

Common Compliance Issues and Associated Fines

by Meghan Sunyar, Technical Services Representative



There are many Environmental Protection Agency (EPA) and Massachusetts Department of Environmental Protection (DEP) regulations that generators have to follow in order to operate a facility safely and compliantly. Often there is a trend of common violations that the DEP encounters when conducting a site audit that could be easily avoided. The intent of this article is to help identify and inform generators of possible violations at their own facility.

The first most common violation is failure to determine if waste is hazardous. There are two ways to make this determination (1) using knowledge of the waste stream and how the waste was generated or (2) run analytical on the waste. Basically a waste is hazardous waste if it is a RCRA characteristic waste (ignitable, corrosive, reactive, toxic), or it is listed in the EPA regulation 40 CFR 260. Also, consulting the MSDSs for the chemicals in your waste stream can be extremely helpful in determining waste characteristics. Recently, the DEP conducted a site audit at a used auto parts facility and fined the company upwards of \$33,000 for improper determination of hazardous waste and improper disposal methods (1). Therefore, it is important to spend sufficient amount of time and research in determining characteristics of a waste stream

and proper disposal methods.

The second most common violation is incorrect information on the waste generation notification forms. The EPA requires all generators to submit the hazardous waste notification form so the site can be issued an EPA ID number (2). The quantity of waste a generator accumulates on site at one time will determine the generator status and how often hazardous waste must be shipped from a site. During 2008 DEP site audits, there have been numerous fines ranging from \$1,500 to \$7,000 for generators violating and exceeding their generator status (1). Often a generator will apply for the correct generator status but often fail to resubmit the form if their generation of waste has increased or if facility information has changed. Therefore, it is important to review your waste generation and confirm your site meets state and federal hazardous waste generator status and storage limits outlined in 40 CFR 260. Please keep in mind that different generator states have different reporting requirements (2).

Other common violation is container integrity, labeling and hazardous waste manifests. Open containers or failing to keep a container closed at all times except when adding or removing waste is a frequent violation. The purpose of this regulation is to prevent spillage if a container is knocked over and/or to minimize the evaporation of volatile waste. Labeling containers with the appropriate information is another violation. The words "hazardous waste" must be legibly stenciled or a waste label placed onto the container when waste is first placed into it. When storing hazardous waste be sure to check the waste hazards on the label. Lastly, generators must date the

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accumulation start when a container is determined full in a satellite accumulation area (SAA) from which federal law requires a generator to move the waste to your main accumulation area in 3 days. This requirement is based on your generator status and the associated laws surrounding storage of hazardous waste.

Errors often occur on the manifest shipping documents. Common errors that are not reported are discrepancies surrounding the waste information and improper completion on waste manifests. Be sure to check your EPA ID number, site location, shipping names, associated RCRA/ state waste codes, amount of drums shipped, and their weights along with signatures. All this information must be as accurate as possible for reporting purposes and generator status. If any information is updated or before waste is accepted into an end disposal facility be sure to update all waste manifest copies in order to be complaint with regulations. It is required by some states for a generator to send in a signed received designated facility copy. For the state of Massachusetts, a generator has 45 days from the date of shipment to return the signed received designated facility copy into the state (4). Also, the DEP requires generators to keep manifest copies onsite for at least 3 years and they recommend you keep at least 5 years or all of them.

The enforcement of these hazardous waste regulations is to ensure the safety and the protection of our natural resources. When the DEP issues fines to a generator they often allow generators to correct their compliance infractions over a given time frame. Most fines are required to be paid by the generator but depending on the severity of the infraction the Mass DEP may suspend fees with certain stipulations on the generator. To learn more on the fines given by the Mass DEP visit their website section public participation and news (1).

(1) Public Participation & News <http://www.mass.gov/dep/public/press/enforce.htm>

(2) Mass DEP Generator Status Form <http://www.mass.gov/dep/recycle/hazardous/hwgens.htm>

(3) Laws & Regulations Documents <http://www.mass.gov/dep/recycle/laws/policies.htm>

(4) Hazardous Waste Reporting Information <http://www.mass.gov/dep/recycle/hazardous/reports.htm>

Aboveground Storage Tanks. . . Things You Should Know

by Doug Graham, CHMM, Senior Environmental Compliance Advisor & Trainer

Storage of oils and/or hazardous materials (OHM) in aboveground storage tanks has certain advantages over underground storage. Ease of monitoring and inspection through visual contact without the need of remote electronic leak detection and testing equipment is one big advantage. Any facility or EHS Manager who has lived through a leaking underground storage tank ordeal, with all its remediation costs and compliance headaches, can testify to the comfort they feel when glancing over at their AST installation.

With those ASTs however, there remain numerous compliance standards that impact both new and existing installations. Rarely do we see such a collision of both environmental and safety requirements coming from all three levels of governmental oversight- federal, state and municipal, as we do when storing those OHMs in bulk tanks on top of good old terra firma.

