

## Notes

### NEWMOA Hazardous Waste Conference Calls

September 25, 2018

#### Topic: Update on TSDF Compliance in the Region – Outstanding Issues & Next Steps

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**Participants:** CT DEEP (4 people); ME DEP (1 person); Mass DEP (4 people); NH DES (4 people); NJ DEP (3 people); NYS DEC (8 people); RI DEM (2 people); VT DEC (1 person); EPA Region 1 (4 people); EPA Region 2 (1 person); NEWMOA (1 person)

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Notes prepared by Terri Goldberg, NEWMOA

Topics for states to cover during the call:

- Updates on recent states and EPA compliance assurance activities at TSDFs and findings and results
- Ongoing challenges and issues with these facilities
- Next steps

Vermont has an enforcement case at a TSDF that is moving forward. They are holding a settlement discussion with the Attorney General's (AG) Office. The company has responded to the AG's office with a counter proposal on the penalty.

EPA Region 1 is working with the directors of the states' hazardous waste program to collect signatures on a joint letter to commercial TSDFs in the region informing them about some key common compliance issues and that EPA and the states are communicating about the issues. The Region is hopeful that the letter will be sent out by the end of the week.

Vermont: Working on a permit renewal for a facility; going back and forth on the Waste Analysis Plan (WAP). The WAP is the most significant aspect of the renewal; hope to address the concerns at facility. They are working to make sure that the WAP addresses all of the waste received and covers testing of non-hazardous waste.

Connecticut: At a large commercial TSD facility there was an emergency event in May, and they experienced two failures in implementing their Contingency Plan during the incident. CT DEEP found significant violations related to their contingency plan. A hydrogen sulfide release from their wastewater treatment system (i.e., septic conditions in a tank) was detected, which set off alarms. It was found that various equipment was obsolete, inoperable, or malfunctioned. An emergency coordinator was not available, and another had a phone that was not working. No emergency coordinator responded. The town police responded to the alarm. DEEP is working on a consent order. The Agency is meeting with the company and the fire department. The company has since added three emergency contractors and three alternative emergency coordinators. DEEP is also working with the town and ESPN, which has office nearby, to make sure that the employees at the site are trained, the equipment is inspected and operating properly, and people know how to use it. The company has a lot of turn over, and they have a problem with keeping staff properly trained.

Maine: Conducted an inspection at one of two facilities in the past week. They are waiting for the results. The preliminary findings were that that the facility was generally ok. There may be some citations. They are conducting an inspection at another facility. This facility has new ownership and new personnel since the last inspection.

Massachusetts: The DEP Central Regional Office did two TSD inspections recently and is conducting another one. They did one inspection last week with no findings. Another inspection revealed repeat violations. There are employees at that location who have been there for 30 years and continue to make the same mistakes. The cause of the repeat violations are deliberate acts of convenience, including over capacity storage of materials in designated areas. They do what is convenient at the moment and are not adhering to the conditions of their permit. The State may pursue higher level enforcement.

Another facility was sold to a larger firm, and it's not clear what impact the change in ownership will have. The application for a permit renewal at the smaller company will have to go back to the drawing board, and they will have to revisit financial assurance and resubmit the application.

At a different facility they lost their Environmental, Health, and Safety Manager during downsizing and this raised questions about the competency of the replacement/s and it has been a month of catching up and getting the staff up to speed. DEP is concerned about having a competent person if something happens. The facility wants to take a team approach, and DEP is meeting with them to discuss their emergency response proposal.

New Hampshire: Working on a facility transfer between owners and will be having a meeting in October about the transaction. The facility wants to allow trucks to be parked in NH before going to VT, and DES is investigating its regulations related to 10-day storage facilities.

There is an ongoing long-term enforcement case at the facility and ongoing settlement discussions. The non-compliance at the facility has also caused generators to be out-of-compliance.

New Jersey: Nothing to report from the enforcement group who were not represented on the call. The three participants work on TSDf permits. They reported that DEP inspectors see similar enforcement issues as reported by other states during the call. They have found facilities accepting waste even though they do not have adequate storage. They have not found complaints about emergency response measures.

