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April 21, 2020

Dennis Fekert, Chief
Certification Section
Vermont Department of Environmental Conservation
Solid Waste Management Program
1 National Life Drive – Davis 1
Montpelier, VT 05620-3704

**Re: Casella Waste Systems, Inc.**
**Comments to Draft Solid Waste Rules**

Dear Mr. Fekert:

Casella Waste Systems, Inc. (Casella) writes to provide comment on the Vermont Department of Environmental Conservation (DEC), draft 2020 Solid Waste Management Rules (Rules). We have reiterated the DEC's Rules in normal print with our response in bold print:

Definitions

Page 10; Architectural Waste means discarded drywall….from construction and demolition.
**Please consider narrowing the definition to clean drywall from construction, as discarded drywall from demolition cannot be recycled.**

**Correct formatting issue at the top of page 11 to separate out the definition of "Clean wood"; it is currently embedded in the definition of closure.**

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Page 11; Definitions – Construction and Demolition Debris
**Please consider removing furniture and mattresses from this definition. The discarding of furniture and mattresses occurs aside from construction and demolition. Consider adding a definition for "Bulky Waste" for these items.**

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Diversion
**The use of approved alternative daily cover materials at landfills replaces the use of clean soil as cover, in the same manner as the reuse of potential waste materials in any other construction project. Despite being used within the footprint of the landfill, alternative daily cover materials are not used for disposal, and should meet the definition of diversion. Please consider removing the exclusion for alternative daily cover at landfills in this definition.**

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Drinking Water Source

**Consider striking "used or". The definition of a drinking water source should depend on whether the source is permitted for use as drinking water, not whether someone is choosing to use it without a permit.**

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Final Grades
**Please consider replacing "prior to" with "at" within the definition.**

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Page 15; Food Residuals
**Clarify what constitutes as "on site" in reference to meat and bones by residents. Consider changing on-site to "back yard composting".**

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Hazardous Materials
**The definition as written does not appear to incorporate any exclusions, such as for household materials.**

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Asbestos Waste
**Consider the addition of definitions of Friable Asbestos Waste and Non-Friable Asbestos Waste to distinguish between the two categories within the existing definition of Asbestos Waste.**

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Nuisance
**To be more consistent with how nuisance has previously been defined in Vermont, we suggest the following revised definition.**

**"Nuisance" means anything that is injurious to human health or is indecent or offensive to the senses and occurs as the result of the storage, transport, processing, or disposal of solid wastes. Constitutes the <u>unreasonable and substantial</u> interference with the comfortable enjoyment of life or property and affects any considerable number of persons at the same time.**

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Page 19; Organic Drop-off
**Consider replacing "on" with "at" at certified waste facility.**

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§ 6-104 Fees

**If municipalities are exempt from fees, municipal ownership of facilities should be the relevant factor, not facility operator. Please consider removing "Facilities operated by a private entity are required to pay relevant fees" and relying on the language in (c).**

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§ 6-302-15-B-iv

**Consider the addition of "(III) Leachate and landfill gas collection structures within landfills" to the approved list of Exemptions for Drainage Applications.**

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§ 6-504-e-12 & 13

**The section on the Operator training plan appears to be combined with previous section on fee considerations.**

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§ 6-504-e-23 & 6-505-a-2-N

**While the Secretary does and should have broad authority for the ultimate approval of the applications for solid waste management facilities, the requirement that the application needs to include "any other information that the Secretary may require" is not appropriate, given legal, proprietary, and appropriateness considerations. Please consider the deletion of this language.**

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§ 6-505-a-2-J

**The letter from the solid waste management entity should only be necessary for the construction of a new facility, not a change in the operations. Consider limiting this requirement to only new solid waste management facilities.**

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§ 6-601(a) and (b) Full Certification

**Please consider removing "by the" within § 6-601(a).**

**Please consider removing "The applicant shall provide this notice by U.S. Mail." within § 6-601(b)(1). This reference appears to be repetitive.**

**Please consider adding "within 1 week" immediately after the word "writing" within the first sentence of § 6-601(b)(3). This would provide applicants courtesy notice to promptly address incompleteness.**

