

CBIA e² Waste Task Force Summary
March 20, 2020

Harold Blinderman: Day Pitney LLP

Mark Bobman: Bristol Resource Recovery

.Issue	Notes
CT Transfer Act	<ul style="list-style-type: none"> • Transfer Act Working Group Report Issued February 25, 2020 • SB-281 - AN ACT CONCERNING VARIOUS REVISIONS TO THE PROPERTY TRANSFER LAW <ul style="list-style-type: none"> ❖ Sections 1-5 address recommendations from the Transfer Act Working Group Report. ❖ Remaining sections seek to establish a release-based property remediation program. ❖ Outcome of discussions on the bill is uncertain.
DEEP	<ul style="list-style-type: none"> • New LEP Verification Process <ul style="list-style-type: none"> ❖ For LEP Verifications submitted after March 4, 2020, Notices of Insufficiency will be replaced by Administrative Rejections. ❖ A copy of the first and last page of the Verification Form (VF) will be stamped “Rejected” by DEEP, initialed, and dated by the Assistant Director of the Remediation Division. ❖ See https://www.ct.gov/deep/lib/deep/site_clean_up/lep/verifications/adminrejection_factsheet.pdf
DEEP – Cleanup Transformation	<ul style="list-style-type: none"> • RSR Wave 2 Proposed Regulations/Environmental Use Restriction Proposed Revisions/Spill Reporting <ul style="list-style-type: none"> ❖ Awaiting hearing officer’s reports on Wave 2 RSRs and EURs. ❖ Awaiting public notice of proposed spill regulations
Remediation Roundtable/ Solid Waste Advisory Committee	<ul style="list-style-type: none"> • In light of the state’s efforts to minimize the spread of COVID-19, the March 17, 2020 Remediation Roundtable was postponed until June 16, 2020. • Solid Waste Advisory Committee meeting scheduled for March 24, 2020 was likewise postponed/cancelled- Next meeting currently scheduled for June 23, 2020.

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<p>PFAS</p>	<ul style="list-style-type: none"> • PFAS Added to Toxic Release Inventory Reporting <ul style="list-style-type: none"> ❖ At the end of 2019, President Trump signed into law the “PFAS Act of 2019” (contained in the National Defense Authorization Act), triggering reporting of a significant number of per- and polyfluoroalkyl substances (PFAS) for the Toxics Release Inventory (TRI) under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). ❖ Effective January 1, 2020, 160 PFAS are now covered by TRI reporting. See https://www.epa.gov/sites/production/files/2020-01/documents/tri_non-cbi_pfas_list_1_16_2020-6.pdf. The listing includes PFAS’ that have been widely discussed (e.g., PFOS, PFOA, and Gen-X), as well as others that are the subject of “Significant New Use Rules” under the Toxic Substances Control Act (TSCA). It is likely that additional chemicals will be added after EPA completes the process of reviewing chemical identities that were claimed confidential business information under TSCA. ❖ Reporting forms for these chemicals will be due by July 1, 2021, for calendar year 2020 data. All TRI reporting requirements apply to these PFAS (e.g., supplier notification) and TRI reporting exemptions, if applicable, are available for these chemicals. The PFAS Act establishes TRI manufacturing, processing, and otherwise use reporting thresholds of 100 pounds for each of the listed PFAS, calculated over the entire calendar year. Remember that under EPCRA, “manufacturing” includes the manufacturing of a byproduct in waste, and that the 100 pound reporting thresholds apply regardless of any release. ❖ EPA plans to revise the EPCRA Section 313 list of reportable chemicals in the Code of Federal Regulations to include the 160 PFAS • Proposed Preliminary Regulatory Determinations <ul style="list-style-type: none"> ❖ On March 10, 2020, EPA published its proposed determinations for PFOS and PFOA in drinking water, thereby taking the initial steps to regulate two of the most common PFAS chemicals in drinking water. EPA will seek comment on these preliminary determinations until May 11, 2020. ❖ See https://www.federalregister.gov/documents/2020/03/10/2020-04145/announcement-of-preliminary-regulatory-determinations-for-contaminants-on-the-fourth-drinking-water

