NEWMOA Hazardous Waste Conference Call
March 22, 2016

Topic: "Management of Utility Wastes, Including Emerging Contaminants & PCBs:

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Participants: CT DEEP (7 people); Mass DEP (2 people); NH DES (3people); NJ DEP (2 people); NYS DEC (4 people); VT DEC (4 person); EPA Region 1 (2 people); EPA Region 2 (1 person); NEWMOA (1 person)

Call leader: New York State DEC

Note taker: Connecticut DEEP

Background
Bill Yeman, NYS DEC provided the following write-up with background information to help set the stage for the call.

The topic for the call, "Management of utility wastes, including emerging contaminants and PCBs" came about as a result of some of the NEWMOA states wanting an update on where the issue stood in NY State. (This was in part because years ago EPA had put into place in part 262 [@ 262.90] a set of regulations under its Project XL program specifically for public utilities that authorized their hazardous waste to be brought from a remote utility location to a utility-owned central collection location without that central location needing to be a permitted TSD. To make a long story short, that Project XL Program had a 2005 expiration date and was never renewed. While it was in effect, it was never actually utilized by any of the public utilities. [One large metropolitan utility indicated that they had a considerable amount of pushback from the community which discouraged their use of the provision.] The final 'obituary' was proposed in the technical corrections of EPA's September 25, 2015 Generator Improvements Rule proposal

[p. 57985], so Project XL for public utilities is off the table in New York State and has been for quite a while.)

The original precursor for Project XL was a provision NYS DEC has had in its regulations since the 1980s – it's cited at 372.1(e)(9), entitled "exemption for public utilities" – which basically, just as with EPA's Project XL, allows a public utility to ship hazardous waste from a remote location to a utility's collection facility. But it's just for PCB-only hazardous waste, which is a category of hazardous waste that is above-and-beyond EPA's 261 definition of hazardous waste. These are the B-coded hazardous wastes, i.e., state-only hazardous wastes. (EPA regulates PCBs under their TSCA program, but NYS has no TSCA equivalent, so regulation of PCB wastes was tucked into the hazardous waste definition.)

There really aren't any known "emerging contaminants". In preparation for the call, NYS DEC inspectors stated that public utilities generate the usual expected hazardous wastes, such as lead-based paint chips, lab wastes, cleaning solvents, boiler cleanout wastes, but far and away the highest volume is from the cleanout of individual manholes, which often fail TCLP for lead (and sometimes PCBs, with NY's threshold being 50 ppm PCBs to have it be a B-coded NYS hazardous waste). The source of the lead is in part from lead components inside (e.g., sheathing), but also from lead in precipitation run-off from the street believed to derive from the days when leaded gasoline was in widespread use and vehicle emissions spewed the lead into the air. (Side message: since leaded gasoline was used everywhere, i.e., not just in New York State, there's a good chance that the manhole wastes in the region's other major cities are hazardous for lead too. Although potentially a hot-button topic with some of the states, DEC's interest in bringing this up is not only environmental protection but to avoid another "un-level regulatory playing field" situation that puts the regulated community here in New York State at a competitive disadvantage.)

Manholes have to be cleaned out so that emergency and scheduled maintenance work can be conducted, plus the Public Service Commission has directed one public utility to inspect various pieces of their equipment – some of which are located in manholes -- for stray voltage. To give an idea of the magnitude, Consolidated Edison in NYC reported that they have around 274,000 what they term "underground structures" – some are vaults etc. that technically aren't "manholes" – and that they inspect 15,000-17,000 per year. So the volume is large.

NYS DEC would want this waste to be properly managed under the hazardous waste regulations in those instances where it is hazardous (for lead or – in NYS – 50 ppm or more PCBs).

Discussion & State Updates
CT DEEP: How does NYS DEC handle this issuance of EPA ID Numbers to remote sites where utility waste is generated?

