

# CWM Kettleman Hills Facility RCRA/TSCA Inspections 1983 – Present

## RCRA CEI Inspections:

These are inspections by DTSC, USEPA and/or Kings County

## DEFINITIONS:

“RCRA”	is the Resource Conservation and Recovery Act (Federal Hazardous Waste Program)
“TSCA”	is the federal Toxic Substances Control Act, which includes regulation of PCBs (polychlorinated biphenyls)
“CEI”	is Comprehensive Evaluation Inspection
“RTC”	is Return to Compliance
“CAFO”	is a USEPA Consent Agreement and Final Order – an administrative enforcement settlement document
“NON”	is Notice of Non-Compliance issued by USEPA
“NEIC”	is USEPA’s National Enforcement Investigations Center

<u>DATE</u>	<u>AGENCY</u>	<u>ENFORCEMENT ACTION</u>
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- April 13-14, 1983 (USEPA) inspection: Violation found (in 1985 CAFO)
- March 21 - April 18, 1984 (USEPA) inspection: Violation found (in 1985 CAFO)
- May 23 - 24, 1984 (USEPA) inspection: Violation found (in 1985 CAFO)
- March 19, 1988 (State): Violation found (Return to Compliance (RTC) on 5/19/89)
- August 24, 1988 (State): Violation found (RTC on 10/12/88)
- February 8, 1989 (USEPA): Violation found (RTC on 4/24/89)
- April 24, 1989 (State): Violation found (RTC on 1/2/90)
- November 19, 1989 (State): No violations found
- November 19, 1990 (State): Violation found (RTC on 3/12/91)
- May 13, 1991 (State): Violation found (RTC on 5/12/92)
- November 26, 1991 (USEPA Contractor): Violation found (RTC on 5/12/92)
- May 12, 1992 (State): 2 violations found (RTC on 6/25/92)
- May 14, 1992 (USEPA): No violations found
- September 18, 1992 (State follow-up): Violation found (RTC on 8/8/93)
- November 3, 1992 (State): Violation found (RTC on 1/21/93)
- April 23, 1993 (USEPA Contractor): Violation found (RTC on 12/14/93)
- November 1, 1993 (State): No violations found
- April 5, 1994 (USEPA Contractor): Violation found (RTC on 10/5/94)
- November 7, 1994 (State): No violations found
- May 3, 1995 (USEPA): Violations found (RTC on 10/13/95)
- November 7, 1995 (State): Violations found (RTC on 11/17/95)
- November 19, 1996 (State): No violations found
- February 12, 1997 (USEPA): No violations found
- March 31, 1997 (State): No violations found
- April 1, 1997 (State): No violations found
- May 12, 1997 (State): No violations found
- June 23, 1997 (State): No violations found
- October 22, 1997 (State): No violations found
- November 19, 1997 (State): No violations found
- December 3, 1997 (State): No violations found
- February 23, 1998 (State): No violations found
- May 12, 1998 (State): No violations found
- June 18, 1998 (State): No violations found

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- July 21, 1998 (State): No violations found
- August 27, 1998 (State): No violations found
- October 6, 1998 (State): Violation found (RTC on 10/9/98)
- November 24, 1998 (State): No violations found
- December 30, 1998 (State): No violations found
- February 2, 1999 (State): No violations found
- March 10, 1999 (State follow-up): No violations found
- April 30, 1999 (State follow-up): No violations found
- May 21, 1999 (State follow-up): No violations found
- June 16, 1999 (State): No violations found
- September 8, 1999 (USEPA): No violations found
- September 28, 1999 (State follow-up): No violations found
- October 30, 2000 (State): 1 minor violation found (RTC on 11/3/00)
- September 17, 2001 (State): No violations found
- September 16, 2002 (State): No violations found
- January 21, 2004 (CUPA): No violations found
- March 15, 2004 (State): No violations found
- October 15, 2004 (USEPA) (Subtitle D only): No violations found
- November 9, 2004 (State): No violations found
- March 23, 2005 (CUPA): No violations found
- August 22-23, 2005 (USEPA NEIC): Violations found (NON issued June 26, 2007)
- December 6-15, 2005 (USEPA NEIC): Violations found (NON issued June 26, 2007)
- January 11, 2006 (State): No violations found
- November 6, 2006 (State): No violations found
- November 15, 2007 (State): No violations found
- October 2, 2008 (CUP A): No violations found
- October 29, 2008 (State): No violations found
- September 15, 2009 (State): No violations found
- February 8-12, 2010 (USEPA): Violations found
- February 8-12, 2010 (State): Violations found
- June 2, 2010 (USEPA): Violations found
- April 9, 2012 (State): Violations found
- June 12, 2012 (State): No violations found

### **2013 Compliance Evaluation Inspections:**

DTSC conducted a Compliance Evaluation Inspection (CEI) on April 23 and 24, 2013.

