

**State of Connecticut  
Department of Environmental Protection**

**State Solid Waste Management Advisory Committee  
Summary of the May 22, 2007 Meeting**



**Changing the Balance**

The third meeting of the CTDEP State Solid Waste Management Advisory Committee was held on May 22, 2007 at the CTDEP headquarters. The purpose of the meeting was to: present the draft State Disaster Debris Management Plan, provide updates re/regulatory and legislative activities; discuss the recent U.S. Supreme Court ruling concerning flow control issues; and then, breakout to subcommittee work.

**Guest Lecturer**

Frank Gagliardo, Environmental Analyst 3 with the Bureau of Materials Management and Compliance Assurance, presented to the Committee a lecture/Power Point presentation entitled Disaster Debris Management Plan. The presentation included:

- Statutory authority for Plan preparation;
- The purpose of the Plan;
- State/CTDEP role in catastrophic debris management;
- Strategies for the management, recycling and disposal of disaster debris;
- Contracts for the removal of debris and monitoring of the clean-up work; and
- Next steps

Mr. Gagliardo indicated that the CTDEP is drafting a State Disaster Debris Management Plan. CTDEP has been working with the CT Department of Emergency Management and Homeland Security (DEMHS) and other State Agencies, the U.S. EPA, FEMA, and Connecticut municipalities to prepare the State in protecting the health and welfare of the citizens of the State in the event of a major hurricane (Category 3) or other natural disaster. The Plan establishes the framework for State agencies and municipalities to facilitate the proper management of debris generated by a natural disaster. The types of natural disasters include: hurricanes, tornadoes, floods, forest fires, earthquakes, ice storms, catastrophic animal mortalities, and catastrophic vegetative waste. DEMHS considers a Category 3 hurricane as the most probable, worst-case disaster scenario facing the State. The types of debris resulting from such natural disasters include: green waste/vegetative debris; putrescent municipal solid waste; household hazardous waste; hazardous waste; construction and demolition; aggregate (fill materials); scrap metal; white goods; electronic waste; contaminated soil, silt and sediment; animal mortalities; vehicles and boats; waste tires; and utility related debris.

Mr. Gagliardo indicated that the Plan has two main objectives: to serve as a resource for DEMHS as well as to assist other state agencies and municipalities in their disaster debris management planning; and to facilitate the implementation of emergency waste management practices that are consistent with the State's Solid Waste Management Plan. Mr. Gagliardo indicated that Connecticut's approach to managing disaster debris will be to divert as much material from disposal as possible through recycling and composting; to use Connecticut's existing waste disposal in-state capacity as efficiently as possible; and to rely upon transfer stations and volume reduction facilities to transfer waste that cannot be diverted from disposal to waste handling facilities out-of-state for disposal. Gagliardo indicated that the State is preparing contracts to assist in the pre-event preparation and planning. One type of contract will address debris removal and the other type of contract being developed concerns monitoring. Mr. Gagliardo concluded his talk by stating the Plan is being drafted and is expected to be final this summer; the contracts are being drafted and a Request for Proposal will be posted later this summer; and the next steps will be working with municipalities on a regional level through DEMHS and regional planning organizations.

Questions and comments following the presentation included:

- Will FEMA reimburse the State if we need to transport waste to out-of-state facilities?
  - CTDEP will be meeting with FEMA and get an answer with regard to transport.

- What roles do the in-state resources recovery facilities have in managing the disaster debris?
  - It is assumed that the RRFs will continue to process MSW, leaving very limited opportunity for managing other types of disaster related wastes.
- How does CTDEP's draft General Permit for Municipal Transfer Stations relate to this Plan.
  - It is assumed that in the event of a catastrophic natural event, the municipal transfer stations may become overwhelmed. That is why the State is encouraging municipalities and is undertaking an evaluation of state properties to identify potential Temporary Debris Staging Areas.
- There is a critical shortage of landfills in the State that can accommodate C&D debris; CTDEP needs to revisit the siting criteria to determine the barriers that prevent the permitting of such facilities.

