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**STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES  
SOLID WASTE MANAGEMENT PROGRAM  
WASTE MANAGEMENT DIVISION  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**PROCEDURE ADDRESSING POST-CLOSURE CARE AND POST-CLOSURE  
CERTIFICATION AT SOLID WASTE LANDFILLS**

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CERTIFICATION OF SOLID WASTE LANDFILLS**

I. INTRODUCTION

10 V.S.A. §6605 requires the construction, substantial alteration, or operation of any solid waste management facility to be certified by the Secretary of the Agency of Natural Resources (Secretary). Post-closure care at a landfill is considered an “operation”, and therefore a facility must be certified, in five years intervals, through the post-closure period. The law further requires, where appropriate, that the certification contain provisions for air, groundwater and surface water quality monitoring throughout the life of the facility and for a reasonable time after closure of the facility. The law also allows the certification to contain conditions, requirements, and restrictions as the Secretary deems necessary to protect public health and the air, groundwater and surface water quality.

The Solid Waste Management Rules (“Rules”), effective January 15, 1999, require that an application for facility certification include a post-closure plan if waste constituents will remain at or in the facility after closure. The post-closure plan is to become a condition of the facility certification, and thus be implemented upon closure of the facility.

Application for certification of a solid waste management facility can be a time consuming and resource intensive process. The process is appropriate for new or active facilities, but may be overly complex for facilities which have already been closed and at which only post-closure monitoring and maintenance are required. This procedure outlines an administrative process specifically for certifying these closed solid waste landfills. The procedure is consistent with existing statute and rule, and allows for meaningful public input, yet should result in substantial financial savings for a process which, over a 20 or 30 year post-closure period, should become fairly routine. This Procedure involves no anticipated changes to the current technical standards for post-closure care; therefore, protection of public health or the environment will not be compromised.

The effective date was delayed until April 9, 1994, for any existing municipal solid waste landfill (MSWLF) unit that disposed of 100 tons or less of waste per day. The ANR Procedure Addressing Closure and Post-Closure Care Requirements at Municipal Solid Waste Landfills, dated January 25, 1995, contained related requirements adopted for conformance with the Federal regulations. The majority of those requirements have been incorporated into the July 1, 1998, Solid Waste Management Rules, and as of the date of adoption of this Procedure, the Procedure Addressing Closure and Post-Closure Care Requirements at Municipal Solid Waste Landfills is no longer applicable.

## II. POST-CLOSURE REQUIREMENTS

This Procedure is applicable to all solid waste landfills closed after the effective date of Act 78, July 1, 1987, and which are not performing post-closure care under an existing certification pursuant to 10 V.S.A. §6605, an assurance of discontinuance, or an administrative order. The Procedure will also be applicable to closed, currently certified facilities at the time that re-certification is required.

### A. Application Procedures:

1. The applicant shall complete, sign and submit to the Solid Waste Management Program a standard solid waste certification application form.
2. Statutory Obligations:
  - a. 10 V.S.A. §6605(b) requires that a certification for a solid waste management facility shall, “where appropriate”, contain a number of specifications, provisions, and requirements. A certification application for post-closure care of a landfill shall address 10 V.S.A. §6605(b)(5), by including plans for groundwater, surface water, air and leachate monitoring, erosion control, landscaping, and drainage. A certification application shall also address (b)(6), by including plans for reporting and inspections. The application for post-closure certification need not address 10 V.S.A. §6605(b)(2), (3), and (4), which apply to facilities which are actively accepting waste.
  - b. 10 V.S.A. §6605(c) requires that, prior to re-certification, a facility be included in an implementation plan adopted pursuant to 24 V.S.A. §2202a, and be in conformance with any municipal or regional plan adopted in accordance with 24 V.S.A. chapter 117. The information necessary to demonstrate conformance must be included in the application.
  - c. 10 V.S.A. §6605(d) and (e) relate to liner requirements and ash disposal at

new or active landfills, and need not be addressed in a post-closure certification.

