

WASTE ENGINEERING & ENFORCEMENT DIVISION

NOTICE OF VIOLATION # WSWDS11076

Date Issued: October 14, 2011

To: Housatonic Rail Road Company, Inc.
8 Davis Road
Old Lyme, CT 06371

The purpose of this Notice is to inform you that personnel of the Department of Energy & Environmental Protection ("DEEP") have made observations or otherwise obtained information indicating that a violation of law has occurred at 30 Hawleyville Road, Newtown, CT 06470.

In accordance with The Federal Clean Railroads Act of 2008 Title VI – Clarification of Federal Jurisdiction over Solid Waste Facilities Sec. 603 §10908 Regulation of Solid Waste Rail Transfer Facilities (a) "IN GENERAL.- Each solid waste rail transfer facility shall be subject to and shall comply with all applicable Federal and State requirements, both substantive and procedural, including judicial and administrative orders and fines, respecting the prevention and abatement of pollution, the protection and restoration of the extent as required for any similar solid waste management facility, as defined in section 1004(29) of the Solid Waste Disposal Act (42U.S.G. 6903(29)) that is not owned or operated by or on behalf of a rail carrier, except as provided for in section 10909 of this chapter."

On September 30, 2011, an inspection was conducted by the DEEP Bureau of Materials Management & Compliance Assurance. Based on that inspection, it appears that the Housatonic Rail Road Company, Inc. or its operator have:

1. Altered the design and operation of a solid waste facility without the altered plan, design, and method of operation of the facility without approval by the Commissioner as required by §22a-208a(d) of the Connecticut General Statutes (CGS) and §22a-209-4 of the Regulations of Connecticut State Agencies (RCSA);

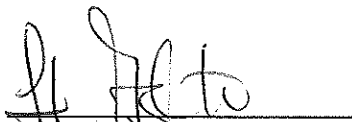
2. Failed to post the appropriate signage at the entrance as required by §22a-636 of the CGS and §22a-209-9(c) of the RCSA;
3. Failed to unload waste only within an enclosed structure as required by §22a-209-9(d) and §22a-209-9(h) of the RCSA;
4. Failed to exclude and restrict certain wastes including hazardous wastes (flammable liquids) and electronic waste (monitor) as required by §22a-636 of the CGS and §22a-209-9(j) of the RCSA;
5. Failed to maintain fire protection equipment as required by §22a-209-9(j) of the RCSA; and,
6. Failed to submit monthly summaries of incoming and outgoing solid wastes from the facility as required by §22a-209-9(p) of the RCSA;

Additional Comments:

- i) During the September 30, 2011 inspection a significant amount of flies were observed in the unloading area. This observation along with facility's operation and condition may be a source of harborage, feeding and breeding of vectors. During an October 12, 2011 meeting it was represented that you maintain a rodent baiting program at the facility. The Department seeks documentation from your hired extermination vendor as proof that these services are being provided, as well as the initiation date for those services at the facility and photographs of the control devices at the site.
- ii) The Department requests that you provide documentation (e.g., weight tickets, receipts) which document that the unauthorized solid wastes (i.e., MSW, hazardous wastes, covered electronics and mandated recyclable solid waste) received at the facility and removed from the incoming wastes have been removed from the site and properly disposed of at a lawfully operating solid waste facility or facilities. This documentation must be submitted with the enclosed "Compliance Statement" to the contact identified in Section "D" of this Notice.

When you have corrected the violation(s) described in this notice, you should submit in writing the details of the corrective action(s). The submittal should be made on or before November 7, 2011 on the enclosed Compliance Statement, and sent to the contact person identified below in paragraph D. Until the DEEP has received such a statement, the DEEP will presume you remain in violation.

