

HW Newsletter

Hazardous Materials Program
Waste Management and Prevention Division
Department of Environmental Conservation

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More on Container Management

You may have noticed a recurring theme in the last couple of newsletters, as our past two issues have both included a piece on proper container management. There is a particularly good reason for this. Proper management of containers enables

generators, transporters, and end facilities to handle hazardous waste throughout its lifecycle without causing releases to the environment. While there is great variability among generators, production processes, and waste streams in Vermont, the use of containers is a common denominator in the world of hazardous waste management. It is not surprising, then, that container-related violations are some of the most common issued by the Vermont Hazardous Materials Program (Program). Let's continue our focus on container management by moving from our last issue, where we discussed protecting your containers from freezing, and turning our attention to the importance of keeping containers closed. The Vermont Hazardous Waste Management Regulations (VHWMR) are explicit: Containers of hazardous waste must remain closed except when adding or removing waste. Very small quantity generators (VSQGs), small quantity generators (SQGs), and large quantity generators (LQGs) all have to stick to this principle, as do transporters. The regulations also require keeping containers closed for many of the wastes that require alternative management standards (i.e., wastes that are regulated as non-hazardous *only* if handled as prescribed in the VHWMR). You should refer to the regulations for the specific requirements.



CONSIDER YOUR WASTE STREAMS

While keeping containers closed except when adding or removing waste may seem like common sense, we understand that it's not always so simple. The type of waste that is being handled, the method and frequency of adding or removing waste, and the type of container are all factors in effectively following this important requirement.

Some non-liquid wastes in particular need to be considered in regard to keeping containers closed. For instance, common absorbent materials that contain waste, like rags and drip pads, can catch on container rims and prevent a proper seal. Universal waste lamps also deserve attention. Because of their awkward shape, generators typically keep them in the cardboard box that they came in. This is fine – as long as the generator keeps the box closed when not adding or removing universal waste lamps. Unlike a drum with a top, the end of a box can tend to flap open. It's a good practice to keep the box taped closed until you need to



use it. For liquid wastes that are added or removed from containers using a funnel, it's important for generators to understand what it actually means for the container to be closed. When it comes to used oil, for instance, a funnel is typically used in conjunction with a bung hole at the top of a container. When not adding or removing used oil,

Above: this is a great example of a container equipped with a funnel that can be closed after adding waste.

though, either the funnel needs to be removed and the container closed, or the funnel needs to be closed at the top. If the open container or funnel stays in place when used oil is not being added or removed, the generator is not complying with the regulations.

Containers that generators regularly use throughout hours of operation, like accumulation containers for high-volume waste streams and shift accumulation containers, are also frequent offenders. Since they are handled and opened so frequently, they should receive special attention to ensure they stay closed.

WHY IS IT IMPORTANT TO KEEP CONTAINERS CLOSED?

One obvious reason containers should be kept closed is that this prevents releases of hazardous waste to the environment. For one, closed containers prevent evaporation from occurring. Evaporation of hazardous waste is prohibited under the VHWMR. Additionally,

closed containers, particularly those with locking lids, are less susceptible to releasing their contents in the event that they are overturned. Accidents happen, so it's a good practice to use a locking cover (e.g., locking metal ring around the top of a drum) for wastes that are in storage.

Closed containers also help prevent materials other than their intended contents from getting inside. When a generator has to stop to remove a container lid before adding waste, it's a good habit for them to also peek at the container label. This behavior helps prevent combining incompatible materials by accident, which is especially important in cases where operators and processes generate multiple waste streams in the same vicinity. Closed containers also present less of a risk in situations where an ignition source or spark could interact with their contents. Depending on the contents of the container, ignition could be catastrophic and require an emergency response.

REFER TO OUR GUIDANCE

It is vital to our Program that hazardous waste handlers follow the requirements of the VHWMR, and we realize that understanding the regulations is key. Our fact sheet on [Accumulation and Storage of Hazardous Waste](#) provides an overview of what handlers need to do when it comes to managing their containers onsite. It covers the topic at hand and many other facets of container management. For guidance on other hazardous waste topics, please refer to our [Resources for Hazardous Waste Handlers](#) webpage. If you have any questions, please do not hesitate to reach out using the contact information at the end of this newsletter.

Website Changes

Over the past few years, you may have noticed an increase in the web-based aspects of both state and federal regulatory programs. At the federal level, the Electronic Manifest System (e-Manifest) and RCRAInfo – a comprehensive hazardous waste information system – allow for tracking of waste from “cradle to grave.” If you have not already done so, we encourage all hazardous waste handlers in Vermont to [register for a RCRAInfo Industry User account](#). You can feel free to contact us if you have any questions about this.

As for the Vermont Department of Environmental Conservation (DEC), which encompasses our Program and many others, the website has experienced some recent changes. The State of Vermont and Agency of Natural Resources (ANR) have also created ways for regulated entities to complete various administrative requirements online.