### **Legislative and Regulatory Updates**

*Legislative:* Bob Kaliszewski, Director/Office of Planning and Program Development, provided an update with regard to some bills being tracked by the CTDEP and currently under consideration by the Connecticut General Assembly. These included the following: the Bottle Bill, e-waste and CTDEP's minor revisions bill that contains a provision for waste demonstration innovative projects. The Bottle Bill did not make it out of committee; the e-waste bill is in the Judiciary Committee; and CTDEP's demonstration bill is still under discussion. The Session concludes the first week in June and the CTDEP will be reporting out to the Solid Waste Management Advisory more fully at the June 26<sup>th</sup> meeting.

*Regulatory Update:* Robert Isner, Director/Bureau of Materials Management and Compliance Assurance, reported on the status of the draft Municipal Transfer Station and Recycling Activities General Permit. Mr. Isner presentation is summarized below:

- Overview: The General Permit for Municipal Transfer Station and Recycling activities allows for up to 120 tons per day that can include MSW, C&D, Universal wastes, recyclables, and clean wood and grass clippings;
- Benefits: Include consolidation of individual Transfer Station Permits and Recycling General Permits; streamlined processing; greater consistency and clarity of standards; and cost savings.
- Status: The CTDEP mailed the draft General Permit for informal review to municipalities, RRAs, CCM and COST, and CRC. Informal comments can be submitted through June 7<sup>th</sup> and the draft General Permit is posted on the CTDEP website – solid waste page.
- Next Steps: The CTDEP will: (1) assess the informal comment and will revise the General Permit; (2) issue intent to adopt the General Permit with formal 30-day comment period; (3) assess formal comments and revise the General Permit; and (4) recommend for issuance by the Commissioner.
- Contact Information: Elaine Coelho is the CTDEP contact and can be reached at 860-424-3304 or by e-mail at [Elaine.Coelho@po.state.ct.us](mailto:Elaine.Coelho@po.state.ct.us)

*U.S. Supreme Court Ruling – United Haulers Association Inc. v. Oneida-Herkimer Solid Waste Management Authority:* Diane Duva, Assistant Director/Bureau of Materials Management and Compliance Assurance, provided an overview to the recent U.S. Supreme Court ruling concerning MSW flow control:

- By a 6-3 margin, the US Supreme court ruled on April 30, 2007 that county ordinances directing locally generated wastes to publicly owned waste facilities do not discriminate against interstate commerce.
- The Supreme Court let stand measures that two upstate New York counties enacted to control the type and volume of trash going into their publicly owned facilities. The court considered whether the counties, acting through a solid waste management authority, could enforce ordinances requiring contracted trash haulers to use authority-regulated waste disposal sites. The decision found that because in-state private businesses are treated exactly the same as out-of-state private businesses then the ordinances do not discriminate against interstate commerce.
- This decision upholds a February 2006 ruling in favor of the authority by the 2nd Circuit US Court of Appeals.
- In 1994, in a case known as C&A Carbone v. Town of Clarkstown, the Supreme Court ruled that an upstate New York town's flow control ordinance discriminated against interstate commerce by favoring a privately owned in-town facility over out-of-state private facilities.

- The question in the case was whether the counties violated the dormant Commerce Clause of the US Constitution by limiting free trade with flow control ordinances.
- The counties' solid waste management authority had set a tip fee high enough to support properly permitted and managed facilities and offer benefits such as recycling, composting, and household hazardous waste collection. Chief Justice Roberts, writing for the majority, wrote that the court found that these benefits of flow control in this case outweigh any arguable burden on interstate commerce.

Questions and comments following the presentation included:

- Did this ruling mandate that it direct the MSW to a specific facility.
  - No. It applies to public facilities.
- There could be implications with regard to the State's Disaster Debris Management Plan.
- There are implications with regard to public v. private ownership of resources recovery facilities.
- This issue needs to be closely followed and is worthy of more discussion by the Solid Waste Management Advisory Committee at a future date.

#### **Suggested Agenda Items for the June 26<sup>th</sup> Advisory Committee Meeting**

There was discussion that future guest lecturers/topics could include the following: the Connecticut Business Environmental Council; Pay-as-you-Throw; the Bristol Resources Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRRFOC/TROC) study on increasing recycling rates; and speakers from the private sector, such as the solid waste hauling industry.

**The next meeting is scheduled for: June 26<sup>th</sup> – 9:30 a.m. to 11:30 a.m.; CTDEP Headquarters, 79 Elm Street/5<sup>th</sup> Floor Phoenix Auditorium, Hartford, CT 06106.**

#### **Adjourned**

Summary of minutes dated June 13, 2007.