**Please consider replacing "any person" with "50 or more people having signed a petition". Please consider replacing "shall" with "may" and consider ending the sentence after "meeting" and remove "within 14 days of the notice to the ENB."**

**A signed petition has more justification and reduces the risk of a single person not having technical standing stopping or significantly slowing down a necessary permitting process. As written, a single person not located within the state of Vermont could require the implementation of the public informational meeting. We further edited to include giving the Secretary some discretion on public hearing merit/need. If a hearing were to occur, the notice period is addressed elsewhere.**

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Page 55; Subchapter 6 – Variance Review Process

**Please consider adding "and may be combined within an otherwise full certification process". This would allow applicants to provide a full certification application with one submittal and possibly lessen review time along with allowing the permitting process to be as efficient as possible considering Secretary resources as well as the resources of applicants.**

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Page 56; Subchapter 6 – Suspension and Revocation of Certifications and Registrations.

**Please consider removing "or upon receipt of a written petition for suspension or revocation." From § 6-606(a).**

**A "written petition" is not well defined. The operation of solid waste facility could easily be forced to cease operating based on allegations submitted in the form of a petition from an activist group. This rule gives far too much authority to individuals, groups or other organizations that do not possess a technical or scientific background. Suspension or Revocation of a Solid Waste Operating Certification should only originate from the Secretary.**

**Please consider removing § 6-606(b) entirely for the reasons stated above.**

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Page 61; Subchapter 6 – Siting Standards

**Please consider removing § 6-703(a) entirely. As explicitly referenced in (a), § 6-703(b) provides an adequate scientific standard for facility siting. Section (a) is far too ambiguous and may allow a person or group with unsubstantiated health and safety concerns to undermine an otherwise practical and reasonable process.**

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Page 65; Subchapter 6 – Site Characterization and Facility Design

**Please consider removing "General" and replace "design" with "operation" within the first sentence of § 6-704(a).**

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Page 66; Subchapter 6 – Site Characterization and Facility Design

**We believe a (C) needs to be added prior to "Any other information relevant to proper operation of the facility.**

**Please consider revising the two typographical errors in § 6-704(c).**

**Please consider adding "surface grade," after "hydrogeology", and adding "potential for" prior to "air pollution" and removing "control and" in § 6-704(d).**

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Page 66; Subchapter 6 – Operation Standards

**Please consider removing "Applicability" from § 6-705(a).**

**Please consider removing "Operational standards; general." from § 6-705(b). In addition, consider removing "ensure that activities conducted as a facility comply at all times with" with "operate the facility to". It is not practical or reasonable to describe operations as absolute.**

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Page 67; Subchapter 6 – Operation Standards

**Please consider removing "Clearly" and "and easily read" in the first sentence of § 6-705(b)(7).**

**We believe "Visible" covers the requirement and lessons interpretation of the requirement.**

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§ 6-707-b-2

**The requirement for landfills to maintain all records until the completion of post-closure care is not practicable. Consider modifying the recordkeeping requirement to ten years.**

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§ 6-802-e

**The rule allowing the Secretary to obtain exclusive access to financial assurance mechanisms without consent for even a partial failure of closure / post-closure requirements is overbroad and not language that financial institutions would agree to. Section (g) already allows the financial assurance to be drawn for closure or post-closure. Consider deleting section (e).**

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§ 6-805-e

**The requirement to maintain a full 30 years of post-closure financial assurance during the entire post-closure period is not reasonable. Understanding the concern that post-closure period could be longer than 30 years, please consider replacing this requirement with an ability for the facility to prepare and submit a revised post-closure estimate and demonstration on an annual basis. As the annual demonstration shows progress in meeting the criteria in 6-1009, the level of post-closure financial assurance could be reduced or maintained as appropriate.**

Page 76; Subchapter 6 – Post closure Cost Estimate

**Please consider adding the word "final" immediately prior to "capping system" in the first sentence of § 6-805(d).**

**This makes it clear which capping system is referenced relative to the 30-year post closure period start.**

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Page 80; Subchapter 6 – Storage, Transfer, Recycling and Processing Facilities Design Standards

**Please consider the typo or omission in § 6-904(a)(1) after the first comma.**

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Page 82; Subchapter 6 – Storage, Transfer, Recycling and Processing Facilities Design Standards

