conducted as well as any deviations from the Management Plan.

(b) Upon submission of a final Closure Report documenting implementation of the management plan, the Secretary shall make a final determination as to whether the developer has satisfied all requirements of the management plan within 45 days of receipt of the developer's request for such a determination. The Secretary will also notify the applicant of any additional work needed in order to receive site closure as described in the IROCP.

§ 12. DEVELOPMENT SOILS CATEGORICAL WASTE FACILITY CERTIFICATION

(a) Application.

(1) Application for a categorical development soils certification or an amendment to a current categorical disposal facility certification shall be made on a form approved by the Secretary.

(2) A completed application shall include the following information:

(A) The location where the development soils will be disposed of and a diagram detailing the boundaries of the proposed disposal area.

- (B) A certificate of service that demonstrates that the applicant has provided notice as required in section § 9 (10).
- (C) A letter from the municipality, municipal alliance or solid waste district serving the town where the facility is located that indicates the facility is acceptable under the solid waste implementation plan, if any.
- (D) All origin site deliverable as required by § 5 of this Procedure.
- (E) Any additional information that the Secretary deems necessary to evaluate potential impacts to the public health, and the air, groundwater, and surface water quality.
- (F) Information demonstrating that the facility is not located in:
 - (i) a Class I or Class II Groundwater Area;
 - (ii) a watershed for Class A Waters;
 - (iii) Class I or Class II wetlands or their associated buffer zones, as defined in the Vermont Wetlands Rules, unless a Conditional Use Determination has been issued by the Agency; or
 - (iv) in Class III wetlands, as defined by the Vermont Wetlands Rules, unless a Water Quality Certification, pursuant to 40 CFR Part 401, has been issued or waived by the Agency.
- (G) A discussion of site hydrogeology that includes:
 - (i) regional and site specific hydrogeologic information;
 - (ii) horizontal and vertical groundwater flow gradients and direction;
 - (iii) an assessment of the potential for preferential pathways and multiple aquifers.
 - (iv) hydraulic conductivity, transmissivity, and other parameters shall also be included, as appropriate.
- (H) A determination of seasonal groundwater elevations determined through subsurface characterization (Note: Soil Borings)
- (I) Site characterization for disposal facilities. The characterization shall include information necessary to determine all paths of emission or discharge to the environment and shall be sufficient to model contaminant transport utilizing waste characterization information required in § 6-1308. The site characterization must address, unless deemed non-applicable by the Secretary:

- (i) Soils and surficial geology.
- (ii) Bedrock geology.
- (iii) Integrated groundwater geology and geochemistry.
- (iv) Topography.
- (v) Surface water.
- (vi) Groundwater location and flow direction.

(J) All facilities shall demonstrate:

(i) That the isolation distances from the high seasonal water table, bedrock, and waters are sufficient to assure that an emission or discharge from the facility will meet all applicable environmental quality and public health standards and rules;

(ii) That the isolation distance to public and private drinking water sources is sufficient to assure that an emission or discharge from the facility will not adversely affect drinking water;

(iii) that the isolation distances to property lines, or any of the following not owned by the applicant: residences, schools, day care facilities, hospitals, and nursing homes, are sufficient to assure that the facility will not:

- (I) result in nuisance dust off site of the facility;
- (II) result in an unreasonable visual impact off site of the facility;
- (III) unreasonably increase the level of noise detectable off site of the facility; or
- (IV) otherwise adversely affect public health.

(K) The applicant shall demonstrate the development soils disposal facility complies with the Groundwater Protection Rule and Strategy, as amended; and the Vermont Water Quality Standards, as may be amended.

(b) Prohibitions.

(1) Disposal of development soils shall not occur within any of the following:

- (A) the floodway or within the 100-year floodplain.
- (B) 300 feet of a public highway, or the property line(s) of lands owned by others unless the applicant can demonstrate that a reduced distance will not result in objectionable odors off site of the facility, unreasonable visual impact off site of the facility, unreasonable increase in level of noise detected off site of the facility, creates a nuisance and shall not create a condition that otherwise adversely affects public health. In no instance shall the distance be less than 50 feet.
- (C) the source isolation zone of a public water supply, or within 200 feet of the source of a public drinking water supply, whichever is greater.
- (D) 200 feet of the source of a private drinking water supply.

Note: If disposal is proposed within the source protection area of a public water supply, the location of the disposal area and the delineated source protection area shall be identified on a site map.

- (E) 100 feet of Class B Waters, as designated by the Water Resources Board or the Natural Resources Board.
 - (2) The Secretary may require additional siting limitations as may be necessary to protect public health and safety, or the environment.
- (c) Notice; Public Comment refer to § 9 (10)
- (d) Certification; Conditions. A certification issued pursuant to this section shall contain the following terms and conditions:
- (1) Cover and grading requirements. The Operator shall cover the waste and shall grade the disposal area at least once per year and when closing the facility, a minimum slope of five (5) percent and a maximum slope of 33 1/3 percent shall be achieved. The minimum cover material shall consist of a one-foot thickness of a silty fine sand or other material capable of sustaining vegetation.
 - (2) Facility access. Conditions requiring access to the facility to be controlled at all times by a fence or barrier and a lockable gate, and requiring that an attendant be present to ensure that only the waste allowed by the categorical disposal certification is disposed of at the facility, to perform record keeping and to observe disposal during the hours of operation;
 - (3) Siting limitations. Conditions requiring compliance with the siting limitations set forth in subsection (b) of this section;
 - (4) Reports. Conditions requiring reports to be submitted reports to the Secretary. Reports shall be required to include, at minimum, the amounts of development soils disposed of in the preceding quarter, and copies of the origin site work required by § 9 of this Procedure.
 - (5) Compliance reporting. A condition that the operator report to the Secretary within five working days of the receipt of any information indicating non-compliance with any term or condition of certification or other operating authority.
 - (6) Easement. A condition requiring that upon final closure of the facility the Operator shall make put an easement on the property indicating that the parcel was a disposal site for development soils.
 - (7) Additional conditions. Any additional conditions, requirements, restrictions, as the secretary may deem necessary to preserve and protect the public health and the air, groundwater and surface water quality. This may include requirements concerning recording, reporting, and inspections of the operation of the facility.

§ 13. DEVELOPMENT SOILS CATEGORICAL WASTE FACILITY CERTIFICATION

- (a) Soils that qualify as development soils will be permitted for disposal as alternative daily cover upon approval from the receiving facility.

RIGHT TO RESCIND

The Secretary reserves the right to revoke an approval for non-compliance with the requirements of the approval, failure of the applicant to disclose all relevant facts during the review process that were known or should have been known by the applicant, misrepresentation by the applicant of any relevant fact, or a determination by the Sites Management Section that rescinding the approval is necessary to alleviate an actual or potential threat to public health or the environment.

EFFECTIVE DATE

This Procedure is effective upon date of Signature.



May 24, 2016

Chuck Schwer, Director
Waste Management and Prevention Division
Department of Environmental Conservation

Date