

## **NEWMOA Hazardous Waste Conference Call May 10, 2016**

### **Topic: What Guidance Have States Issued for Closure, Partial Closures, and Post Closure for Treatment, Storage, and Disposal Facilities and Generators**

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**Participants:** CT DEEP (4 people); Mass DEP (1 person); NH DES (5 people); NJ DEP (3 people); NYS DEC (3 people); RI DEM (2 people); VT DEC (3 people); EPA HQ (1 person); EPA Region 1 (3 people); NEWMOA (1 person)

Call leader: New Jersey

Note-taker: VT DEC (Cindy Grimes), with assistance from Terri Goldberg, NEWMOA

Each state shared a summary of its guidance and policies for closure, partial closure, and post closure for Treatment, Storage and Disposal Facilities (TSDFs), as well as for hazardous waste generators. Questions included: What guidance have states developed? Is the guidance available publicly? And have there been any issues and/or challenges throughout the closure process?

#### Massachusetts

Mass DEP developed state guidance because the federal regulations only provided general standards for closure and was not specific for clean closure of tanks. Guidance is based on 40 CFR §268.45, EPA's containment rule for a RCRA unit, and applying the standards for hazardous debris for clean closure. Based on regulatory analysis, Mass DEP came up with procedures to help generators clean-close for tanks by using a written guidance for RCRA units depending on their disposition (i.e., reuse, scrap, or dispose of as hazardous waste). The closure procedure depends on whether the tank contained a listed or characteristic waste, and the generator can use a table in the guidance to determine the proper procedure. The guidance uses extraction technology (based on 40 CFR 268.45) for the standards and guidance for listed wastes.

The goal of the treatment is to produce a clean debris surface, which means the surface area is free of any visible soil and/or waste, which is limited to no more than 5 percent debris. This equals “clean”, with no stains. The table in the Guidance is widely used and gets positive feedback from generators. It provides a good roadmap to a “clean point”.

Question – Would MA require higher closure standards for debris if a tank was to be reused? Answer – See the table in the Guidance for standards. Table does not mention closure for tank releases into the soil. The guidance policy only applies to non-leaking tanks in good condition. If generator disposes of all hazardous waste in a tank, that tank must meet the definition of an empty tank. If tank is to be managed as scrap, users should consult the table. If tank is to be reused, the policy is broken down in the Table.

Question – Does MA use the federal scrap metal regulations? Answer – Scrap metal is exempt under Land Disposal Restrictions (LDRs). Scrap metal does not match up to Fed Regulations. Facility might not look at a tank as bulk scrap, because of it being a RCRA unit. Need a more prescribed definition of “clean”. Maybe the definition should be more stringent for RCRA facilities.

### Connecticut

Large Quantity Generators (LQGs) need to meet federal closure requirements. State added more stringent requirements, which apply to small quantity generators (SQGs), as well. Requires generators to complete closure within the timeframes specified in 40 CFR 265.113. 40 CFR 265.113 can be confusing to generators, so State is drafting specific closure requirements for LQGs and SQGs. An example of the proposed requirements include increased recordkeeping requirements (no documents required to be submitted from generators, but closure documents have to be retained on site). State has three guidance documents, one for TSDFs and two for generator storage areas. Some requirements for the facility: describe processes; characterize all containers; if contaminant migrated to the soil, ensure all surfaces and soils are clean. Requirements try to cover a full spectrum of closure activities. Two documents are available for closure guidance for LQGs and SQGs.

- First document is more universal and applies to closure of both container and tank storage areas. Is more broad-based and recommends sampling frequency and methods, as well as an inspection of the facility.
- Second document is more specific to indoor container storage areas. The eligibility criteria are more specific (e.g., storage area is always indoors, well-managed, and container area is well-maintained and documented).
  - Various cleaning criteria for different wastes; for example acutely toxic waste – closure would include washings and confirmation of results of waste analysis. Additional cleaning would be required, if necessary.