**Please consider rewriting § 6-905(d)(1) as follows; "Except as specifically provided within this section, all solid waste shall be processed under a roof during routine operations or stored in containers when stored outside the processing/transfer building to prevent discharge of contaminants and reduce the risk of odors, litter release and building fires."**

**We interpreted this condition to specifically target waste storage on site after normal operating hours and adjusted accordingly based on our experience.**

**Please consider removing adding the words "or other" with "under" and remove the word "box" within § 6-905(e)(1).**

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Page 83; Subchapter 6 – Storage, Transfer, Recycling and Processing Facilities Design Standards

**There appears to be a typo or omission within § 6-905(g)(1).**

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Page 85; Subchapter 6 – Storage, Transfer, Recycling and Processing Facilities Design Standards

**There appears to be a typo or omission within § 6-906(b).**

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Page 88; Subchapter 10 – Disposal Facilities

**There appears to be a typo or omission within § 6-1001(b).**

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Page 90; Subchapter 10 – Disposal Facilities

**Please consider removing § 6-1003(a)(3)(E) entirely.**

**This is not a reasonable standard for any solid waste facility in Vermont and cannot be achieved.**

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Page 90; Subchapter 10 – Disposal Facilities

**Please consider removing "so as to preclude hazards to the public health and safety, reduce impacts on the environment and reduce the likelihood of nuisance conditions." within § 6-1004(a).**

**The second half of this standard can be interpreted in multiple ways and does not align with a reasonable standard. The first section of the sentence covers the standard and enforcement needs only to focus on "reliable" as an action definition.**

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Page 90; Subchapter 10 – Disposal Facilities

**There appears to be a typo or an omission in the first line of the sentence. Please also consider removing "to surface water, groundwater, or the air." within § 6-1004(b).**

**The second half of this description is unnecessarily repetitive to the first half of the sentence.**

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Page 90; Subchapter 10 – Disposal Facilities

**Please also consider removing "and appropriate provisions for leachate treatment. The secretary may waive the liner, leachate collection system and leachate treatment requirements for landfills or portions of landfills that are designated solely to receive particular waste components that are designated by the Secretary as not a potential source of leachate that is harmful to public health and safety or the environment or capable of the creation of nuisance conditions. Landfills accepting municipal solid waste shall not be granted a liner waiver." within § 6-1004(c).**

**The second half of the first sentence is vague and provides no clarity on "provision" within § 6-1004(c). Please consider either removing this requirement or better define it.**

**Please consider adding "and" between the words "leachate that" and adding the word "not" between "is harmful" and adding "are not" between the words "or capable" within the second sentence within § 6-1004(c).**

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Page 91; Subchapter 10 – Disposal Facilities

**Please also consider removing § 6-1004(d) in its entirety. With the development of an expansion area covering (potentially) many acres that could create a reducing condition and potentially impact existing monitoring or remediation systems. That expansion would otherwise be robust, constructed and operated appropriately and not have a direct contribution on an existing monitoring/remediation system. Any impact may also not create an exceedance of a groundwater standard yet could increase certain conditions in particular to those naturally occurring metals such as Iron, Manganese and Arsenic that we see in the soils and groundwater around the NEWSVT landfill. Certainly, we agree with independent monitoring to the greatest extent practical and agree with a modeling (or other) planning tool.**

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Page 93; Subchapter 10 – Disposal Facilities

**Please consider removing "and' between the words "odor and infiltration" and add a comma. Please also consider removing "and' between the words "control and accommodating" and add a comma. Please consider adding ", reducing erosion and leachate production." after "settlement." within § 6-1004(e)(3)(c).**

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Page 94; Subchapter 10 – Disposal Facilities

**Please consider removing "and gas condensate" within § 6-1004(f)(1)(A). Gas condensate may be removed by other systems.**

**Please consider subdividing § 6-1004(f)(1)(B) and keeping the first sentence as § 6-1004(f)(1)(B). Take "Prevent migration of leachate beyond the containment system and off of the landfill site." And make this sentence its own sub criteria (C).**

**Please consider adding "or a planned or unplanned contingency storage event" and removing the period after "event." § 6-1004(f)(1)(C).**

