

NEWMOA Hazardous Waste Conference Call April 8, 2014

Topic: Permanent Household Hazardous Waste (HHW) Facilities

Disclaimer

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Participants: CT DEEP (9 people); ME DEP (1 person); Mass DEP (4 people); NH DES (10 people); NJ DEP (2 people); NYS DEC (8 people); VT DEC (7 people); EPA Region 1 (2 people); EPA Region 2 (1 person); EPA HQs (2 people); NEWMOA (1 person)

CT DEEP was the call leader. They provided the following write-up prior to the conference call.

Key questions for the call:

- Do states have permitted household hazardous waste (HHW) collection facilities that they have inspected?
- If so, what have they found for compliance?
- Have any states taken enforcement action to address non-compliance found at these facilities?
- Do you require permanent HHW facilities to obtain EPA ID numbers? If so, what type (permanent or temporary)? If permanent numbers, what are they notified as?
- Do you require permanent HHW facilities to use manifests? If so, do you require that copies be submitted to you? Do you enter the manifests into your manifest database (assuming you have one)?
- Do you require permanent HHW facilities to comply with hazardous waste generator requirements? If so which ones?
- Do you require permanent HHW facilities to submit biennial HW reports?

- Are any of your permanent HHW facilities allowed to accept conditionally exempt small quantity generator (CESQG) waste in addition to HHW? If so, does this change any of your answers to the previous questions?

Background

Two spill incidents involving one-day HHW collection events precipitated CT DEEP's decision to begin inspecting the State's four regional, permanent HHW collection facilities. The first spill occurred on May 1, 2004 in Farmington, CT, and the second spill occurred on April 26, 2010 in Weston, CT. Both spills occurred because the contractors failed to properly drain or package containers of HHW, instead placing many containers that were full or had significant contents in the solid waste dumpster, where only empty containers should have gone. In both incidents, rainfall added to the problem. When the dumpster service arrived one to two days after the collection event to pick up the trash dumpster, while loading the dumpsters (thus tilting them), large amounts of chemical liquids poured out to the ground. In the Farmington incident, the spillage ended up "significantly" (per Emergency Response Unit report) contaminating the Farmington River.

Descriptions of Connecticut's Permanent HHW Facilities

Connecticut currently has four permanent household hazardous waste facilities. CT DEEP uses the term "permanent" to distinguish these facilities from one-day HHW collections that are held at temporary locations on an on-going basis throughout the State. The four facilities include:

- The Mid-Northeast Recycling Operating Committee (Mid-NEROC) Permanent HHW Facility in Willington, CT, which represents 14 member towns in the Northeast Part of the State. Clean Harbors Environmental Services, Inc. ("Clean Harbors"), as vendor, operated the facility under a contract with Mid-NEROC. The facility is open twice per month from mid-April through early November to collect hazardous wastes from residents of Mid-NEROC's member towns and is also permitted to accept conditionally exempt small quantity generators (CESQG) waste.
- The Capitol Region East Operating Committee (CREOC) Permanent HHW Facility in Manchester, CT, which represents eight member towns in the greater Hartford area. This facility is permitted similarly to the Mid-NEROC facility in that the town is the sole host community, and the permit incorporates an operation and management plan detailing how to properly run the facility. This facility is open about five times per year in the spring and fall months and is permitted to accept CESQG waste, in addition to HHW. At the time of DEEP's inspection in 2012, Clean Harbors was also the operator of this site on behalf of CREOC.
- The Connecticut River Estuary Regional Planning Agency Permanent HHW Facility in Essex, CT represents 10 towns in the lower Connecticut River Valley area. The facility is

open on Saturdays from April through October and is permitted to accept CESQG waste in addition to HHW. Clean Harbors also serves as the operator of this facility.

- New Haven Regional Water Authority, “Household Hazardous Waste Central” Permanent HHW Facility, in New Haven, CT. This facility serves 16 towns in the New Haven, CT area and is operated by the local water and sewer authority. This facility is open Saturday mornings from mid-May through the end of October. It is permitted to accept CESQG waste in addition to HHW.

Inspection and Enforcement History for the Three of the Four Permanent HHW Facilities in CT

Mid-NEROC HHW Facility. CT DEEP inspected the Mid-Northeast Regional Operating Committee (Mid-NEROC) HHW facility on August 20, 2011. This was the first time the facility had been inspected since the issuance of its solid waste (transfer station) permit in 1994. The solid waste permit requires compliance with a site-specific operation and management plan (O & M Plan), prepared by Mid-NEROC. The operation and management plan outlines the specific daily operations of the facility, as well as assigns responsibilities to the site’s administrator and operator. Many of these responsibilities are similar to those required for large quantity generators (LQGs).