NYS DEC: NYS DEC does not issue EPA ID Numbers. For many years, EPA Region 2 has issued these numbers, and they would issue a separate number to each manhole or structure that generated waste in sufficient amounts to require a number. However, EPA Region 2 was overwhelmed with the amount of numbers they were having to issue to these manholes and other remote sites, so they have been working on an alternative approach – namely, issuing a single

EPA ID Number to each utility, rather than a separate number for each individual generation site. This results in some lost data about the actual generation sites, but the plan is to require utilities to keep this information so that it can be accessed if it is needed. However, there is an issue with this system in New York City. Consolidated Edison (Con Ed), which has a permitted TSDF in Astoria wants to use another EPA ID Number. Norman Rost at EPA Region 2 knows more about the plan to use fewer numbers for remote utility sites and the issues with Con Ed in New York City.

EPA Region 2: Norm Rost has been talking to NY DEC and the Con Ed situation has not been resolved yet. There is also another utility in New York with a similar issue (they want to keep on using a separate number for each manhole/structure).

NYS DEC Region 2: In New York City, Con Ed has many EPA ID Numbers for substations and power generating stations, too.

EPA Region 2: Norm Rost's telephone number is (212) 637-4049.

NJ DEP: NJ DEP has had problems with the system that has been used in New York, in particular, a lack of unique identifiers for manholes. Sometimes they have seen multiple temporary EPA ID Numbers issued to the same manhole over time. NJ DEP would prefer the proposed system of issuing one EPA ID Number per utility. This is an issue for NJ DEP because a lot of this waste goes to TSDFs in New Jersey, and the number of EPA ID Numbers has caused data entry problems for their manifest system and billing problems for their hazardous waste fees. Sometimes collection of fees is delayed due to the time required to enter all the manifests sent under different EPA ID Numbers. Also, NJ DEP is concerned that waste is being shipped under the presumption that it is CESQG waste when in fact the amount is as much as 500 gallons, which would be an LQG amount.

CT DEEP: Is NJ seeing the manifests come in with "NYP" (temporary) EPA ID Numbers, or "NYD" (permanent) numbers?

NJ DEP: Con Ed seems to have blocks of numbers that they use, and they use them pretty much indiscriminately (i.e., they're not careful about issuing duplicate numbers to the same manhole). These are "NYP" numbers.

NYS DEC: Waste from New York manholes is going to New Jersey TSDFs?

NJ DEP: Yes.

NYS DEC Region 2: The finalization of the EPA E-Manifest system should help with the paperwork burden.

EPA Region 2: True, but that's quite a way off (2018). EPA has only just picked an Advisory Board.

CT DEEP: Has NYS DEC seen any on-site treatment of manhole waste? There was an EPA Region 1 letter issued back in 1997 to NYNEX in response to a request from them about a process that utilized treatment in accumulation containers that the New England states were involved in responding to. The letter said that NYNEX could engage in treatment in containers to remove the toxicity characteristic (lead) for these wastes. The process used a stabilizing agent.

NYS DEC: Con Ed sometime does treatment to render manhole waste non-hazardous. On the CESQG issue that NJ DEP raised involving 500-pound manifested D008 hazardous waste shipments asserted to nonetheless be from CESQGs. If the source of the lead is just urban sediment contaminated from the long-term use of leaded gasoline, it seems unlikely that more than 220 lbs. /month – NYS's upper limit for CESQGs – would naturally get washed into a manhole. Regarding the additional weight of the water, the utility had intentionally sprayed inside the manhole to mix in the chemical additives and subsequently convey the sediment, arguably this water is not yet a waste while it is being used to both achieve mixing and cause the sediment to flow. Furthermore, by the time the water does become a waste, the mixture is no longer D008 due to action of the chemical additives. Hence, such a manhole could arguably be a CESQG. (In NYS CESQGs are not required to manifest so it is unknown why NJ would be seeing the shipment on a manifest if in fact the generator claimed to be a CESQG). Also, in NYS CESQGs can self-treat their waste, but note that EPA's proposed Generator Improvements Rule, as proposed, could eliminate the EPA provision [in 270.1(c)(2)(iii)] that allows – when coupled with NYS's 373-1.1(d)(1)(I) – CESQGs to self-treat. Note also that, although NYS DEC also has a provision which allows treatment in containers and tanks, NYS DEC has not seen the type of treatment in drums by utilities that's described in the NYNEX letter.

