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Solid Waste Management Program
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Landfill Custodial Care Application Guidance

Revised: October 5, 2015

General Information

In Vermont, closure of regulated (both lined and unlined) landfills is considered an operation and has been completed under the issuance of administrative orders, assurances of discontinuance and post-closure certifications. The closure care period for each landfill depends on site specific circumstances, but a minimum financial planning period of 20 or 30 years for these closed facilities was determined based on the Federal RCRA Subtitle D regulations (40 CFR Part 258). This post-closure period can be shortened or extended upon the Program's consideration of the individual site history, but sites can be removed from post-closure care regulation upon ceasing to pose a threat to human health and the environment at a point of exposure.

In July of 2013, the Solid Waste Management Program adopted the 'Procedure Addressing Completion of Post Closure Care for Solid Waste Disposal Facilities'. This procedure is intended to provide an interim process for determining cessation of post-closure care at regulated landfill facilities that have completed the 20 or 30 year required planning period. For reference, a copy of this procedure may be obtained at the following website:

<http://www.anr.state.vt.us/dec/wastediv/solid/pubs/CustodialCareAfterPostClosure20130716.pdf>

Application

In order to successfully apply for custodial care of a closed landfill site, the applicant must demonstrate that all requirements of post-closure care have been completed. This application must be prepared under the guidance of an engineer licensed in the State of Vermont and be signed by the facility operator, the facility owner and the landowner.

Demonstration of Post-Closure Completion: Each site applying for custodial care consideration must successfully demonstrate to the Program that they have completed the requirements of their Post-Closure period and that the site poses no future threat to human health and the environment. Justification of this will largely depend on the historical monitoring that has occurred at the site in the period since closure, and analysis of this monitoring should be submitted as part of the justification. At a minimum this evaluation should consider: groundwater quality, landfill gas emissions, leachate management, settlement, vegetation cover, surface water diversion, completion of previous corrective actions, and maintenance of institutional controls.

A detailed example of such an evaluation can be found in the 2006 Interstate Technology Regulatory Council guideline titled "Evaluating, Optimizing, or Ending Post-Closure Care at Municipal Solid Waste Landfills Based on Site Specific Data Evaluations: www.itrcweb.org/documents/alt-4.pdf. The level of performance

based evaluation outlined in this document is appropriate for larger lined facilities and all aspects of this procedure may not apply for many of the closed landfill sites located in Vermont. This document does, however, illustrate the methodology for systematic evaluation of the landfill condition and the process for making relevant decisions for management, reduction or completion of post-closure care activities.

Custodial Care Plan: The completion of post-closure care does mean the completion of regulatory obligations; however, it does not eliminate the obligation for continued management of the property in order to minimize potential exposure. At a *minimum* this will require maintaining institutional control over the facility and preserving cap integrity and vegetation. The program is amenable to considerations of beneficial uses of the landfill site and/or surrounding properties. These potential uses should be outlined in the Custodial Care Plan and submitted as part of the application for approval prior to implementation. These end use activities must not compromise the integrity of the landfill. The Program does have policy on the construction of solar photovoltaics on solid waste landfills, but is open to consideration, on a case by case basis, of other proposed end uses activities. The policy on solar photovoltaics can be found:

<http://www.anr.state.vt.us/dec/wastediv/solid/pubs/signed2014solar.pdf> Any substantial modifications to these end use activities at any point in the custodial care period must be submitted to the Program and approved in writing prior to implementation. Submission of the proposed end use activities for the site as part of the Custodial Care Plan in no way relieves the need for approval from other State and/or local parties as appropriate.

Plan for Public Notice: At a minimum, the applicant must notified adjoining landowners and post to two newspapers a public notice stating their application and intention to cease post-closure care and move into custodial care. This public notice should be made at the point of application and comments will be taken for a period of 14 days. The public notice should also state any end use activity that is planned for the site.

Notification

Approval for transition from Post-Closure Care into Custodial Care will be made by written notification from the Secretary under 6-1003(h) of the Solid Waste Management Rules following the submission of a complete and successful application. Until such written notification is received, the application is considered in progress and the facility remains under the controls and obligations of its previously existing operational certification.