DEEP found that the operation and management plan for this facility had not been updated in several years and that the site’s current operator did not have a copy of, or any knowledge of, the plan. In fact, the site’s operator did not even have a copy of the permit as it had assumed the site was operating under the same conditions required by the State’s general permit for one-day household hazardous waste collection events. As a result, the inspection revealed 20 permit violations, including signage, container management, inspection, recordkeeping, and training violations. These violations resulted in notices of violation (NOVs) issued to the town, site administrator, and site operator, and consent order (Cos) issued to the site administrator and operator for a total civil penalty of close to \$40,000.

Some of the key issues identified through the enforcement process included the following:

- a.) The facility’s permit required the operator to notify as a generator at the site. Up until the time of DEEP’s inspection, the facility operated under temporary EPA ID numbers. It was uncertain if the operator should notify as a LQG at the site, and if the operator did notify as LQG, would it be subject to biennial reporting requirements and other requirements specific to LQGs, or simply the permit conditions.
- b.) There was confusion as to which party was responsible for compliance. The town was the permittee, but not actively involved in site administration or operation other than acting as

the host community. The recycling operating committee, as site administrator, had taken on recordkeeping responsibilities and facility/building management. The vendor, the site's operator, had taken on training, inspections, and container management responsibilities. These responsibilities were not clearly delineated in the permit or the operation and management plan and had to be negotiated between the parties as the enforcement process progressed. The service contract between the recycling operating committee and the vendor was useful during that process.

- c.) There was confusion as to what type of training was to be provided and to whom. The facility was staffed by Mid-NEROC employees, Clean Harbors' employees, and sometimes with the assistance of community volunteers. Last year DEEP created and held training specifically tailored to operators of HHW collection facilities and events. Attendees received an operator's certificate.
- d.) This type of facility is not subject to RCRA generator closure requirements or financial assurance, but does store and manage hazardous waste. Should it be subject to closure requirements similar to those required for generators who store on-site? This particular facility's operation and management plan included a general requirement for environmental sampling to be performed each time the operator of the facility changed; however, the operator had changed multiple times over the course of the permit and no sampling had ever been performed.

CREOC HHW Facility. CT DEEP inspected the Capitol Region East Operating Committee (CREOC) HHW collection facility on September 8, 2012. This was the first inspection at the facility since its permit had been issued. Clean Harbors had also been hired by CREOC to operate this HHW Collection Center. It appears that Clean Harbors' operating practices had improved after the Department's consent order with penalties issued as a result of the Mid-NEROC inspection. Specific violations observed by the inspector during the inspection included the following:

- a.) The container packing lists, utilized to meet the requirements of the O & M Plan approved under the facility's solid waste permit, were not specific to each 'loose-pack' container. Instead they were generic packing lists that, unlike the packing lists for lab-pack and pour-off containers, do not identify each individual container, the container's shipping name, or the accompanying manifest number.
- b.) The facility was using one of the bays in the storage shed as a field office, which may have violated the permit's description of the unit and the need to segregate potentially incompatible chemicals.

- c.) One Clean Harbors' employee repeatedly did not wear his respirator while pouring off flammable and combustible liquids to 55-gallon drums.
- d.) Some of the waste container accumulation dates did not match the date(s) of collection events.
- e.) No post-collection event inspections were being performed or recorded of the waste storage building (for possible leakage) and surrounding area (for possible abandoned waste and proper function of all locks), as required by the facility's approved O & M Plan.
- f.) Potentially incompatible chemicals were being stored together in one of the facility's storage bays.
- g.) A copy of the waste storage inventory was not being kept on site.

NOVs were issued to the town and to Clean Harbors to address the violations. In this case, the operation and management plan did not assign any waste management responsibilities to the facility's administrator, CREOC. The violations were corrected in a timely manner, and due to the nature of the violations, enforcement was not escalated.

Key issues identified in this case were similar to those highlighted above for the Mid-NEROC case. In particular, there was some confusion on behalf of the operator as to whether or not a biennial report would need to be submitted, as the operation and management plan indicated that the facility may be subject to biennial reporting requirements. In addition, the operator notified the site as a LQG under the name of the town, without the town's prior knowledge.