Con Ed does some treatment to render manhole waste non-hazardous. On the CESQG issue that NJ DEP raised, if there's sediment, the amount of sediment could easily be less than 220 pounds per month, therefore qualifying as CESQG. NJ DEP may be seeing shipments, including a large amount of water with this sediment. Also, utilities often intentionally add water to get proper mixing and treatment. In NY, CESQGs can self-treat their waste. EPA's proposed Generator Improvements Rule would eliminate the provision that allows CESQGs to self-treat. NYS DEC also has a provision that allows treatment. NYS DEC has seen treatment, but not the type of treatment in drums as described in the NYNEX letter.

NJ DEP: How can these sites be CESQGs? They're coding the waste as D008 and shipping it as hazardous waste using "NYP" ID Numbers. In New Jersey, NJ DEP worked out a system to use single EPA ID Numbers per contiguous project. Many manholes are actually contiguous. NJ DEP did the "contiguous" approach with PSEG for mercury switches. They worked with EPA on this system.

CT DEEP: Does NJ DEP issue temporary EPA ID Numbers to manholes?

NJ DEP: No, NJ DEP believes that temporary EPA ID Numbers are for one time incidents, like spills, not for manholes that may generate waste on an ongoing basis. These numbers should be "NYR" or "NYD" not "NYP."

CT DEEP: In Connecticut, utilities (and their contractors) must perform a hazardous waste determination by employing either historical knowledge or testing and must handle any material

that is RCRA hazardous as hazardous waste at the point of its generation through point of disposal. Many CT utilities are conservative and manage all of their manhole pump out wastes as hazardous as a result of a characterization study of utility manhole wastes NU performed several years back, which showed sporadic lead contamination at levels that would trip the TCLP threshold. As such, CT utilities typically hire a CT licensed hazardous waste transporter to perform their manhole pump outs. The utilities use a temporary EPA ID Number to cover statewide activity for these pump outs.

Non-RCRA hazardous wastes can be brought to a utility's central accumulation facility where CT expects the waste to be managed as a CT regulated and special waste in accordance with the state's solid waste statutes and regulations. The central accumulation facility typically has received a permanent EPA ID Number which captures any CESQG wastes that are incidentally brought in.

DEEP has worked with several of the state's utility providers through either enforcement actions or compliance assistance requests to develop waste management plans. A couple examples include: (1) Connecticut Natural Gas (CNG), who generated waste ammonium chromate from servicing gas-powered AC units; (2) Yankee Gas, who generates mercury-containing gas regulators and thermostats (Universal Wastes); and, (3) Algonquin Gas Transmission Company (an interstate natural gas pipeline), which generates waste during maintenance activities at various remote sites along the path of the pipeline between the New York and Massachusetts state lines.

For used oil and used oil-containing equipment generated by utilities, DEEP adheres to the federal used oil regulations (with certain more stringent CT provisions).

DEEP did have an enforcement case a few years ago with a company that took in out-of-service utility transformers and drained the oil and sold off the scrap metal. The business was regulated as a used oil transporter because it transported out-of-service oil-filled equipment from around the State to its central processing facility. The company was also regulated as a used oil processor because it accepted equipment having a capacity of > 55 gallons of used oil and had a potential to store the used oil for > 10 days. PCB-contaminated oil was also an issue at this particular site, and DEEP's informal enforcement response was coordinated between DEEP's Waste and PCB programs.

VT DEC: Does CT DEEP issue temporary EPA ID Numbers one per utility?

CT DEEP: Yes.

Mass DEP: None of the staff from Mass DEP on the call were prepared to provide an overview of their state's experience or policies regarding manhole waste.

NH DES: They stated that they learned a lot from listening to this call. DES was involved in the 1997 NYNEX letter, but has not seen the process in operation in operation. DES also issued its own state letter on this subject. NH DES issues "NHD" Numbers for manholes, but is not sure if these numbers get entered into RCRAInfo or not.

VT DEC: Asked that the NYNEX letter be forwarded to NEWMOA, so that the whole group can get it.

