

# Compliance & Enforcement

Division of Air Enforcement

November 18, 2016  
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Director



# Alternate Compliance Monitoring Strategy(CMS) Workplans

- EPA is receptive to alternate Air inspection targetting
- Past Alternate CMS Plans have been laboratories , Toxic Release Inventory Reporting Requirements, or targetting based on source category
- DEP is no longer confined to primarily Title V and facility on-site inspections once every two years , other facility size have yielded significant environmental issues

# Supplemental Env. Projects



# Education Component of SEP





# Other Low Cost Air SEPs

- Rain Barrels
- Tree Planting
- Workplace Vehicle Charging Stations
- Diesel Particulate Filter for Off Road Equipment @ Facility
- Providing funding for Educational Signage



# Next Generation Compliance

- A modern approach to compliance with new tools to strengthen enforcement .
- Can be used to assist with settlements

# Examples of Next Gen

- Fenceline Monitoring of a specific contaminant or condition(particulate, VOC, flaring event)
- Forward Looking Infrared Cameras to find fugitive emissions and leaks and assist with self audits
- Engineering Studies to minimize emissions
- Installation of pressure monitors for tanks to assist in preempting leaks

# ON-LINE PENALTY PAYMENT for Air Enforcement Actions

- Expansion of Online Payments for Air Penalties
  - Some prohibitions to include collections and payment of 1<sup>st</sup> invoice when subsequent invoices have been issued
  - E check free
  - Credit card fee 1.9% + \$1.00



# Questions





# **NJDEP and A&WMA 15TH ANNUAL REGULATORY UPDATE CONFERENCE**

## **Compliance and Enforcement Solid Waste and RCRA - Updates and Initiatives Problems to Opportunities**

**Michael Hastry, Director  
Waste Enforcement, Pesticides & Release Prevention  
November 18, 2016**

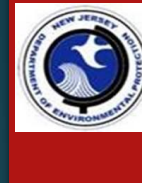


## Legacy Landfill Law, N.J.S.A. 13:1E-125.1 et seq. - June 26, 2013

DEP proposed Admin. Codes this past August - Comment period closed October

A "legacy landfill," is a landfill that ceased operations prior to January 1, 1982, and received for disposal either solid waste or waste material that would meet the definition of hazardous waste under the Resource Conservation and Recovery Act (RCRA) but was received for disposal prior to the enactment of RCRA on October 21, 1976.

Requires Closure/Post Closure plans, Financial Assurance, Escrow/Financial plans, Liability insurance



# Contaminated Soil and Clean Fill

Proposed new definition "Contaminated soil" - means soil, soil-like material, or mixtures of soil with other material containing concentrations of one or more contaminants that exceed the most stringent direct contact soil remediation standards as set forth at N.J.A.C. 7:26D, Remediation Standards.

This definition presents a conflict with the existing definition of "clean fill." – (originally designed to promote recycling ) which means uncontaminated nonwater-soluble, nondecomposable, inert solid such as rock, soil, gravel, concrete, glass and/or clay or ceramic products. Clean fill shall not mean processed or unprocessed mixed construction and demolition debris, including, but not limited to, wallboard, plastic, wood or metal. The non-water soluble, non decomposable inert products generated from an approved Class B recycling facility are considered clean fill.

- ▶ Just about everything has a degree of contamination
- ▶ Inert solids (rock, soil, gravel, concrete, glass, clay, or ceramics) stored for excessive periods of time with no apparent market are considered abandoned, can cause excessive dust and erosion and may be regulated as solid waste.
- ▶ Class B products do not always meet the remediation standards

Fix:

- ▶ delete the definition of "clean fill" from both the Solid Waste and Recycling Rules
- ▶ amend the definition of solid waste to specifically include processed or unprocessed mixed construction and demolition debris as solid wastes
- ▶ exempt inert solids, such as rock, soil, gravel, concrete, glass, clay, or ceramic products from the definition of solid waste, provided these materials do not contain contaminants above the remediation standards and complies with other the defining aspects and terms of the definition of solid waste (timely and properly utilized)