Estuary Region HHW Facility. CT DEEP inspected the Estuary Region HHW Facility on August 10, 2013. Clean Harbors was also the contractor operating this facility. Violations observed by the inspector during the inspection included the following:

- a.) The facility had not obtained a permanent EPA identification number, but only a temporary number. This is inconsistent with other permanent HHW facilities that have obtained permanent numbers. In accordance with Section 3.2 of the O & M Plan approved under the facility's solid waste permit, it appears that the site is required to obtain a permanent, rather than a temporary, EPA identification number.
- b.) The 2004 O & M Plan, which appears to be the same plan that was incorporated into the 2009 permit, prohibits the acceptance of used oil and antifreeze. However, on-site personnel stated that for at least the past year, these wastes have been accepted, and this activity was actually observed by the inspector.

c.) No RCRA biennial report, or quarterly HHW report, had been submitted to the Department, as required by the approved O & M Plan. However, an annual HHW report and a quarterly solid waste report (for the operation of the on-site solid waste transfer station) had been submitted.

Pursuant to this inspection, a notice of violation was issued on October 21, 2013. This NOV is still open, as there are pending issues with the facility's solid waste transfer station permit, which are in the process of being resolved.

New Haven Regional Water Authority Household Hazardous Waste Central Facility. This facility has not yet been inspected and is due for an inspection later this year.

How Permanent Regional HHW Facilities Are Permitted Under CT's Solid Waste Program

Permanent Regional Household Hazardous Waste Facilities in Connecticut are permitted under Connecticut's solid waste permit program as a Transfer Station pursuant to section 22a-208a of the Connecticut General Statutes and sections 22a-209-1 through 17 of the Regulations of Connecticut State Agencies.

An applicant for such a permit must submit a permit transmittal form; application with supporting document, such as an O & M Plan; Site Plan; attachments, such as compliance information, and coastal consistency review; and the appropriate fee. A permit application notice is required in the newspaper, and a copy must be mailed to DEEP and chief elected officials. An affidavit of publication from the newspaper that the notice was placed in the newspaper must be mailed to the DEEP.

Staff conducts an initial review called a "Sufficiency Review" to determine if all of the necessary items have been submitted. Once all of the information is provided, staff conducts a technical review to determine if the proposed activities meet the applicable standards for the requested activity. The application is considered complete once all requested information, attachments, and other supporting documents have been received by staff. Once all of the submitted information has been reviewed, a draft permit is developed for comments from the public. A notice is placed in the paper requesting comments on the draft permit. Comments are accepted for 30 days starting from the first day the notice is placed in the newspaper.

If a request for a hearing is made, DEEP will conduct a hearing in the municipality where the facility is located. The procedures will be followed for an administrative hearing, information is sent to the commissioner and a decision is made. If no hearing is requested nor significant

comments received, the permit is issued. If significant comments are made the permit is issued with a Response to Comments.

Other aspects of the permitting include:

- Each facility is given their own criteria fee
- The facility reports annually with a summary as required by the O&M plan
- No waste is permitted on-site for more than 90 days
- General closure requirements are imposed, i.e. soil sampling and having a bond
- The material comes into the system as solid waste, but gets treated as hazardous waste
- The facilities can take waste during normal operating hours and can accumulate waste with residents putting it into the correct locations
- Coded as HHW; RCRA codes are not required; comment field is used for clarification
- Chemist decides where HHW goes and it is placed in a properly labeled container
- Wastes from CESQG are accepted; permit describes who has been pre-approved to come to the facility – they have not seen too many pre-approved CESQGs; quantities are limited; these wastes are co-mingled with HHW
- Asbestos must be wetted and properly bagged

Experience of the Other States with Permanent HHW Facilities

Maine

They have one permitted HHW facility with a state-issued permanent EPA ID number. At the facility:

- Wastes are shipped on a manifest
- No federal waste codes are used
- The wastes are entered into the manifest database
- HW generator regulations are used
- Biennial reports are submitted
- Maine registers CESQGs as SQGs and does not usually allow them to bring wastes to HHW events
- For temporary collections (regional or town), use generic SQG codes

Massachusetts

They have 13 facilities – 7 are operated seasonally. Some are only open to residents; others are open to residents in listed communities around the collection facility. These facilities:

- Follow SQG regulations; permits are issued under hazardous waste regulations (HHW Collection Permit)
- Can accept CESQG and SQG wastes; they must produce a MassDEP form to dispose of their wastes at these facilities
- Typically collect paints and electronics

Central region has two fairly new facilities and two older ones. They have all been inspected and no significant issues were found.

All six of the facilities in the Northeast region have been inspected at least twice, except for the newest one, which was inspected once. Both lower level and higher level enforcement was issued to one of the facilities.

New Hampshire

They have five permanent facilities; three are LQGs. NH receives EPA “credit” when they inspect the LQGs. The facilities:

- Must have an EPA ID number
- Use a manifest to ship wastes; the manifests are entered into the manifest database system
- Must comply with generator requirements under the hazardous waste regulations
- Can accept wastes from CESQGs; they must use a manifest and deliver the waste directly to the facility; they must also get pre-approval from the town where the facility is located

Once the wastes are collected, they are managed as hazardous waste per NH regulations. NH does not have specific codes for household hazardous waste, and uses the federal codes.