The WAPs are a challenge to review and it is critical to make sure waste is characterized and classified appropriately. If not done properly, this can contribute to safety issues later on. Another permitting challenge is the buffer zone for reactive and ignitable waste, particularly adjacent to railroad lines. TSDf offload rail lines require a 50-foot buffer zone. DEP has raised this issue with EPA to get clarification from the rule writers. This issue comes up as part of the permitting and public process and can require a variance in the permit. There are different federal agencies that have different buffer zone regulations. Under RCRA the buffer is 50 feet and under the National Fire Code the buffer is 25 feet.

New York State: For newer junior inspectors the complexity and the legal language in a permit can be challenging. The permit writers have developed special checklists for each TSDf to help with the inspections. Senior inspectors who are familiar with the site help with this process. DEC onsite monitors monitor the sites on a near daily basis. These monitors are DEC employees and their salaries are paid by the facility, which is written into the financial sections of the permit. There are four to five onsite monitors across NY State. DEC conducts RCRA hazardous waste inspections of each TSDf up to twice per year. The frequency of the inspections and the length of time it takes to reach a consent order creates a backlog of issues that need to be addressed, and as they pile up it creates complexities for the lawyers and general counsel because the facilities want to combine violations from multiple inspections into a single case.

DEC sees common violations, including training and the amount of storage time. There is sometimes confusion about the allowable storage times, and it's helpful to have this clarified in the checklist.

Connecticut reported that they also tried to develop checklists that were customized for each type of facility. Inspectors did not always want to follow the checklists and preferred to respond to the situation at the site at the time of the inspection. The amount of storage time can vary depending on the location on the site and the activities at that location.

Rhode Island: Planning to do annual TSDf inspection the following day. On August 19, there was a roof fire in a building that was not used for any operations. The facility activated their contingency plan and the emergency coordinator was onsite within about 20-30 minutes. The Providence Police and Fire Departments responded and contained the fire. The incident did meet permit requirements. The contingency plan worked well. The water was contained and shipped offsite. The DEM Emergency Response Team also responded to the incident and was onsite.

DEM plans to start to collect waste samples in 2019. EPA has provided a small amount of extra funding to support this effort. This will help with making waste determinations and verifying hazardous and non-hazardous wastes.

Comments on waste sampling from other call participants:

- In Vermont the sampling is wrapped into the WAP with requirements for sampling and their requirements for analyzing and screening containers under designated frequencies; facilities contract out to labs to conduct the waste profiles. DEC does not do any sampling and does not have the ability at state labs to analyze the variety of wastes.
- Rhode Island targets the waste sampling to make sure that the findings from the analysis match the waste profile.
- Connecticut has done testing on a case-by-case basis; situations come up that can create problems at TSDFs or inspectors find that a waste stream has not been properly profiled; DEEP contracts with private labs. When DEEP takes samples they offer to share splits with the facilities. In the past, a TSDF had problems with their WAPs, and inadequately characterized waste was received at the facility. Inspectors would follow the drivers around and sample materials that they were picking up from customers. They found disconnects from the customer profiles and the waste profiles. This effort was very successful and demonstrated that waste profiling is not adequate. In particular, they found discrepancies in the waste determinations for parts washer wastes and customer specific waste streams. The facilities wanted to paint these wastes with a broad brush and generalize about the characteristics of the waste streams as if all parts washer waste streams were the same.
- Vermont has focused on the non-hazardous waste streams and found that some of them are hazardous, and Connecticut has found a similar situation.

Vermont: Conducted an inspection last week and it went well. They have had success with the WAP for the facility. The facility is required to analyze thoroughly every 500 containers for all of the hazardous waste characteristics and update the waste profile. DEC found a 20-25 percent rate. The site is continually accepting new waste streams and new customers. DEC is requiring profiles of non-hazardous wastes. They have found that generator knowledge is not reliable, unless documentation is available to support the determination.

EPA Region 2: Interested in obtaining the NYS DEC checklist.

EPA Region 1: Urged state programs to report adverse incidents at TSDFS to the incident tracker system. The Region will share a link to this system.