

**Connecticut Department of Environmental Protection
Bureau of Materials Management and Compliance Assurance
Waste Engineering and Enforcement Division**

**RCRA Systems Analysis - External Stakeholders Focus Team
Proposal for Implementation of Priority Recommendations**

June 2008



RCRA Systems Analysis Background:

In 2007, the Waste Engineering and Enforcement Division (“WEED”) was tasked to conduct a systems analysis of the state’s RCRA hazardous waste management program. This analysis was part of the Commissioner’s “Path of Least Resistance” initiative to identify innovative solutions for achieving environmental outcomes.

WEED carried out the task partially by developing an external stakeholders focus team (“the Team”) to collaborate with WEED staff and strengthen our working relationship with representatives of groups who are affected by hazardous waste regulations (see active participants table attached). The Team focused its efforts on streamlining WEED’s external processes that interface with the regulated community and their needs. The objective of the Team was to develop for the Commissioner’s review a list of recommendations to improve the RCRA program.

In short, the Team held seven (7) monthly meetings to accomplish its objective, and has expressed a strong interest to continue to meet on a periodic basis. The Team also expressed its overall satisfaction with the current RCRA program. That said, this proposal details the Team’s collective programmatic areas of improvement and conceptual solutions including recommendations for priority items.

List of Priority Recommendations

The Team developed a list of priority recommendations (see Attachment 1). In it the Team identified program concerns to be addressed including:

1. Regulated community needs enhanced ability to understand how the hazardous waste regulations apply to their facilities, and how they could best to comply;
2. Incorporation by reference (“IBR”) format of RCRA regulations is difficult for regulated community to interpret;
3. Existing enforcement process provides limited incentive for regulated community efforts to accelerate a return to compliance;
4. Reliance on hard copy information transfer slow and wasteful; and
5. Regulated community needs certainty concerning procedures necessary to obtain RCRA closure and timeframes expected for Department review and approval.

The team identified conceptual solutions for each of the program concerns. The following list of conceptual solutions corresponds directly with the program concerns listed above:

1. Enhance existing web-page near term with goal of developing new interactive compliance assistance (“iCOMPASS”) application for self-auditing constructed by an independently directed development team;
2. Eliminate IBR format and replace with full text promulgated regulations;
3. Provide greater incentives for accelerating efforts to return to compliance;
4. Expand use of electronic submissions of RCRA required data; and

5. Update and formalize existing Department's "Draft Greater than 90-Day" Closure Guidance, inventory existing TSDFs seeking closure, and disseminate information to affected parties.

The team also finalized detailed recommendations to support concrete actions that the Department can take to realize the conceptual solutions. Where implementation would likely take a longer period of time, the recommendations address the conceptual solutions in progressively structured phases for near term and future development.

Conclusions

The team held to its objective and has provided a list of priority recommendations based on the regulated community's most immediate needs (Attachment 1). It should also be noted that through prioritization, nine (9) secondary program concerns and conceptual solutions have been considered, but were not selected as a priority (Attachment 2). The team recommends further evaluation and development of the secondary priority concerns.

Therefore, it is the strong opinion of the team to propose the creation of a new agency advisory committee specific to the hazardous waste management program. The purpose and responsibilities of this new advisory committee (Hazardous Waste Advisory Committee ("HWAC")) are in short to:

1. Assist Department in implementing priority recommendations and training;
2. Continue open dialogue and constructive information sharing between Department and regulated community;
3. Identify emerging issues and propose solutions;
4. Further develop secondary program concerns and conceptual solutions;
5. Act as sounding board for implementation activities; and
6. Better inform participants of open stakeholder forum meetings.

Membership would be open to the public, and meetings would be held in an open stakeholder forum either at DEP headquarters or other regional location. Meetings would be held three times per year beginning in November 2008. The team also envisions acting in a steering capacity for forum activities and individually taking on prominent roles as active participants of HWAC (e.g., helping to set agendas, hosting meetings and ensuring the benefits of the HWAC meetings are realized).