**Please consider removing "accurately and" from § 6-1004(f)(1)(D). Industrial flowmeters can have an accuracy rating of up to 90%.**

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Page 95; Subchapter 10 – Disposal Facilities

**Please consider replacing "leachate collection" with "detection" within § 6-1004(f)(1)(F).**

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Page 96; Subchapter 10 – Disposal Facilities

**Please consider replacing "leak detection" with "leaks" within § 6-1004(i)(2).**

**Please consider revising this section to make "The facility shall maintain……" its own sub-criteria within § 6-1004(j)(2).**

**Please consider removing "shall maintain" with "may utilize" within § 6-1004(j)(3).**

**Please consider removing "Operational units shall be designed for a life not to exceed 10 years unless otherwise approved by the Secretary."**

**The cost to design, permit and construct is an enormous expense and should not be restricted to an arbitrary acreage. If a development area meets siting criteria, that entire area should be eligible for a permit. In addition, permits for landfills are renewed every 10 years and compliance and design review can be reevaluated by the Secretary at that time.**

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Page 97; Subchapter 10 – Disposal Facilities

**Please consider replacing "prevent" with "limit" within the first sentence of § 6-1004(m)(1)(b). In addition, please consider removing "and related odors or nuisance conditions, or other hazards to public health and safety."**

**This is not a standard that is practical, "nuisance conditions" and "other hazards" are not measurable and therefore are not a reasonable standard.**

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Page 98; Subchapter 10 – Disposal Facilities

**Please consider replacing "a minimum of ten (10) inches of water column of" with "effective" within § 6-1004(m)(1)(D)(i)(IV).**

**Less than ten inches of water column could be an effective pressure at a given extraction point. As long as the gas collection system is under vacuum and not allowing gas to escape beyond that required within the Vermont Air Pollution Control Division (VTAPCD) Permit issued to the facility, this requirement seems unnecessary.**

**Please consider removing § 6-1004(m)(1)(E) in its entirety.**

**All these requirements are those regulated by the VTAPCD, layered regulation proves to be very difficult to comply with and inefficient.**

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Page 99; Subchapter 10 – Disposal Facilities

**It is our position that any unlined municipal solid waste landfill not already closed should receive a flexible membrane cap at time of closure. Please consider deleting section § 6-1004(o).**

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Page 103; Subchapter 10 – Disposal Facilities

**Please consider replacing "but" with "and" within § 6-1005(c)(6).**

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**§ 6-1005-d-1-F**
**Consider replacing "hazardous materials" with "hazardous wastes by toxicity"**

Page 105; Subchapter 10 – Disposal Facilities

**Please consider removing § 6-1005(d)(2)(A)(i) in its entirety.**

**It is the responsibility of the abatement contractor to be sure that loads are packaged in accordance with the Vermont Department of Health regulations. The landfill can confirm receipt and properly dispose, confirming how it was packaged should not be required at the disposal site for health and safety reasons.**

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Page 106; Subchapter 10 – Disposal Facilities

**Please consider adding "Unless otherwise approved by the Secretary," at the beginning of rule § 6-1005(d)(3)(B).**

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Page 108; Subchapter 10 – Disposal Facilities

**Please consider revising § 6-1005(e)(3) to read; "Sample and analyze the primary leachate and secondary detection liquid as outlined in the approved FMP and provide the results to the Secretary within 5 days of receipt of the final laboratory report."**

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Page 109; Subchapter 10 – Disposal Facilities

**Please consider removing § 6-1005(f)(2).**

**Like the above referenced request, the VTAPCD regulates the surface emission monitoring**

**requirements, so this becomes another layered regulation.**

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Page 111 &112; Subchapter 10 – Disposal Facilities

**Please consider removing § 6-1006(b)(6).**

**Like the above referenced request, the VTAPCD regulates surface emission monitoring, so this becomes another layered regulation.**

**Please consider removing § 6-1006(b)(7) & § 6-1006(b)(8), these are plans already described within the FMP.**

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If you have any questions regarding our recommendations or suggestions, we would be happy to meet with the Department to review and discuss.

Sincerely,

**CASELLA WASTE SYSTEMS, INC.**

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