

DRAFT FOR DISCUSSION ONLY

POSTCLOSURE PERIOD

The question of how long the period of postclosure should be for facilities has been an issue for disposal facilities since the inception of hazardous waste laws. The intention of both federal and state law has been to ensure the availability of sufficient financial resources, provided by the owner/operators, for use by regulatory agencies to complete postclosure in order to protect human health and the environment throughout the length of postclosure.

Generally, the period of postclosure has been described as the length of time the waste remains a risk without the benefits of the closure structures. Unless or until the waste material degrades into a material that will not pose a risk as unrestricted use, some level of postclosure maintenance and monitoring is required. Land disposal facilities pose particular challenges. Based on the type of waste that has and continues to be placed in land disposal units, the material will remain a risk for hundreds or thousands of years without maintenance of containment structures and engineering controls. In addition, the monitoring programs associated with these units are critical components of evaluating the continuing effectiveness of the containment structures.

The existing procedure for issuing postclosure permits is to issue a permit for 10 years that requires 30 years of postclosure financial assurance. The permit is renewed every ten years throughout the postclosure period, as required, based on facility-specific conditions. Before DTSC issues a permit or permit renewal to a land disposal facility, we determine if operation, maintenance, or monitoring activities will be required at the facility for the next thirty years from the date of the new permit. The regulations establish at least a 100 year postclosure period for land disposal and surface impoundment facilities [§§66264.228(a) and 66264.310(a)]. DTSC has concluded that the postclosure period for land disposal facilities is indefinite and would extend until perpetuity, since the waste remains onsite. However, it is likely that certain monitoring requirements (and possibly other postclosure requirements) could be revised over time. Additionally, DTSC can only release facilities from financial assurance requirements after all postclosure care requirements have been met [§66264.145(j)]. This has been referred to as a “rolling thirty-year period.” For other facilities that require postclosure care or other long-term operation, maintenance, or monitoring, the period of financial assurance is based on site-specific conditions.

A significant disadvantage of this approach is that owners that go out of business during the postclosure period will leave between 20 and 30 years (or less) of financial assurance in place. As described above, this will leave a significant gap in funding for postclosure at a facility that requires maintenance and monitoring for over 100 years. This shortfall will unfortunately require DTSC to seek additional funding from waste generators with a history of disposal at the facility.