ATTACHMENT 1 - RSA External Stakeholders Focus Team Priority Recommendations Table

Program Disciplines	Program Priority	Program Needs	Conceptual Solution	Detailed Recommendations
Outreach	High	Regulated community needs enhanced ability to understand how the hazardous waste regulations apply to their facilities, and how they could best comply.	Near term enhancement of existing web-page built with a goal of application in a future interactive, web-based platform “iCOMPASS” for self- auditing.	<p>Phase I – post readily available or easily obtainable information to a central “RCRA help!” location on the DEP web site.</p> <ul style="list-style-type: none"> • Include self-audit checklists for LQGs, SQGs, CESQGs. • Include Fact Sheets that have already been updated or are otherwise current. • Include existing DEP Self-Policing Policy. • Assemble a list of common RCRA violations found during DEP inspections – consider separate lists for LQGs, SQGs, CESQGs (ideally more frequent violations would be placed near the top of the lists). • Develop some frequently asked questions (“FAQ”) and include links to other documents (Fact Sheets, common violations, etc.) with answers. • Spread word through organizations that this information is available on the DEP web site. <p>Phase II – continue to spread the word through additional methods.</p> <ul style="list-style-type: none"> • Develop an electronic compliance assistance listserv (“e-COMPASS”) consisting of individuals who are interested in receiving notifications when new Fact Sheets or other information is posted to “RCRA Help!” <ul style="list-style-type: none"> – Send e-mails to individuals already registered to receive DEP’s web site e-alerts, and offer to register them for this new mailing list. – On the DEP e-alert website, add the e-COMPASS mailing list to the three types of public notices currently available. – Develop lists based on current permits or other filings.

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Outreach continued.				<ul style="list-style-type: none"> - Spread word through organizations that e-COMPASS mailing list is available and open for registration. - Seek additional e-mail addresses at DEP workshops. - The list could also be used to spread word about other RCRA issues, such as new DEP initiatives or enforcement priorities; identification of a specific violation that DEP inspectors have been recently noticing; organizational changes at DEP; recent enforcement actions that have been publicly announced; etc. • Hold routine (e.g. 3 times/ year) Hazardous Waste Advisory Committee meetings focused on RCRA compliance assistance. <ul style="list-style-type: none"> - Review available information to post on “RCRA Help!” web site. <ul style="list-style-type: none"> ⇒ Review Fact Sheets that are currently posted; seek input on prioritizing other Fact Sheets that need to be updated; request input on additional Fact Sheets that would be helpful to regulated community. ⇒ Review list of common violations and give specific examples to help explain those violations. ⇒ Review FAQs that are currently posted; seek input on additional FAQs that would be helpful by listing some of the questions that have come into the DEP and get a sense of how many individuals would find the answer to specific questions helpful; ask for additional questions that should be posted with an answer. ⇒ Serve as partial credit toward RCRA employee training requirement. - Add additional regulated topics that have widespread applicability (e.g., managing used oil; disposing solvent-contaminated wipes in the trash).

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Outreach continued.				<p>Phase III – expand available information on “RCRA Help!”</p> <ul style="list-style-type: none"> • Update additional Fact Sheets and post them to web site. • Develop software for a web-based, interactive compliance assistance tool [“iCOMPASS”] in which a facility could enter their status, answer some questions, and learn which regulations apply to them (similar to ones available through OSHA). <ul style="list-style-type: none"> – Consider outsourcing development of tool, possibly using SEP money to fund development. – Continue to meet with representatives of regulated community (e.g., Hazardous Waste Management Advisory Committee) <u>during</u> software development to ensure tool will be useful. – Evaluate effectiveness of iCOMPASS tool to measure performance / success. – Develop process of self-certification for companies that use iCOMPASS • Evaluate and update DEP’s Self-Audit/ Self-Policing Policy. <ul style="list-style-type: none"> – Review the Rhode Island Environmental Compliance Incentive Act Policy at http://www.dem.ri.gov/programs/benviron/assist/pdf/audplcy.pdf. – Coordinate existing DEP Self Policing Policy with the EPA Self Audit Policy. – Identify/Resolve enforcement ramifications with use of Self-Policing/Audit Policy.