I like to think of bulk AST storage compliance in six categories:

Installation-

Installation requirements are very much driven by the actual type of material to be stored in the AST. Installations for materials that present a fire hazard, such as liquefied oxygen, propane, and flammable and combustible liquids must meet very specific fire safety design and installation specifications. The National Fire Protection Association (NFPA) is the primary source of those spec-based standards (e.g., NFPA 58 for propane, NFPA 30 for flammable liquid). Industry standards may also exist for the specific tank type, for example the steel tank institute- STI standards.

Permitting and Registration-

The government agency to which an AST installation permit application is submitted is highly variable depending on where a facility is located. Permitting is the domain of either the state and/or the municipality and may require permit renewals at regular intervals, often annually. By far the most common permitting for an AST is through the local fire department.

Spill Prevention-

Spill prevention techniques may include methods such as overfill protection (e.g., alarms, overflow tanks), monitoring, and/or release prevention barrier, i.e., secondary containment. One or more methods may be mandated through specific regulation or may be driven by plain old common sense. The two most common spill prevention mandates appear in the hazardous waste (RCRA) regulations and the Clean Water Act. Spill Prevention Control and Countermeasures (SPCC) planning requirements under the federal Clean Water Act require that certain facilities develop plans to minimize the risks of releases of oil from bulk storage units to surface waters. Additionally, Hazardous waste generators are required to minimize the risk of a release of hazardous wastes that could threaten human health or the environment and may need to develop specific procedures in their contingency plan.

Spill Response-

Releases of hazardous materials may trigger numerous regulatory reporting requirements. Releases may threaten individuals' safety, the general public, the environment, or property. There's hardly a local, state or federal agency that isn't interested in being notified in the event of a significant release of oil or hazardous materials from an AST, however the actual reporting triggers are highly specific and variable upon circumstance. All such requirements should be researched ahead of time, so that notifications can be made promptly. Additionally, actual spill response activities that must be implemented to mitigate the release are just as variable. With any releases from ASTs, remember your priorities- protect people first, the environment second, and property third.



Tank Integrity-

Tank integrity is about having a system in place to ensure an AST installation (tank and associated piping) is in good working condition and not at risk of failure due to corrosion or other factors. The two primary methods are regular visual inspection and tightness testing. Either or both methods may be mandated, as with SPCC plans and hazardous waste tanks, or may be implemented as a best management practice. Individual testing methods and frequencies are dependent upon the tank type and construction. One commonly cited standard is Steel Tank Institute Standard SP001.

Hazard Communication-

Communicating the hazards related to the contents of an AST is required per OSHA's HazComm standard, but is potentially even more important for emergency response. ASTs should be marked with the contents and hazard. Because emergency responders are trained to recognize and reference DOT shipping names and identification numbers, it's helpful to reference these on the AST, for example, "Diesel Fuel, NA1993", in characters large enough to be seen from a distance. Additionally, fire-fighters are trained specifically in the recognition of the familiar numbered four-color NFPA warning placard- these should also be used- see NFPA standard 704 for rules of use.

Strengthening your EH&S During a Recession

by Amanda Mendonza, CHMM, Technical Services Representative

During these times of economic instability many companies find themselves faced with the responsibility of reducing costs. In industry, these initiatives can be targeted at the Department of Environmental, Health and Safety (EHS). The additional work to meet cost limitations added to the daily maintenance of environmental compliance can become burdensome. In the regulatory world there is always some deadline to meet or violation to avoid, and the possibility of slipping into non-compliance with local, state and federal requirements could prove to be the highest cost.

Fortunately, there are options available in the environmental field to help lighten this work load. Trained professionals with years of field experience are available as a support system to be hired into EHS departments to assume these responsibilities allowing EHS managers to designate their time back to the core competences of their profession. Environmental consulting is currently a highly sought after service now that EHS voids are becoming more common and payroll funds are tighter. Some of the responsibilities environmental consultants can manage include:

- Hazardous waste onsite compliance
- Routine documentation of chemical stock/waste storage
- Chemical product/waste transportation and disposal
- Air permit compliance
- Wastewater discharge permit compliance
- Preparation and submittal of annual and biennial reporting
- Training program development
- Safety inspections

Consultants are valuable in helping to manage the requirements under several Acts which can be so involved that at many larger corporations these are delegated to their own sub-department of EHS. In addition to the environmental health portion there is the safety portion that needs just as much attention. Every company that handles any kind of hazardous material or potentially endangering equipment must have an Occupational Health and Safety Association (OSHA) approved program in place. Just making sure a facility meets the training requirements for this program can be a full time job in some cases. EHS consultants are not only educated in OSHA regulations but are also qualified trainers to keep personnel current with their training records. Maintaining a sustainable EHS program in an economic slump is essential because the costs of an injury or environmental violation can be crippling to a company's profit margin.

Environmental consultants can be available for full-time or part-time work and will act as an employee of the company. They bring a broad level of experience and years of technical knowledge to your facility. They can begin their employment at your company with a multi-media audit to offer suggestions about where regulatory problems lie and how to better manage costs. Their experience positions them as key players in the regulatory world so they can represent your company when working with state and federal agencies. The Environmental Compliance Advisors of Triumvirate Environmental bring with them their own support system backed by certified experts of all environmental facets. Triumvirate Environmental can aid you in helping your company regain regulatory stability and maintain a sustainable EHS program. Contact your Triumvirate Account Representative with questions.

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