Enforcement is issued to the contractor and to the host town. NH issues a quarterly report on these facilities.

DES has inspected two of the LQGs in the last five years. They inspected five facilities in 2006 and issued six formal enforcement actions; three received administrative fines. One of the sites is going through the enforcement now. The types of violations include inadequate training and inspections, improper storage outdoors, and problems with their manifests. The NOV's are issued to the owner and operator.

New Jersey

NJ has three facilities. NJ built these facilities; which:

- Have collected waste shipped to a treatment, storage, and disposal (TSD) facility
- Do not report to the Biennial Reporting System and they not use hazardous waste codes because the wastes are exempt; generic solid waste codes are used even if the material is hazardous
- Accept CESQG waste

Household waste exemption applies even after collection. Transporters must use appropriate placards and labels. An inspection was conducted in 2013 at one facility; no NOV's were issued – only minor housekeeping issues observed.

New York

They have 19 permanent facilities; most are municipally run, although some are private. These facilities:

- Are permitted under solid waste regulations
- Do not use EPA ID numbers
- Use shipping papers or manifests; if manifests are used, they are not entered into the manifest database system
- Accept CESQG waste
- Are not required to report to the hazardous waste program; report under solid waste
- Are permitted under solid waste
- Manage materials as hazardous waste and must be sent to a TSD

CESQG and HHW facilities are under the Solid Waste regulations. Facilities are inspected per each region's inspection schedule; usually these are annual inspections. Information on violations was not available.

Vermont

They have six permitted collection facilities permitted under the Solid Waste regulations, and regulated under the hazardous waste regulations. Two are LQGs. Three of the six are open year-round. Vermont has the federal HHW exemption but may revise that exemption to regulate HHW upon collection; however, with any revision to the exemption, Vermont wants to ensure that the collection of household hazardous wastes is not inhibited. The SW permitted facilities:

- Accept HHW and CESQG (CEG in VT) wastes
- CEGs and CEG wastes are regulated under the Vermont Hazardous Waste Management Regulations, but under abbreviated standards
- "Facility Management Plans" are required as part of the SW permitting process for facilities that accept HHW and/or CEG waste
- Facilities can ship collected HHW using a bill of lading (BOL); if a manifest is used, VT's VT99 code for non-hazardous waste should be used
- Collected wastes that originate from CEGs must be shipped using a manifest and pay a tax (if HHW and CEG wastes are combined, the HHW portion is not taxed if records are maintained by the collection facility documenting the amounts of HHW and CEG wastes collected/shipped)

Manifest data is entered into Vermont's manifest database. Collection facilities that are LQGs must submit biennial reports. Accepting CEG wastes makes the facility at least an SQG. While CEGs are allowed to self-transport their own hazardous waste to SW HHW/CEG collection facilities, overall, Vermont's HW rules are more stringent than the federal rules with respect to how CEGs and CEG wastes are regulated.

Historically, most of the HHW/CEG waste collected is oil-based paint (latex paint was not accepted). Now that VT has a new product stewardship law for “post-consumer paint” all post-consumer architectural paints (latex and oil-based) are accepted and managed through the PaintCare organization. To facilitate this activity, post-consumer paint was designated as universal waste in the law (not in rule). The new program will have a significant impact on their HHW/CEG collection facilities now that latex paints are to be accepted.

CEGs can also “ensure delivery” of their own HW to an “event” by appointment; they get a receipt for the wastes. These deliveries do not need to be pre-approved. DEC is considering some changes to their program perhaps similar to the NH DES approach (e.g., regulate HHW upon collection).

DEC has inspected the collection facilities that are regulated as LQGs; one was observed to be in very good condition; the other had fairly significant management issues, including comingled HHW/CEG waste stored outside. Other collection facilities were inspected under the SQG Common Measures Project and were observed to be in good condition.

EPA 2

They exempt all HHW events even when wastes are comingled, although state requirements may differ from this. They recommend that the HHW be managed as hazardous waste. HHW is subject to Subtitle C of RCRA (i.e. no liquids in landfills).

Questions

Are the permanent HHW facilities operated year round?

NH – not year round; seasonal – April through October

MA – Springfield facility is operated year round

ME – No

NY – facilities are primarily seasonal, handful are available in the winter

CT – All seasonal

Has any state or EPA Office inspected the TSDs that take the HHW?

Vermont: Some are open year round.

New Jersey: Inspections are conducted twice/month for TSDs. Fuels are shipped to another facility for fuel blending. They also use stabilization or incineration.