- d. 10 V.S.A. §6605(f), the initial notification to the municipality in which the facility is located, must be complied with.
- e. 10 V.S.A. §6605f, the personnel background review, is not applicable to facilities not actively accepting waste.

3. Regulatory Obligations:

Solid Waste Management Rule §6-303(d) requires that the Secretary find that a facility be in compliance with the Ground Water Protection Rule and Strategy (Groundwater Rules) prior to a certification being issued. Appropriate post-closure maintenance and routine monitoring of an existing, inactive landfill, located in a Class III or Class IV groundwater area demonstrates conformance with the management strategies contained in §12-503 and §12-504 of the Groundwater Rules. Approval of a post-closure plan containing maintenance and monitoring provisions will allow the Secretary to find that a facility is in conformance with the Groundwater Rules.

Application for certification provisions are contained in Solid Waste Management Rule §6-304.

- a. Solid waste certification application fees are based on a calculation of tons per year of waste managed at the facility. Since any landfill requiring post-closure certification is closed and no waste will be accepted, there is no application fee associated with a post-closure certification.
- b. Signatures on the application must conform to the requirements of §6-304(b).
- c. In accordance with §6-304(d), the application must be prepared under the direction of a registered professional engineer, unless the Secretary specifically waives the requirement. If the post-closure certification application is to generally allow for a continuation of existing monitoring and maintenance activities, the Secretary may waive this requirement.
- d. §6-304(e) contains the specific information to be submitted for a complete application. Some information, as noted below, is not applicable to post-closure certification applications.

- §6-304(e)(1): Submitting information demonstrating compliance with Subchapters 5 (siting), 6 (design), and 7 (operations) of the Rules is not applicable for a post-closure certification.
  - §6-304(e)(2), (3), (4), (5) and (6): Requirements for signatures, addresses, telephone numbers, and type and location of the facility, are applicable for post-closure certification.
  - §6-304(e)(7), and (8): These requirements pertain to landfill development and types of waste managed. The sections are relevant to active operation of a facility and therefore are not applicable to a post-closure certification.
  - §6-304(e)(9): Confirmation that groundwater under the facility remains classified as Class III or Class IV must be submitted.
  - §6-304(e)(10): Evidence of financial responsibility or capability for continued post-closure care must be submitted in accordance with Subchapter 9 of the Rules.
  - §6-304(e)(11): A revised post-closure plan and cost estimates must to be submitted in accordance with Subchapter 10 of the Rules.
  - §6-304(e)(12): Evidence of fee simple title or unencumbered right to possession of the property must be submitted. If the operator and landowner are not the same, then the landowner must be a co-applicant.
  - §6-304(e)(13): Evidence that the facility is in conformance with applicable plans is required. See 2.b above.
  - §6-304(e)(14): Evidence of compliance with the disclosure requirements. See 2.e above.
  - §6-304(e)(15): This requirement pertains to proposed landfills only, and is not applicable to a post-closure certification.
  - §6-304(e)(16): A list of names and addresses of entities that have received notice of the certification. See 2.d above.
- e. §6-304(h) is a requirement that the application shall include a plan for effective public notice. Under this procedure, effective public notice means:
- An advertisement in two newspapers in general circulation in the area

of the facility.

- Sending notices to the municipality in which the facility was located, or which the facility bounds.
- Sending notices to all residences and landowners within one-half mile of the facility, or nearest 100, whichever number is lesser. For a “minor” application (see II.B.2 below), notices must be sent only to adjoining residences and landowners.
- Sending notices to any affected state agencies.
- Sending notices to the regional planning commission and solid waste district.

The applicant must send the names and addresses of persons receiving the notice to the Secretary.

The public notice must include the information outlined in §6-304(h)(3) and (4).

4. Financial Responsibility and Capability:

- a. The application must contain evidence of on-going financial responsibility or capability for post-closure care in full accordance with Subchapter 9 of the Rules. For privately-owned facilities, evidence of financial responsibility means the submission of the appropriate financial responsibility instrument. For municipally-owned facilities, evidence of financial capability means documenting that adequate post-closure care funds have been dedicated and are available.