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Outreach, Enforcement, Permitting	High	Incorporation By Reference (“IBR”) format of regulations difficult for regulated community to interpret.	Eliminate IBR format.	<ul style="list-style-type: none"> Promulgate full text RCRA regulations. New rules should be current with EPA’s recently promulgated regulations.
Enforcement	High	Existing enforcement process provides limited incentive for efforts of regulatory community to accelerate a return to compliance.	Provide incentives for accelerating returns to compliance for qualifying facilities.	<ul style="list-style-type: none"> Develop set of qualifications and enforcement resolution timelines for facilities to meet reduced penalty incentive. With EPA, create a penalty adjustment schedule for expedited returns to compliance [models: DEP UST program or EPA SPCC “expedited CO’s”]. Develop and implement template letters to document completion of return to compliance (e.g. closure of NOV or other enforcement action).
Enforcement, Permitting, & Admin.	High	Reliance on hard copy transfer of information slow and wasteful.	Expand use of electronic submissions.	<ul style="list-style-type: none"> Provide for electronic submission of information including manifests and paperwork requested during inspections. Provide for electronic submission of manifest copies. [Note: Implementation depends partially on electric document capability and national efforts] . Allow for submission of Pre-inspection Questionnaire (“PIQ”) style information in support of inspection process. Work towards iCompass certification of self-audit process.
Permitting	High	Regulated Community needs certainty concerning the procedures necessary to obtain RCRA Closure and the timeframe expected for DEP review and approval.	DEP enhancement of existing Closure Guidance, inventory of existing TSDFs seeking closure, and dissemination of information to affected parties.	<p>Phase I – Enhance Existing Closure Guidance</p> <ul style="list-style-type: none"> The Closure Plan Guidance Document that is posted on DEP’s web site is a draft document that has not been updated since November 1993. Document needs to be updated to current standards and formalized. Spread word through organizations that revised/enhanced document is available on DEP’s web site. Provide visual pathway to TSDF regulated unit closure.

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				<p>Phase II – Inventory all Interim Status TSDFs</p> <ul style="list-style-type: none"> • Develop list of all Interim Status TSDFs to determine each facility’s actual status. • Seek to develop a priority list to review and approve Closure Plans. • Review Financial Assurance obligations for those facilities with submitted plans, those with submitted final certifications that haven’t been reviewed, and those facilities that are active. • Provide streamlined alternatives to RCRA unit closure (e.g., incorporation into Property Transfer Program / RCRA Corrective Action).

ATTACHMENT 2 - RSA External Stakeholders Focus Team Secondary Priority Table (Pending Further Evaluation)

Program Disciplines	Program Needs	Conceptual Solutions / Comments	Proposals / Recommendations	Stakeholder Lead:
Outreach	Need to reach out to Regulated Community on RCRA specific requirements. DEP does not provide on-site training.	<p><u>Training Seminars / Advisory Group Meetings</u></p> <ul style="list-style-type: none"> -Evaluate need for and conduct periodic seminars as RCRA “refresher” training including allowance of anonymous questions and separate Q&A session with inspectors. -Incorporate training into HWAC meetings. -Monitor/Analyze data on recurring violations. -Post materials on web with links to EPA training -Send to industry associations. 		
Outreach	Need to perform Compliance Assistance (“COMPASS”) Audits. How can compliance rates be measured with increased COMPASS audits/ less enforcement action?	<p><u>Conduct COMPASS Audits</u></p> <ul style="list-style-type: none"> -Promote COMPASS audit program and revise self-audit policy (“DEP Policy on Incentives for self-policing”). -DEP already provides voluntary audits for new or expanding businesses. Expand this service to any business. -Find ways to overcome regulated community’s reticence to request COMPASS audits. -Identify measures of success for DEP assistance / outreach activities. -Coordinate with EPA to count amnesty-type inspections in Performance Partnership Agreement. 		
Outreach	Current SQG guidance outdated. Need for generator guidance to contain model plans and templates to help to meet inspectors’ expectations.	<p><u>Revise SQG Guidance Document</u></p> <ul style="list-style-type: none"> -Develop templates with fill in blanks from existing summary pages. -Append outlines or model plans (e.g., HW Contingency Plan, HW Determinations, Inspection Schedule, etc.). -Post on web site guidance documents and inspection checklists. 		
Outreach	RCRA/DEP does not require written plans for implementing RCRA generator requirements.	<p><u>“Model” Compliance Assurance Plan</u></p> <ul style="list-style-type: none"> -Tailor existing plan [required by enforcement action] to SQG or generator requirements. -Add best management practice elements or 		