## NEW JERSEY - COMMISSION OF INVESTIGATION "INDUSTRIOUS SUBVERSION - CIRCUMVENTION OF OVERSIGHT IN SOLID WASTE AND RECYCLING IN NEW JERSEY" (Dec. 2011 – Initial Report ) - Awaiting Final Report – Legislation Pending

- ▶ Dirty Dirt/Fill - contaminated soils, significant amounts generated out of state from development activities and imported to NJ
- ▶ finely processed construction & demolition materials
- ▶ Recycling Exemptions - problematic oversight, loose definitions and regulatory language

### Fix:

- ▶ Report recommends licensing of "Soil Brokers" and others involved in soil related activities
- ▶ Municipal model ordinance for soils/fill acceptance criteria for construction & demolition activities
- ▶ Revise waste and recycling exemptions/definitions (Legacy Landfill start)



# RCRA

## Definition of Solid Waste Rule

- ▶ Revised Promulgation January 2015 – regulatory remedy to deal with the concepts of “discard” and “recycling”
- ▶ Hazardous secondary materials recycled under the control of the generator
- ▶ Hazardous secondary materials transferred off-site to a verified recycling facility

**<http://www2.epa.gov/hwgenerators/final-rule-2015-definition-solid-waste-dsw>**

- ▶ In perpetual litigation - In appeal, oral argument just heard. EPA has no definition of “discard”





# RCRA and the Retail Sector

- ❖ Retail Sector differs from the Industrial/Manufacturing Sector
  - ▶ Large number of stores in many locations
  - ▶ Numerous varieties of goods
  - ▶ Unpredictable quantity of waste generation due to episodic generation (e.g., recalls and customer returns)
  - ▶ HW training at the store level difficult due to high employee turnover
  - ▶ Use of reverse distribution (RD) process to manage unsalable products – including those that become hazardous waste when discarded
- ❖ Strategy consists of a number of commitments:
- ❖ Rules that were underway at EPA
  - ▶ Completed rulemakings (Definition of Solid Waste and Hazardous Waste Generator Improvements final rules)
  - ▶ Ongoing rulemaking (Hazardous Waste Pharmaceuticals proposed rule)
- ❖ New commitments directed specifically at the retail sector :
  - ▶ Guide to Recycling Aerosol Cans
  - ▶ Universal Waste Proposed Rule for Aerosol Cans
  - ▶ Policy on Reverse Distribution and RCRA
- ▶ All of these activities in combination are intended to ensure a better fit between RCRA and the retail sector.

# Hazardous Waste Generator Improvements Rule



Much-needed major update of the hazardous waste generator regulatory program - Over 60 changes

Signed on October 28, 2016. Effective Date – 6 months from publication

## Major Rule Provisions

- Reorganization
- Consolidation of VSQG Waste at LQGs (Same Company)
- Waiver to 50-foot Requirement
- Episodic Generation
- Emergency Preparedness and Planning
- Hazardous Waste Determinations
- Marking and Labeling
- Reporting and Recordkeeping
- Satellite Accumulation Areas
- Closure
- Drip Pads and Containment Buildings

EPA has scheduled webinars to discuss the final Generator Improvements rule on November 30, 2016 and December 5, 2016 at 2pm ET.

(<http://www2.epa.gov/hwgenerators/proposed-rule-hazardous-waste-generator-improvements>)

- ▶ NJDEP will be inviting the EPA rule team to provide an in-person and in-depth presentation to NJ generators here in NJ.



# Policy on Reverse Distribution

EPA recognizes that RD is an important aspect of retail sector operations with reverse logistics centers playing a key role regarding:

- Material disposition (i.e., reuse, recycling or disposal)
- Financial reconciliation
- Recall management
- Material tracking
- Data Collection

EPA and the states recognizes RCRA may not always be the best fit in terms of the RD process – particularly as to when discard occurs and the timing of waste determinations

- ▶ Policy applies to unused/intact consumer goods that have become unsalable at retail stores for various reasons
- ▶ RD policy will be based on “flow” of consumer goods among different entities and the roles/responsibilities in terms of managing these items
- ▶ Policy does not cover wastes from routine maintenance activities and cleanup of spilled materials, damaged/leaking products and “unknowns”

Hazardous Waste Pharmaceuticals Proposed Rule is a key piece in this policy determination.