NJ DEP: Would like to get this issue addressed with respect to the ID Numbers and the manifests. It would save a lot of time with data entry for their manifest system.

NEWMOA: Do states or utilities have GIS systems to track the locations of manholes? This might allow for a way to uniquely identify each one.

NJ DEP: Yes, they do.

NYS DEC: Recently Norm Rost put together two or three options to solve the EPA ID Number problem. GIS was actually one of them, but it wasn't selected as the solution. One number per utility was the preferred option.

VT DEC: In Vermont, the main utility here has a TSDF. Then, there's also Burlington Electric. VT DEC requires CESQGs to have an EPA ID Number under their rules. DEC doesn't see much manhole waste. VT DEC issues temporary EPA ID Numbers as needed. Waste is characterized and shipped as hazardous waste if it is determined to be hazardous.

CT DEEP: Does VT DEC issue a separate EPA ID Number for each location?

VT DEC: Yes. They are active for 90 days, but may be able to be reactivated. They can also issue a new number later if needed.

CT DEEP: It's worth noting that there's a whole separate issue of PCB waste and the use of EPA ID Numbers. Anyone that generates TSCA-regulated PCB waste has to obtain a TSCA ID Number. This number looks just like a RCRA ID Number, except that you won't find it in RCRAInfo. If the generator of PCB waste does not have a TSCA ID Number, they have to apply for one using the EPA Form "Notification of PCB Activity." This form is sent to Washington, D.C., and the number is then issued by EPA Headquarters. These numbers can be processed pretty quickly, even on an emergency basis by faxing in the completed form. If a site that has a RCRA ID Number generates TSCA-regulated PCB waste, they can use their RCRA ID Number on the PCB manifest, but they still have to fill out the Notification of PCB Activity form so that the RCRA ID Number is recorded in the TSCA database of PCB generators. For utilities, EPA will issue regional TSCA numbers that are based, for example, on the service areas of regional work centers operated by the utilities.

CT DEEP: On a different note, do NEWMOA states enter temporary EPA ID Numbers into RCRAInfo, and if so, do they use "T" (temporary" or "E" (emergency) for the implementer code?

NH DES: We're not sure about entry into RCRAInfo, but manholes are issued "NHD" numbers.

NJ DEP: We enter temporary EPA ID Numbers into their computer system, which uploads data to RCRAInfo. DEP believes they are entered with the "E" implementer code.

NYS DEC: EPA Region 2 enters in all of their EPA ID Numbers. They were going into RCRAInfo, which is one of the reasons they were overwhelmed with the large number of temporary EPA ID Numbers that were being issued to manholes and other similar sites.

EPA Region 2: Will check with Norm Rost about how they have handled the entry into RCRAInfo.

VT DEC: Does not enter temporary EPD ID Numbers ("VTP") into RCRAInfo. They use a separate state database that isn't connected to RCRAInfo.

CT DEEP: In speaking to Lynn Hanifan, EPA Region 1 recently, DEEP found out that states that have data management privileges with RCRAInfo can enter temporary EPA ID Numbers into the system. DEEP currently has a state-only database like VT DEC, but are looking into the possibility of entering temporary EPA ID Numbers into RCRAInfo to achieve certain benefits with respect to inspection and enforcement at temporary ID sites, and for biennial reporting purposes.

NEWMOA: Is there any post-call coordination that the states would like to have pursuant to this issue?

CT DEEP: Would like to find out what the final outcome and rationale is for the Region 2 and NY DEC temporary EPA ID Number issue.

EPA Region 2: Can pass that information along when it is final.

CT DEEP: DEEP has a proposed gas pipeline project in Connecticut that would involve horizontal drilling. This drilling would generate drilling spoils, and DEEP is trying to find out if any of the other NEWMOA states have ever had to deal with this waste stream.

NJ DEP: Have had projects like this that come up from time to time, and DEP convenes a group of people from the Agency, including waste staff and staff from the remediation program. There can be some tricky issues with these sites, such as determining who the generator of the waste is (i.e., the site where the drilling is occurring, the location where it comes out of the ground, or the drilling contractor). CT DEEP can contact Bret Reburn for more information.