DEC WEBSITE

You may have noticed some minor changes to the look of the hazardous waste webpages following updates to the DEC website that were completed in early 2023. Everything you are familiar with accessing on our pages is still there. We will continue to update the hazardous waste webpages with pertinent information related to the revised Vermont Hazardous Waste Management Regulations (VHWMR), and our intent is to keep it as intuitive and accessible as possible. If you ever have questions about the website or cannot find what you need online, please contact us. We will work to communicate any major changes as they occur.



ANR ONLINE

In May of 2021, ANR began transitioning to an online fee payment system known as ANR Online. As we are seeing with some of DEC’s other regulatory programs, the Hazardous Materials Program is no longer accepting payments in the form of paper checks. The transition to an online payment system is expected to save the state time and resources and increase data accuracy. Due to this agency-wide policy, paper checks received by the Program will not be processed and will be returned to the sender. This change means that electronic payments are now required for paying annual Hazardous Waste Generator Registration Fees, permit modification fees, and Toxic Use and Hazardous Waste Reduction (TUHWR) fees. Those that cannot comply with the requirement to pay fees through ANR Online are required to obtain a waiver from the Program. Waivers will only be issued to individuals that cannot comply for any one of the criteria below.

Eligibility Criteria to Apply for a Waiver

- **Lack of equipment or software for submitting online payments;**
- **insufficient internet, electrical, or other service required for electronic submittal;**
- **limited digital or technological proficiency; or**
- **lack of credit card or bank account.**

If you need assistance with setting up an ANR Online account, meet any of the above criteria and need to apply for a waiver, or have any questions related to paying hazardous waste fees, please contact Wendy Edwards by phone (802-522-0261) or email (wendy.edwards@vermont.gov).

Observations from the Field

Our Program is authorized by the U.S. Environmental Protection Agency (EPA) to implement the VHWMR in lieu of the federal Resource Conservation and Recovery Act (RCRA). As such, we target our annual inspection numbers based on agreements with our federal partner, and we monitor our progress based on the federal fiscal year (FFY) that runs from October 1 through September 30.



THE BIG PICTURE

For FFY 2022, which closed on September 30, 2022, our Program completed 76 inspections, one more than the 75 required under our federal agreement. 12% of our inspections involved LQGs and/or treatment, storage, and disposal facilities (TSDFs); 39% involved SQGs, and the remaining 49% involved VSQGs.

The large majority of these inspections are known as compliance evaluation inspections (CEIs), and they consist of one or more Program personnel conducting an onsite evaluation of a hazardous waste handler's compliance with the VHWMR and permit standards. Technically speaking, the purpose of any CEI is to gather information necessary to determine compliance and support enforcement actions, and it includes all applicable aspects of hazardous waste generation and

handling. In over 60% of our inspections in FFY 2022, at least one instance of non-compliance was observed at the facility, resulting in the issuance of what we refer to as a notice of alleged violation (NOAV). Three inspections resulted in referrals to DEC's Environmental Enforcement Office.

While evaluating regulatory compliance and supporting enforcement efforts are the main objectives for each CEI, these inspections also exist as opportunities for our Program to interface with the regulated community – to both learn and educate. We are able to observe how handlers are responding to new requirements (for example, the new pharmaceutical regulations in Subchapter 10), listen to common and unique concerns, and answer questions where appropriate. In the aggregate, these interactions enable us to hone our approach as regulators based on what we are seeing, and ultimately, we hope, they improve statewide compliance with the VHWMR by informing our Program's public outreach efforts. Below you will find a description of the most common violations that Vermont inspectors observed over the course of the past inspection year, along with links to guidance that the Program has developed to help you avoid such violations in the future.

“For FFY 2022... 12% of our inspections involved LQGs and/or treatment, storage, and disposal facilities (TSDFs); 39% involved SQGs, and the remaining 49% involved VSQGs.”



CONTAINER LABELLING

The most frequently observed alleged violation involved hazardous waste container labeling **with 22% of inspected facilities being issued at least one violation in this area.** These rules are found in [Subchapter 3](#) of the VHWMR. Common observed violations include not labeling/marketing the hazards of the waste and/or contents of container and not marking dates (as applicable). Our fact sheet on [Accumulation and Storage of Hazardous Waste](#) outlines all of the requirements for managing your containers, including how to properly label them. Please note that wastes with alternative management standards including used oil, universal waste, and pharmaceutical hazardous waste have unique labelling requirements outlined in other parts of the regulations (a couple are noted below) and are not factored into this 22% metric.

“The most frequently observed alleged violation involved hazardous waste container labeling with 22% of inspected facilities being issued at least one violation in this area.”



USED OIL

The second most common observed violation involves the management of used oil (requirements of Subchapter 8), and **18% of inspected facilities were issued a violation for mismanagement of used oil**, as specified in Subchapter 8 of VHWMR. Common violations observed in this area relate to issues with container labeling and keeping used oil containers

closed. For more guidance on this topic, please refer to two of our fact sheets – one provides an overview of managing [Used Oil](#), and the other is specific to [Used Oil Burning](#).



