

Notes

## **NEWMOA Hazardous Waste Conference Call**

**January 9, 2018**

### **Topic: Implementation of the Land Disposal Restriction (LDR) Requirements at Storage Facilities and Generators**

**Disclaimer:** NEWMOA organizes regular conference calls or webinars so its members, EPA Headquarters, and EPA Regions 1 and 2 can share information and discuss issues associated with the implementation of the Resource Conservation and Recovery Act (RCRA), compliance assistance, enforcement, and other topics. Members of the group prepare draft notes of the calls for use by those members that were unable to participate and for future reference by the participants. These notes are intended to capture general information and comments provided by the participants and are not a transcript of the call. NEWMOA provides the participants on the calls with an opportunity to review drafts of the notes prior to posting them on the members' only area of the hazardous waste page on the NEWMOA website. NEWMOA staff makes all recommended corrections to the notes prior to posting.

Any comments expressed by participants should not be considered legal opinions or official EPA or State positions on a rule, site-specific matter, or any other matters. Participants' comments do not constitute official agency decisions and are not binding on EPA or the States. For exact interpretations of a State's or EPA's RCRA regulations, rules, and policies, NEWMOA recommends that readers of these notes contact the appropriate hazardous waste program in the State's environmental agency or EPA Headquarters or EPA Regional RCRA staff.

**Participants:** CT DEEP (4 people); ME DEP (1 person); Mass DEP (7 people); NH DES (8 people); NJ DEP (8 people); NYS DEC (15 people); RI DEM (2 people); VT DEC (3 people); EPA Region 2 (1 person); EPA HQs (1 person); NEWMOA (1 person)

Call leader: NH DES

Note-taker: NJ DEP

New Hampshire suggested this subject because they recently adopted the LDR rules and wanted to understand how other states are enforcing these rules. New Hampshire provided the following list of points that they wanted each state to address during the conference call:

- The date each state adopted the Land Ban Rules
- Which states are more stringent than the Federal rules?
- The type of training that is or was provided (staff and regulated community)
- The type of future trainings planned
- How questions from regulated community are handled (e.g., telephone hotline)
- Inspection strategies and checklist usage
- Common violations
- Enforcement actions and penalties

#### Connecticut

- Adopted rules in July of 1990
- More stringent because they did not adopt whole rule

- Deep well injection not adopted
- Requires paperwork submittal as previously required in CFR 268.9
- No Land Ban specific training was provided, and none is anticipated
- State has a Compliance Assistance Hotline to address questions from regulated community
- Use a checklist during inspections
- Inspections mostly involve review of Land Ban required paperwork
- Does not normally generate enforcement actions involving Land Ban violations alone. The Land Ban violations are usually included as part of a larger document that involves other violations

### Maine

- Adopted rules in March of 1994; currently going through rulemaking to make rule more current
- More stringent because they regulate PCBs in Maine
- No Land Ban specific training was provided, and none is anticipated
- State handles questions from regulated community as they come in
- Land ban /LDR training was provided as part of other Generator training seminars
- Used EPA's LDR checklist during inspections for about 10 years in the 1990s and early 2000s after the rule was first implemented. The primary issue identified during first 10 years was presence/absence of LDR notification/certification forms for generators. By mid-late 2000s, Maine reverted to LDR line items (presence/absence/ retention of LDR Notice/Certification) in its general Hazardous Waste Generator Checklist.
- Inspections mostly involve review of Land Ban required paperwork
- Does not normally generate enforcement actions involving Land Ban violations alone

### Massachusetts

- Adopted rules in August 2010
- More stringent because they did not adopt whole rule
  - Deep well injection not adopted
  - No land disposal of lab packs
  - No farm pesticide land disposal allowed
- May have had Land Ban-specific training in past during regulation promulgation, nothing recent, and none is anticipated
- State handles questions from regulated community as they come in (no Compliance Assistance Hotline); has a technical update publication on soil contamination that somewhat addresses Land Ban
- Does not have a checklist to use during inspections
- Inspections mostly involve review of Land Ban required paperwork
- Does not normally generate enforcement actions involving Land Ban violations alone; the Land Ban violations are usually included as part of a larger document that involves other violations
- They have not had any Land Ban related documents with a penalty
- Update: the WERO has a 2017 ACOP that includes a violation of failing to prepare an LDR restriction notification.