No violations were observed at the time of the inspection. Inspection Report was mailed to facility on June 25, 2013

### **Operation & Maintenance Inspections:**

**-This section involves the groundwater system – making sure that the facility is operating it correctly, collecting and analyzing samples correctly, and properly evaluating data.**

- February 20, 1989 (USEPA): Violation found (RTC on 4/24/89)
- July 30, 1991 (USEPA): Violation found (RTC on 12/20/91)
- August 15, 1992 (State): No violations found
- March 27, 1993 (State): No violations found
- May 15, 1995 (State): No violations found
- April 15, 1996 (State): Violation found (RTC on 7/19/96)
- April 13, 1998 (State): No violations found
- May 2, 2001 (State): No violations found
- February 26, 2002 (State): No violations found
- June 15, 2004 (State): No violations found

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## **Groundwater Monitoring Evaluations:**

**This section involves the evaluation of the groundwater system as a whole. Has the facility properly characterized the subsurface geology. E.g. Are there enough wells? Are the wells in the right place? Etc**

- September 30, 1987 (State): No violations found
- June 10, 2003 (State): Violation found (RTC on 6/20/03)

## **TSCA - PCB Inspections**

**(These are all USEPA inspections)**

- Pre-1998 - Records not available
- October 14, 1998 - No violations found (no PCB samples were collected)
- October 25, 2001 - No violations found (no PCB samples were collected)
- April 14, 2004 - No violations found (no PCB samples were collected)
- February 8-12, 2010 - Violations found (PCB samples were collected)
- June 2, 2010 - Violations found (PCB samples were collected)

## **Record Review**

### **Nonfinancial Record Review Evaluations:**

**Records were reviewed. No site visit.**

- January 26, 1987 (USEPA): Violation found (RTC on 8/24/88)

### **Financial Record Review Evaluations:**

- August 2, 1988 (State): No violations found
- April 27, 1989 (State): Violation found (RTC on 7/27/89)
- November 17, 1989 (State): No violations found
- April 6, 2000 (USEPA): No violations found
- November 19, 1990 (State): No violations found
- May 7, 1992 (State): No violations found
- November 12, 1992 (State): No violations found
- October 18, 1996 (USEPA): No violations found
- October 3, 1997 (USEPA): No violations found
- November 18, 1999 (State): Violation found (RTC on 3/21/00)
- April 6, 2000 (USEPA): No violations found
- September 30, 2004 (State): No violations found
- September 22, 2006 (USEPA contractor): No violations found
- March 1, 2007 (State): No violations found
- March 13, 2009 (State): No violations found
- October 6, 2009 (State): No violations found

## **CWM Kettleman Hills Facility RCRA/TSCA Enforcement Actions**

- USEPA CAFO filed August 23, 2011 (\$400,000 penalty)
- Failure to make hazardous waste determinations for land disposal
- Impermissible land disposal of prohibited waste
- Failure to comply with hazardous waste permit
- Failure to close containers of hazardous waste
- Failure to maintain and operate facility to minimize releases
  
- DTSC Enforcement Order filed May 20, 2011 (Inspection date: February 8, 2010; Penalty: \$46,000)
- Failure to notify State within 24 hours of the discovery of a release of a hazardous waste or hazardous constituent (PCB - soil near Flushing/Storage Unit)
- Failure to notify State in writing summarizing the findings within 10 days of discovery of a release of a hazardous waste or hazardous constituent (PCB – soil near Flushing/Storage Unit)
- Failure to notify State within 24 hours of the discovery of a release of a hazardous waste or hazardous constituent (PCB - sandblast grit on floor of Flushing/Storage Unit)