UNIVERSAL WASTE


16% of inspected facilities were issued a violation related to universal waste. As is the case with used oil, universal waste is not regulated as hazardous waste if it is managed according to the alternative management standards prescribed in the VHWMR. [Subchapter 9](#) outlines waste-specific requirements for dealing with universal wastes like thermostats, lamps, postconsumer paint, and aerosol cans. Common universal waste violations observed include not indicating/following storage time limits (most universal wastes have a one-year limit for being onsite) and keeping universal waste lamps in open containers. Please refer to our fact sheets on the topic – one covers [Universal Waste](#) more broadly, and the other is specific to [Managing Aerosol Cans as Universal Waste](#).



INSPECTIONS OF WASTE CONTAINERS IN SHORT TERM STORAGE AREAS (STSAS)

15% of inspected facilities were issued a violation for noncompliance with the requirements to inspect waste containers in the STSAs. This requirement is applicable to SQG and LQG facilities only. The regulations on this topic are part of the Hazardous Waste Generator Standards found in [Subchapter 3](#). A common violation results from facilities not logging inspections at least every seven days (or on a daily basis for facilities that choose a shift accumulation system), or not completing any inspections as required. This requirement is included in the fact sheet on accumulation and storage (above), and we will

announce any additional guidance resources on the topic when they are developed.



EMERGENCY ARRANGEMENTS AND PREPAREDNESS

11% of inspected facilities were issued a violation for not making emergency arrangements and/or following the emergency preparedness requirements outlined in [Subchapter 3](#). Note that there are rules for both SQGs and LQGs to follow, with additional rules specific to LQGs. VSQGs do not have to meet specific requirements in this area. Common observed violations in this area result from a generator not making arrangements with police, fire, and hospitals, or not being able to demonstrate that they have done so. We will announce any additional guidance resources on the topic when they are developed.



WASTE DETERMINATION

10% of inspected facilities were issued a violation for not following the rules for making waste determinations as specified in [Subchapter 2](#). Common violations in this area include making incorrect waste determinations, not being able to support a waste determination with relevant documentation, and not keeping waste determination records on file. Please refer to our fact sheet on [Making a Hazardous Waste Determination](#) for more information on staying in compliance with waste determination requirements.



COMPLIANCE ASSISTANCE RESOURCES

While it is the handler's responsibility to follow the regulatory requirements, we recognize that regulations are not promulgated in a plain language format. We want to reiterate the resources we offer as a Program

to this end. As noted elsewhere in this issue, written guidance on a variety of topics is available on our [Resources for Hazardous Waste Handlers](#) webpage.

Furthermore, we would like to remind all generators of the option to request a compliance assistance visit (CAV) from our Program. A CAV is a technical, site-specific compliance assistance visit and is conducted onsite without the threat of enforcement. A CAV does not include evaluation events that would qualify as another inspection type, such as a compliance evaluation inspection (CEI). If you ever have questions about the regulations or would like to request a CAV, please let us know.

“A compliance assistance visit (CAV) is a technical, site-specific compliance assistance visit and is conducted onsite without the threat of enforcement...”

Keep an Eye Out



STATE REGULATIONS RECEIVING FEDERAL AUTHORIZATION

We are pleased to share that the EPA has completed its review of the revised VHWMR and determined that they satisfy all requirements needed to qualify for final authorization. The final program authorization is scheduled to become effective on May 1, 2023. As has

been the case for decades in Vermont, the state regulations will continue to be implemented in lieu of federal regulations as permitted under the Resource Conservation and Recovery Act (RCRA). Notices were published in the Federal Register on March 2, 2023:

[Direct Final Rule](#)

[Proposed Rule](#)



TOXIC USE AND HAZARDOUS WASTE REDUCTION (TUHWR) PLANS DUE JULY 1

We want to remind entities that are required to develop a TUHWR Plan that the next three-year planning cycle begins on July 1, 2023. For existing planners, this means that you will need to develop and submit a new TUHWR Plan for years 2023-2025.

We have also identified several entities that will be required to develop a TUHWR Plan because of the amount of hazardous waste they send offsite each year. In order to fulfil this statutory requirement, planners must submit either a Complete Plan, Plan Summary, or EMS Alternative Application (if applicable). Please note that these forms have been recently updated; the previous versions are outdated and will not be accepted

for the next cycle. All information related to TUHWR, including forms for planning and other resources, can be found on the [TUHWR webpage](#).

New Guidance Resources

The Program continues to update the [Resources for Hazardous Waste Handlers](#) webpage to ensure that our guidance is consistent with revisions to the VHWMR that came into effect last year. Below are the resources that have been posted on our website since the last issue of the newsletter was distributed.



FACT SHEET

[Accumulation and Storage of Hazardous Waste:](#) provides a summary of the accumulation and storage requirements for hazardous waste generators depending on their generator category.

FOR MORE INFORMATION PLEASE CONTACT:

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