5. Post-Closure Plan and Cost Estimates:

- a. The application must include a post-closure plan containing the information outlined in §6-1003(c). The plan must also:

- if applicable, addressing the requirements contained in the Procedure Addressing Explosive Gas Control at Municipal Solid Waste Landfills, the Procedure Addressing Groundwater Quality Monitoring and Groundwater Remedial Action at MSWLFs and the Procedure Addressing Corrective Action & Financial Responsibility for Corrective Action at Solid Waste Landfills; and
  - include a description of the maintenance of leachate management and gas management systems; and
  - describe the planned uses of the property during the post-closure period. The post-closure use of the property shall not disturb the integrity of the final cover system, liner, or other components of the containment system, and shall not pose an increased risk to human health or the environment.
- b. The application must also include a post-closure cost estimate in accordance with §6-1005. The approved post-closure plan and cost estimate shall be referenced in the certification.
- c. For those municipal solid waste landfills that accepted waste after October 9, 1993, the post-closure plan shall contain specifications and estimated costs for 30 years of post-closure care. For non-MSWLFs, and MSWLFs which closed prior to October 9, 1993, the closure plan shall contain specifications and estimated costs for 20 years of post-closure care. The post-closure period begins upon commencement of post-closure care, regardless of the date of closure.
- d. The post closure care period may be increased from the standard 20 or 30 years if the Secretary determines that a lengthened period is necessary to protect human health and the environment.
- B. Application Review:
1. The full application review process, SWMR §6-305(a) applies to facilities which have never been certified.

2. The Rules allow the Secretary to deem certain applications as “minor”, which results in a simplified administrative process. Post-closure certification applications for facilities which have been previously certified shall be considered minor. In accordance with SWMR §6-305(b)(1), applications for certification for facilities not previously certified cannot be deemed minor. Therefore, post-closure applications for landfills which have never been certified must undergo with the full administrative and review process of SWMR §6-305(a)

The Secretary may exempt the minor application from several administrative requirements. Under this Procedure an applicant shall not be required to provide notice of the minor application, nor will draft findings of fact or a fact sheet will be issued. The Secretary will first determine whether the application is administratively complete. Once a minor application is determined to be administratively and technically complete, a draft certification will be developed. The application, the draft certification and the opportunity for public comment shall be noticed in accordance with the approved plan for public notice (see (3)(e) above). The public comment period shall be 14 days, unless a public information meeting is warranted. If the public meeting is held then the process contained in §6-305(b)(3)(c) shall apply.

C. Post-Closure Plan Amendments and Cost Estimate Revisions:

1. The post closure plan may be amended at any time in the certification period, subject to a determination of conformance with the Rules. The process to amend a post-closure plan is contained in §6-1003(f) and (g). An amendment to the post-closure plan will warrant a modification of the post-closure certification, in accordance with §6-307(b).
2. In accordance with §6-1006, the permittee must review post-closure care plans and cost estimates at least once every two years and file revisions with the Secretary. Based on that review, a revision to the post-closure plan and cost estimate may be warranted. If a plan or cost estimate revision is warranted, a post-closure certification amendment shall be necessary, as indicated in 7(a) above.
3. In addition to the biennial revision requirements set forth in §6-1006, the permittee of a closed MSWLF must annually adjust the post-closure care cost estimate for inflation. The adjustment must be submitted on or before the anniversary of the submission of the last adjustment or closure cost revision.

D. Termination of Post-Closure Care:

1. A permittee may make a written request to the Secretary that post-closure care be terminated at the conclusion of the current certification period. The request must be accompanied by satisfactory demonstration that:
  - a. the post-closure care requirements contained in the post-closure plan have been completed; and
  - b. continued post-closure care is unnecessary to protect human health and the environment.

Effective date

This Procedure is effective upon date of Signature.

Signature

Signature  
Canute Dalmasse, Commissioner  
Department of Environmental Conservation

2/8/99  
Date