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- Failure to notify State in writing summarizing the findings within 10 days of discovery of a release of a hazardous waste or hazardous constituent (PCB - sandblast grit on floor of Flushing/Storage Unit)
- Failure to notify State within 24 hours of the discovery of a release of a hazardous waste or hazardous constituent (PCB - ramp to Drum Storage Unit)
- Failure to notify State in writing summarizing the findings within 10 days of discovery of a release of a hazardous waste or hazardous constituent (PCB – ramp to Drum Storage Unit)
- Failure to notify State within 24 hours of the discovery of a release of a hazardous waste or hazardous constituent (PCB - spill on soil)
- Failure to notify State in writing summarizing the findings within 10 days of discovery of a release of a hazardous waste or hazardous constituent (PCB – spill on soil)
  
- DTSC Enforcement Order dated January 2, 2001 (Inspection date: November 18, 1999; \$0 penalty; \$5,000 admin. costs)
- Facility lowered closure financial assurance without approval from the State
  
- DTSC Enforcement Order dated January 21, 1993 (Inspection date: May 12, 1992 and November 3, 1992; \$1,100 penalty)
- One 55-gallon container of hazardous waste and two bags of PCB wastes were not labeled  
Two containers of incompatible hazardous waste were stored next to each other
  
- DTSC Consent Agreement and Order dated November 10, 1989 (Inspection date: April 24, 1989; \$82,500 civil penalty; \$35,000 admin costs). Compliance schedule tasks: leave proper spacing between warning signs
- Notify DTSC of fires or explosions involving HW
- Ensure that all mandatory/supplemental analyses of waste loads are performed as required
- Ensure that all mandatory analyses of waste loads are performed or note on the fingerprint form why analyses are not needed
- Ensure that work orders are available upon request
- Purchase and install new eye wash units
- Make notation on manifest when bulk waste load with 10% or greater weight discrepancy is received
- Ensure that all containers in the drum storage area are identified
- Implement procedures to ensure proper inspection and maintenance of the closure cap and cover system at landfill B-14
- Determine and implement procedures to control wind dispersal of particulate matter at landfill B-19
- Maintain sufficient daily cover on landfill B-19
  
- USEPA Administrative Order on Consent dated September 18, 1988 (RCRA section 3013; no penalty) Addressed slope failure in Phase 1A of landfill B-19. Required:
  - Leachate and groundwater monitoring systems
  - Quarterly reports
  - Installation of temporary geosynthetic liner system in the wedge between the filled areas of landfill B-19, phase 1A and 1B
  - Implementation of construction quality assurance procedures and methods during construction of liners in wedge unit
  - Submittal of wedge material transfer plan
  - Transfer HW temporarily stored in the wedge unit to Phase II or III areas
  - Submit landfill B-19, Phase 1 A investigation plan
  - Submittal of B-19, phase 1A repair plan (after removal of waste)