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EPA	<ul style="list-style-type: none"> • EPA Consent Agreement Sets Schedule for “SPCC for Hazardous Substances” Rulemaking <ul style="list-style-type: none"> ❖ EPA has agreed to conduct a rulemaking regarding the establishment of regulations to address potential spills of hazardous substances similar to the existing “Spill Prevention, Countermeasure and Control” (SPCC) program for oil. ❖ In a consent decree reached with the Natural Resources Defense Council (NRDC) and other environmental groups, published in the Federal Register on February 3, EPA agreed to issue a proposed rulemaking within two years of the final date of the consent decree “pertaining to the issuance of the Hazardous Substance Worst Case Discharge Planning Regulations.” A final rule would be required within 30 months of the proposal. • EPA Adds Hazardous Waste Aerosol Cans to Universal Waste Regulations <ul style="list-style-type: none"> ❖ On December 9, 2019, the EPA added hazardous waste aerosol cans to the list of substances regulated under the universal waste program of the Federal Resource Conservation and Recovery Act (RCRA). As universal wastes, hazardous aerosol can wastes would be subject to substantially reduced requirements for collection and transport, in order to facilitate and encourage environmentally sound recycling or disposal. The rule will take effect on February 7, 2020, and will affect individuals who generate, transport, treat, recycle, or dispose of hazardous waste aerosol cans. EPA estimates that as many as 25,000 industrial facilities in 20 different industries could be affected. See: https://www.federalregister.gov/documents/2019/12/09/2019-25674/increasing-recycling-adding-aerosol-cans-to-the-universal-waste-regulations. ❖ EPA’s universal waste regulations streamline hazardous waste management standards for certain categories of hazardous waste that are commonly generated and widely used, including hazardous waste batteries, mercury-containing equipment, pesticides, and lamps. These regulations serve as alternatives to the hazardous waste management standards of 40 CFR parts 260 through 272 and are meant to ease the burden of managing certain lower-risk materials, encourage recycling, and facilitate proper treatment and disposal. ❖ The rule defines “aerosol can” as a “non-refillable receptacle containing a gas compressed, liquified or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.” Leaking and damaged aerosol cans may also be managed as universal waste, so long as the leaking or damaged cans are packaged in a separate closed container, overpacked with absorbents, or immediately punctured and drained.

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<p>EPA continued</p>	<ul style="list-style-type: none"> • EPA Adds Hazardous Waste Aerosol Cans to Universal Waste Regulations (continued) <ul style="list-style-type: none"> ❖ Handlers, transporters, and destination facilities that manage these materials will be subject to the regulations that govern all categories of universal waste. Of note, handlers (i.e., facilities that generate universal waste or that receive, accumulate, and send universal waste) may store hazardous waste aerosol cans for up to one year and ship hazardous waste aerosol cans without a manifest. In addition to those general requirements, handlers will have to comply with puncture and drain requirements specific to aerosol cans. Among other things, they must use a device that is designed to safely puncture the aerosol cans and that effectively contains the residual contents and any emissions. And the contents of the drained cans must be immediately transferred to a container or tank that is subject to its own hazardous waste determination. ❖ The final rule does not change the existing requirements applicable to universal waste transporters and destination facilities (i.e., a facility that treats, disposes of, or recycles a particular category of universal waste). Neither does it impose any requirements on household wastes, which continue to be exempt from RCRA Subtitle C regulations, or very small quantity generators (VSQG), which may choose to manage their hazardous waste aerosol cans in accordance with either the VSQG regulations or as universal waste. ❖ <i>While the new requirements for aerosol cans become part of the federal RCRA requirements on February 7, 2020, DEEP's position is that, in order for the AERSOL Can Rule to be effective in CT, DEEP would need to amend its hazardous waste regulations to adopt it. As a result, until this happens, any aerosol can that meets the definition of a hazardous waste when it is discarded remains subject to full regulation as a hazardous waste in CT.</i>
<p>Cybersecurity and Infrastructure Security Agency (Department of Homeland Security)</p>	<ul style="list-style-type: none"> • Guidance for workers who perform services that are essential to critical infrastructure <ul style="list-style-type: none"> ❖ Public Works personnel responsible for removal, storage, and disposal of residential and commercial solid waste and hazardous waste are deemed to be essential
<p>New England Capacity Crisis Governor's Bill SB 11</p>	<ul style="list-style-type: none"> • Legislation to authorize DEEP to solicit Proposals <ul style="list-style-type: none"> ❖ Seeks to promote "self-sufficiency" in managing the municipal solid waste generated (i.e., minimize export to other states) ❖ Calls for the Commissioner to solicit proposals for new, improved or expanded waste management facilities, which may include recycling, anaerobic digestion, composting facilities and resource recovery facilities ❖ A "must pass" bill?