The general perspective for a facility to submit a closure plan is self-implementing. CT DEEP does not review and approve closure plans unless it is in an order. No closure documents can address everything; flexibility can be used; e.g., sometimes other plans with other programs can be used. Closure materials on the CT DEEP website ([www.ct.gov.deep](http://www.ct.gov.deep)). There is guidance for closure of storage areas and tanks for generators who store < 90 days, as well as guidance for closure of TSDFs who store > 90 days (this document follows a plan to be written for approval).

There are three parts to a written closure plan that is submitted for approval:

#### Part 1 - General Facility Information and Site Characterization Work Plan

- a) General Facility Information – might include facility setting and site information, sensitive receptors to a release into the soil, floor drains, and information on soil to ground water.
- b) Site Characterization Work Plan – information on storage areas and containers/tanks.
  - Storage areas require an investigation – e.g., inspection of concrete for cracks; if cracks are present, there needs to be a plan to investigate the subsoil and ground water.
  - A statement to define constituents of concern is required.
  - A list of media closure criteria (e.g., if releases are found, what criteria are there to define when the media is cleaned).

Part 1 is submitted initially for review; a letter is sent from DEEP to concur with the plan but is not an official approval.

#### Part 2 – Summary of Investigation and Analysis Results

- a) Results of soil and/or concrete analyses, describing any releases.
- b) If there have been releases, submittal of a plan for closing as clean or as a landfill, and a plan for long-term maintenance and monitoring is needed.

Part 2 is submitted initially for review; a concurrence letter is sent from DEEP

#### Part 3 – Remediation, Verification, and Certification

- a) If contaminated media is present (e.g., building, stained soil, ground water), a plan for remediation must be submitted. The plan is put together as a public notice for the closure plan with the cost estimate, and certification of report.

All three parts are put out as public notice, as well as a closure cost estimate and certification of closure report (very rarely are there public comments) → DEEP approves plan → plan is implemented → closure certification report with PE certification is submitted → all documents are reviewed → financial assurance for closure is released

Question – Does guidance contain documents of closure? Answer – Yes. All documents are available online at website. If any media is cleaned, data is documented and manifests need to show that waste was transported off site. Connecticut is unusual in that even though it's a small state, there are a large number of land disposal facilities, creating a huge closure universe. Currently, there are 238 facilities in interim status, which includes closure as landfills and ~ 100 surface impoundments. Number also includes greater-than-30-year closure activities.

Question – Does DEEP visit these closure sites? Answer – Yes.

Question – Is Corrective Action being done at any of these sites? Answer – Conducting closure as a site is investigated/remediated under Corrective Action. Any closure plan is still submitted and then approved under the Corrective Action Program. Facilities ending a 30-year post-closure plan are connected to the Corrective Action Program. Out of 238 sites, ~100 have implemented the closure program. ASTSWMO is in the process of developing comments to evaluate the post-closure period, with federal guidance. Stewardship permits can be issued for sites at end of their 30-year time period, as well as to achieve Corrective Action goals for maintenance and monitoring the site.

A lot of sites are capped and still have waste on site – DEEP has to continue to monitor these sites under a stewardship permit. Financial assurance for closure is required in a facility permit.

#### New Hampshire

NH has no active commercial TSDFs, and thus has no closure or post-closure plans for these facilities.

Universal Waste handlers with > 20,000 kg on site are regulated. They are required to have a closure plan. NH has a small number of facilities that this applies to. Closure plans are not required for generators, but there are rules in place referencing closure that apply to all. Any generator is required to notify and is given an EPA ID number, and if the generator closes or ceases activities, it is required to file a declassification with NH DES, which certifies that all waste is off-site. There are broad standards within the CFR (referencing 40 CFR 265.111 and 40 CFR 265.114) to ensure all contaminated equipment is decontaminated and disposed of properly. In 2015, NH focused on facilities that were closing and/or in bankruptcy. Three sites were visited and inspected where the generator was going thru closure due to bankruptcy. No guidance is available on their website per se; the training that NH offers covers a small amount of closure guidance.

Question – Do the Very Large Quantity Universal Waste handlers have to have a closure plan?

Answer – Yes, and they must be able to execute the plan, and financial assurance must be adequate.