### New Jersey

- Adopted rules in July of 1990

- Incorporated the rules by reference in their entirety
- Land Ban-specific training was provided to staff when the rule was adopted; the subject was covered in a cursory way during compliance assistance seminars; nothing anticipated in the future; DEP staff expressed interest in having more training from EPA during the call
- State handles questions from regulated community as they come in (no Compliance Assistance Hotline)
- Use a checklist during inspections
- Inspections mostly involve review of Land Ban required paperwork and compliance with the TSD WAP
- Does not normally generate enforcement actions involving Land Ban violations alone; the Land Ban violations are usually included as part of a larger document that involves other violations

#### New York

- Adopted rules in the late 1980s
- More stringent because they did not adopt PCB requirement
- No Land Ban-specific training was provided, and none is anticipated
- Recommended on-line training provided by EPA; links:
  - [https://clu-in.org/conf/tio/RCRAExpert\\_100417](https://clu-in.org/conf/tio/RCRAExpert_100417) (then click on ‘View Archive’) This is a recording of EPA’s recent “Brown Bag Series” webinar on the LDRs
- State uses a checklist during inspections
- Inspections mostly involve review of Land Ban required paperwork
- Paperwork related violations cited 21 times in the last two years
- WAP related violations cited 12 times in the last three years

#### Rhode Island

- Has not adopted the Land Ban rules; anticipates adoption in the next one to two years

#### Vermont

- Adopted rules in 1998
- More stringent; State can add any contaminant to the list that poses an undue risk to the human health and the environment
- No Land Ban-specific training was provided, and none is anticipated; did provide a Land Ban information sheet
- State has a Compliance Assistance Hotline to address questions from regulated community
- Does not have a checklist to use during inspections
- Inspections mostly involve review of Land Ban required paperwork
- Incomplete waste determination appears to be an issue

#### **Additional Resources Shared After the Call**

Link to Vermont’s SQG Self Evaluation Workbook; LDR information in Section 4 (p. 40):  
<http://dec.vermont.gov/sites/dec/files/ead/documents/Guidebooks/VT%202017%20SQG%20Guidance.pdf>

CT DEEP SQG Report Form (see page 5):

[http://www.ct.gov/deep/lib/deep/waste\\_management\\_and\\_disposal/hazardous\\_waste/sqg\\_inspection\\_report.pdf](http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/hazardous_waste/sqg_inspection_report.pdf)

CT DEEP LQG Report Form (see page 5):

[http://www.ct.gov/deep/lib/deep/waste\\_management\\_and\\_disposal/hazardous\\_waste/lqg\\_inspection\\_report.pdf](http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/hazardous_waste/lqg_inspection_report.pdf)

CT DEEP TSDF Report Form (see page 6):

[http://www.ct.gov/deep/lib/deep/waste\\_management\\_and\\_disposal/hazardous\\_waste/treatment\\_storage\\_disposal\\_inspection\\_report.pdf](http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/hazardous_waste/treatment_storage_disposal_inspection_report.pdf)

CT DEEP TSDF Report Form – Additional Attachment N that is Required for Treatment Facilities (see page 15):

[http://www.ct.gov/deep/lib/deep/waste\\_management\\_and\\_disposal/hazardous\\_waste/inspection\\_report\\_attachments.pdf](http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/hazardous_waste/inspection_report_attachments.pdf)

From New York State:

Recording of EPA's "Brown Bag Series" webinar on the LDRs: [https://clu-in.org/conf/tio/RCRAExpert\\_100417/](https://clu-in.org/conf/tio/RCRAExpert_100417/) (click on 'View Archive').

Of particular interest at this link are:

- "Put Piles", at approximately 19:00 to 24:00 (put piles are treated waste piles temporarily placed in a landfill pending confirmatory analyses)
- Microencapsulation, at 24:00 to 41:00 (including the very inadequate "Burrito Wrap" method at 39:00 to 41:00)
- Stabilization, at 43:00 to 45:00

The above times can be quickly reached by using the slide bar at the bottom of the webinar's screen.

Complementing this link are the slides themselves, which are at:

[https://clu-in.org/conf/tio/RCRAExpert\\_100417/slides/6Slide\\_Presentation\\_for\\_October\\_4,\\_2017\\_Webinar\\_by\\_Elaine\\_Eby,\\_EPA's\\_Office\\_of\\_Land\\_and\\_Emergency\\_Management.pdf](https://clu-in.org/conf/tio/RCRAExpert_100417/slides/6Slide_Presentation_for_October_4,_2017_Webinar_by_Elaine_Eby,_EPA's_Office_of_Land_and_Emergency_Management.pdf)

These slides may be more readable than the same slides shown in the webinar recording because of some formatting snags in the webinar's version.