## **CWM Kettleman Hills Facility RCRA/TSCA Inspections 1983 – Present**

- USEPA/DTSC CAFO dated November 7, 1985 (\$2,103,000 to EPA for RCRA & TSCA violations; \$1,100,000 to State) (See TSCA entry below for TSCA violations)
- Failure to implement a groundwater monitoring program
- Failure to implement an unsaturated zone monitoring program
- Closure plan did not include description of how and when facility would be partially closed
- Closure of units without addressing units in the closure plan and without demonstrating how the closure of the units met closure performance standard conditions
- Substantial Modifications of the facility in violation of the permit
- Failure to develop and follow a written W AP
- Failure to collect representative samples of bulk liquid loads
- Failure to follow the WAP (samples collected by the truck drivers, not facility personnel)
- Mandatory analyses were not routinely conducted
- Failure to follow pre-acceptance procedures and initial detailed chemical and physical analysis
- Failure to minimize the possibility of unauthorized entry (2 gates were not secured and appropriate warning signs were not posted)
- Inspection schedule failed to include seven units
- Inspection records failed to include records of repairs or other remedial actions
- Weekly inspection records were missing
- Inspection records did not include inspections of run-on and run-off controls for the landfills and land treatment
- Inspection records did not include measures for controlling wind dispersion of hazardous waste from the landfills
- Inspection records did not include inspection of the perimeter fence
- Inspection records did not include daily inspections of freeboard level and the surface impoundments
- Operating record did not indicate method and date of treatment, storage and/or disposal
- Failure to maintain records of internal waste transfers
- Failure to keep records of the amount, type, date, and disposal location of hazardous wastes generated at the truck wash station
- Failure to maintain sufficient freeboard at the surface impoundments
- Failure to have protective cover on surface impoundment earthen dikes
- Potentially incompatible wastes were placed in surface impoundments without developing waste analyses, trial treatment tests or treatment and compatibility results
- Potentially incompatible wastes were placed in surface impoundments without documenting how the facility complied with 265. 17(b) and Item 7(b) Part III of the permit
- Failure to maintain maps for landfills B-10 and B-II and contents and locations of hazardous waste within each cell for landfills B-6, B-9, B-10, B-II and B-13 in the operating record
- Failure to demonstrate that bulk liquid wastes were treated or stabilized prior to disposal so that free liquids were no longer present
- Failure to demonstrate that reactive bulk liquid wastes were treated, rendered or mixed before or immediately after disposal to make them non-reactive
- Placement of containerized liquid waste in landfills for 58 days
- Hazardous waste not amenable to biological degradation or chemical reactions in the soil were applied to land treatment units; failure to conduct studies to characterize the waste to determine suitability for land treatment
- Application of hazardous waste to land treatment units without determining constituent concentrations
- Failure to include application rates for the land treatment units in the operating record
- Failure to amend closure and post closure plans to reflect amended closure costs
- Post closure plan failed to provide for groundwater monitoring and unsaturated zone monitoring activities

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- Failure to maintain drum decant plant operation plan
- Inadequate Part A application; did not accurately describe all past, present and future treatment storage and disposal areas and capacities
- Inadequate Part B application; incomplete and inaccurate description of hazardous waste units at the facility

### **2013 Stipulation for Settlement and Entry of Consent Judgment and Permanent Injunction**

As a result of violations cited from the April 9, 10, and 12, 2012, CEI and the Information Request by DTSC for copies of all internal spill reports and associated manifests and generator profiles for the spilled materials, a Complaint For Civil Penalties and Injunctive Relief filed by the State Attorney General's office for resolution.

On March 15, 2013, the Stipulation for Settlement and Entry of Consent Judgment and Permanent Injunction was signed by all parties.

On March 22, 2013, the Final Judgment on Consent and Permanent Injunction was signed by CWM, Inc. On April 9, 2013, CWM, Inc. made payment to DTSC for \$311,194.00 as settlement.

### **TSCA Enforcement Actions (These are all USEPA)**

- USEPA CAFO filed November 29, 2010 (Inspection date: February 8-12, 2010 and June 2, 2010; Penalty: \$302,100)
- Failure to indicate removal from service date
- Failure to properly manifest (failed to include removal from service date or weight)
- Continued use (contamination in PCB building)
- Continued use (contamination in PCB building and adjacent slab)
- Improper disposal (contamination in soil around PCB building)
- Improper disposal (contamination in soil under concrete slab next to PCB building)
  
- NON issued June 26, 2007 (Inspection date: August 22-23, 2005 and December 6-15, 2005). The NON was related to USEPA NEIC's 2005 audit. The NON was issued to CWM for not properly calibrating instruments and analyzing PCBs improperly. In this case the PCB concentrations measured by CWM were being over estimated, but at concentrations less than 50 ppm.
  
- USEPA CAFO filed May 3, 2005 (\$10,000 penalty; SEP \$37,500 – environmental equipment purchase for Kings County Environmental Health Services)
- Failure to perform monthly monitoring of lysimeters for presence of liquids
  
- NON issued September 10, 2004 (no penalty)
- CWM failed to submit Manifest Discrepancy reports as required.
- The NON was closed on May 26, 2005.
  
- USEPA/DTSC CAFO dated November 7, 1985 (EPA Inspection date: April 13-14, 1983, March 21-April 18, 1984 and May 23-24, 1984; Penalty: See RCRA entry above for details)
- TSCA Complaint based on investigation conducted by NEIC (document not located)
- Violation - disposal of solid and liquid PCBs in a RCRA landfill cell not permitted to accept PCB waste.