- A. Other violations may exist; legal obligations. This Notice does not necessarily specify all violations of Connecticut environmental law or violations of any other legal requirements which may exist at the aforementioned property. This Notice does not preclude the DEEP notifies you of any violations or takes any enforcement action against you. Nothing in this Notice relieves you of other obligations under applicable federal, state, and local law.
- B. Enforcement action. Civil penalties of up to \$25,000 may be assessed for each day of each violation under §22a-226 of the CGS. Notwithstanding the issuance of this Notice, the DEEP may seek such penalties and may issue an order, seek an injunction, or take other legal action under Chapters 439, 445, and 446 of the CGS Statutes.
- C. No assurance by Commissioner. No provision of this Notice and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that actions you may take to address the violation(s) alleged herein will result in compliance.
- D. Staff contact. If you question any of the information contained in this Notice, you may contact Stan Gormley of the Bureau of Materials Management & Compliance Assurance at [(860) 424-3307, 79 Elm St., Hartford, CT 06106-5127.



Frank Gagliardo,
Supervising Environmental Analyst
Waste Engineering & Enforcement Division
Bureau of Materials Management & Compliance Assurance
Department of Energy & Environmental Protection

10-14-11
Date

Enclosure - Inspection Report

NOV No. WSWDS11076

FG:SG/sg

Cc - Oakleaf Waste Management, 415 Day Hill Road, Windsor, CT 06095

COMPLIANCE STATEMENT

This Compliance Statement shall be signed by: (I) You (if an individual-the individual signs); (if a corporation or partnership-by a responsible corporate officer/general partner or a duly authorized representative of such person, as those terms are defined in §22a-430-3(b)(2) of the RCSA); or (if a municipality-chief elected official or principal executive officer) **and** (II) if different, by the individual responsible for actually preparing such statement, each of whom shall read and sign the certification regarding false statements on the Compliance Statement.

Within fifteen (15) days of the date you become aware of a change in any information in the Compliance Statement, or that any information was inaccurate or misleading or that any relevant information was omitted, submit the correct or omitted information to the staff contact identified on the Notice of Violation.

Notice of Violation No. WSWDS 11076
[Facility Name: Housatonic Rail Road Company, Inc. & Newtown Transload, LLC]
(Site)Address: 30 Hawleyville Road, Newtown, CT

In accordance with the directions in the above-referenced Notice of Violation, I certify that the noted violations have been corrected in the following manner:

Attach additional sheet(s) as needed
(Enclose supporting documentation demonstrating compliance)

Certification of Accuracy

I certify that the information in this Compliance Statement and any attachments thereto are true, accurate and complete, and I understand that any false statement may be punishable as a criminal offense under §22a-6 and §53a-157 of the CGS.

Date

Signature

Telephone

(Type name and Title)

Address

Date

Preparer's Signature, if different than the above

Telephone

(Type name and Title)

Address

ADVICE TO RECIPIENTS OF NOTICES OF VIOLATION*

Read the Notice of Violation: It tells you:

- ! what activity you have conducted or what condition on your property is causing or may result in damage to the environment;
- ! the environmental laws you are not complying with;
- ! in some cases, what action you need to take to address the environmental problem;
- ! how quickly DEEP expects you to take action; and
- ! who to contact if you have a question or problem.

Do Not Cause Additional Problems: Make sure that you do not engage in activity that might result in further environmental harm.

Follow the Deadlines: If you can't meet the deadlines provided in the Notice of Violation, call the contact person. Explain why you can't meet the deadline. Staff will explore with you the feasibility of alternate deadlines.

Cooperate with DEEP: Generally, DEEP's first attempt to resolve the types of violations alleged in this case is through the issuance of a Notice of Violation. If you disregard this notice, it will be assumed you do not wish to cooperate and you should expect that DEEP will take more formal enforcement action. This can include issuing an administrative order, and/or filing suit to obtain an injunction and penalties as provided by law. The most important thing to remember is to call DEEP if you have any questions.

Call if you don't Understand: DEEP staff name and telephone number are given at the end of the Notice of Violation. Staff are there to try to answer your questions and work with you to resolve the environmental compliance issue. In some cases you may need to obtain the services of a professional consultant to plan and implement effective corrective measures. DEEP staff can discuss with you the kind of professional help you may need to address the alleged violation cited in the notice.

*The Notice of Violation does not necessarily specify all environmental violations which may exist at your property regulated by the Department. Nothing in the Notice relieves you of other obligations under applicable federal, state and local law.