#### New Jersey

Generators do not necessarily have to have a closure plan. All permitted facilities must have a closure plan specific to that facility, and the facility's permit dictates the plan. This is also the case for post-closure. Inspectors visit TSDFs once per year and review their closure plan to ensure it is current (e.g., financial assurance). No guidance is available online.

Question - Is closure guidance available online for permittees? Answer – Not sure, but the permit engineers review each plan for compliance.

#### New York

All closure procedures go through the permit office in the central DEC office in Albany. Previously, facilities had an active program to go through, and a facility with Interim Status went through a short system of closure. A small number of permitted facilities (permitted only through storage) are TSDFs. A closure plan and financial assurance are submitted through the permit work group. The closure plan is usually fairly extensive. Facility must conduct corrective action and remediation if there have been spills on site, unless specific direction is given thru a regional office. No inspections are conducted and there are no closure plans for generators. No known guidance has been prepared.

Question – Federal regulations reference closure standards – do the NY regulations? Answer – NY closure regulations are handled through the permit work group, who take care of closure procedures unless otherwise stated.

#### Rhode Island

No specific guidance for closure of TSDFs or generators. TSDF closure is handled through its permit application as part of the permit. Generator closure is referenced through the federal regulations, with nothing above or beyond. Corrective Action involves site remediation, with a public notice and approval process. There is no state-specific guidance for generators – the federal rules are referenced.

Question for all– When field staff conduct inspections at hazardous waste sites, do they determine if a storage area has closed properly and with compliance?

Answers: NH – Inspectors do not check if a storage area has closed properly. If any contamination had occurred, they would ask facility about the release, but they do not go out to look specifically at closed hazardous waste container storage areas. CT – Inspection checklist has section for LQGs and SQGs that addresses any areas that have closed; inspectors attempt to confirm if closure was done properly in those areas. “Status change” process – When an LQG goes out of business or drops in generator status, the facility must submit information and certify that they have properly closed any areas as required.

### Vermont

The state regulates TSDFs, LQGs and SQGs to perform closure. Program’s webpage has guidance with forms and other information: <http://dec.vermont.gov/waste-management/hazrdous/which-regulations/facility-closure>. Guidance document is from 2005 – have plans to prepare an updated version. Guidance is written more for generators, with closure for TSDFs covered in their permit. After a recent SQG closed (nuclear facility), there were issues, state is reviewing general closure standards and guidance for generators, including soil sampling, decontamination, waste analyses, timelines, and wipe sampling. Facilities are required to notify 90 days prior to closing but may be required to submit a closure plan when identifiers include floor drains, stains, containers in storage areas, and/or lagoons. If a plan is submitted, the state reviews for approval. After closure is complete, a certification report from the facility is required, and after review of the report, inspectors have the option to arrange for an inspection of the facility. Biggest challenge has been trying to get a hold of facilities before they close; have contacted company’s headquarters in the past for information on specific VT facility. Vermont had six generator closures in 2015. There is a need to explore options to get the word out to facilities about closings (reference NEWMOA call on “Generators that are in foreclosure or bankruptcy or closing for another reason, addressing sites that do not have a closure plan or financial assurance” on September 23, 2014). One of Vermont’s state attorneys is working on updating the current closure plan.

### EPA

Would like to request any documents from states regarding their closure plans. Would recommend viewing the closure guidance plans for the states of Arkansas and Alabama. Connecticut also suggested viewing Ohio-EPA’s closure plan/program. EPA has general guidance on closure. Facility might ask what action level is acceptable for closure. What defines what is acceptable with both the facility and EPA regarding closure? For a TSDF, closure requirements are part of final approval, as well as financial assurance. Regarding federal tank requirements, if generator cannot meet the clean closure requirements for a tank, does it have to be closed as a landfill? Regulations state if tank is not clean, generator must have financial assurance and go through all applicable closure procedures. Question – Have any states had a tank closed as a landfill? Answer – No. Options would be to remove the tank and containment area, deal with the residuals (e.g., contaminated soil), and lengthen ground water monitoring.