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Program Disciplines	Program Needs	Conceptual Solutions / Comments	Proposals / Recommendations	Stakeholder Lead:
		Environmental Management System-like goals. -Make available on DEP web site.		
Outreach	Need for web materials to help regulated community to achieve higher compliance rates when inspected.	<u>Achieve Higher Compliance Rates</u> -Create and publish list of top ten mistakes (violations) with lessons learned and/or list of most common violations, enforcement action summaries and program accomplishments (see RI DEM's web http://www.dem.ri.gov/programs/benviron/compliance/enfact/index.htm) -Create "Simple Guide to Managing Hazardous Waste." -Publish RCRA inspection checklists on Web. -Publish Frequently Asked Questions.		
Enforcement	DEP does not reward compliance or create enough incentive to quickly return to compliance.	<u>Enforcement Closure / Lessons Learned</u> -Send acknowledgment reinforcement letters to regulated community (e.g., when company is doing a good job with compliance, when return to compliance/ resolution of enforcement is quick and complete).		
Inspections	Lengthy timeframe to inspect and prepare inspection report. Multi-day inspections are common. Inspection commitments based on inspection timeframes.	<u>Streamline On-site Inspection Timeframes</u> -DEP inspectors should make future arrangements to return to site to review routine records. This would allot regulated community time to pull together records and minimize DEP resources. -Coordinate with EPA future inspection commitments. -Encourage electronic document submission. -The proposed approach would lessen the burden on the facility by allowing more flexibility in scheduling and reducing the disruption that the unannounced inspection causes while still		

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Program Disciplines	Program Needs	Conceptual Solutions / Comments	Proposals / Recommendations	Stakeholder Lead:
		maintaining the “unannounced” aspect of the audit component that evaluates compliance with hazardous waste management practices. It can also save the inspector time by avoiding the wait time while the facility contact “scrambles” to accommodate the inspection while dealing with the work that is originally scheduled for the day.		
Permitting	Lack of guidance on terminating TSDF status.	<p><u>RCRA Closure/Corrective Action Guidance</u></p> <ul style="list-style-type: none"> -DEP staff familiar with RCRA permits and closure requirements appropriate to issue closure letters. -Increase communication between EPA and DEP on RCRA closure issues. -Develop guidance and post electronically 		
Permitting	Need to streamline manifest system.	<p><u>Electronic Manifest Submissions</u></p> <ul style="list-style-type: none"> -Reduce paper submissions/ inspection time -Make manifests electronically accessible. 		

ATTACHMENT 3 - RCRA Systems Analysis – External Stakeholders Focus Team Active Participants Table

Organization	Representative(s)	Phone Number	Email Address
Connecticut Association of Metal Finishers (CAMF)	Pat Hayden	(203) 264-2177	p.hayden@donhamcraft.com
Connecticut Business & Industry Association (CBIA)	Eric Brown / Tom Stark	(860) 244-1926 / (860) 858-3132	browne@cbia.com / tstark@gza.com
Connecticut Chapter of Air & Waste Management Association, NE Section	Tom Scelfo	(203) 271-0379	tscelfo@woodardcurran.com
Connecticut Conference of Municipalities (CCM)	Kachina Walsh-Weaver	(203) 498-3000	kweaver@ccm-ct.org
CT Environmental Forum (CEF)	Robert Silvestri / David Lis	(203) 551-6032 / (860) 282-1700	robert.silvestri@pseg.com / dliis@apexcos.com
The Connecticut Forum of Regulated Environmental Professionals	Bill Morris / Ryder Foley	(203) 238-6745	bmorris@unitedindustrialservices.com / rfoley@triumvirate.com
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