NEWMOA call on January 11, 2011

Topic: Outline criteria that EPA and states use to distinguish between containers and tanks, including issues such as "portable" vs. "stationary" and "flexible" vs. "hard" piping.

***Criteria used in CT to distinguish between containers and tanks:**

- **CT regs adopt the federal definition of "container" as "any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled." 260.10**

- **CT regs also adopt the federal definition of "tank" as "a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support." 260.10**

- **CT agrees with EPA's Sept. 2005 RCRA Training Module in which EPA generally states that "the definition of container is intentionally broad to encompass all the different types of portable devices (e.g., 55-gal drum, large tanker truck, railroad car, small bucket, test tube…) that may be used to handle hazardous waste."**

- **Basically, a tank is a stationary container, that is – a container designed based on its use and purpose to be operated in place. Whether a device is a container or a tank is dependent upon its purpose and design and requires a case-by-case review.**

Case Example:

Hamilton Sundstrand recently proposed using four frac tanks to accumulate and store a hazardous wastewater on a temporary basis for testing prior to disposal to a POTW either by sewer or over-the-road.

Hamilton's position was that the frac tanks were part of the WWTS and as such were WWTUs exempt from RCRA.

However, the sole purpose of these tanks was to collect and store hazardous waste post-pretreatment. Also, the frac tanks, although > 10,000 gal apiece in volume, were mobile units brought to the site by a vendor based on Hamilton's need and connected to the WWTS and sewer via hoses.

Given this description, DEP determined the frac tanks were not WWTUs for a couple reasons, the reason of interest here being that these "tanks" were actually being used as containers (mobile, temporary, connected via flexible hoses) and regulated in accordance with 262.34 and 265 Subpart I. This conclusion also made the most sense to Hamilton operations-wise, as the size of the tanks and the fact that they don't own the tanks so are not guaranteed the same tanks for each use would make compliance with the Subpart J tank requirements of permanent secondary containment and PE certification difficult.