

Notes

NEWMOA Hazardous Waste Virtual Meeting January 19, 2021

Topic: Roundtable on How States Deal with Receiving Hazardous Waste from Other States

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Participants: CT DEEP (5 people); ME DEP (2 people); Mass DEP (10 people); NH DES (9 people); NJ DEP (9 people); NYSDEC (19 people); RI DEM (3 people); VT DEC (3 person); EPA Region HQ (3 people); EPA Region 1 (6 people); EPA Region 2 (6 people); NEWMOA (1 person)

Call leader: NH DES

Notes preparer: Giles Steele-Perkins, MassDEP.

Background

The purpose of the call was to continue discussions on questions brought up during two previous NEWMOA calls on used oil and troublesome waste streams within and across states. CT DEEP added that with e-manifest there are requirements for coding waste if it is regulated in a generator state or receiving state and that inspectors may start to see additional manifests and/or codes during records reviews. Three attachments to NEWMOA's webinar invitation email were provided before the discussion:

- A chart of New England States waste codes by WorkWaste LLC
- Discussion questions below
- Draft Summary of State Used Oil Regulations in the Northeast

Discussion Questions

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?
2. Does your state have a “fuel for fuel” exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?
3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?
4. Does your state plan to adopt aerosol cans as universal waste?
5. The attached chart is a list of state-specific waste codes for New England states that is easily found when doing an internet search. Are there any codes on this list that no longer apply or are there any state-specific codes that are missing from this list? (Suggests that NEWMOA create something similar to include NY and NJ and make it available on the website).

NH DES

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?

Yes, with waste code NH01, can be regulated less stringently though if recycled and if below thresholds for As, Cd, Cr, Pb, total halogens and flashpoint. Can use bill of lading, do not need EPA ID#, can use NHD9999998 #, but NHDES will issue site specific ID# if requested or if receiving state requires. If used oil comes into NH, it has to meet NH standards and be on manifest. There are issues with transporters not meeting these requirements.

2. Does your state have a “fuel for fuel” exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?

Yes, mimics federal rule exemption. State rule states that commercial chemical products are not wastes if are used as fuel or to make fuel. If used oil is not recycled as fuel-to-fuel, then a hazardous waste determination must be made. Question: does NH DES honor fuel-to-fuel exemption even if not meet thresholds? Yes. NH has a fact sheet on oil water mixtures -<https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/hw-30.pdf>.

3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?

It is a universal waste or a hazardous waste based on determination; no manifest required.

4. Does your state plan to adopt aerosol cans as universal waste?

Yes, are expected to promulgate the regulation this summer.

5. The attached chart is a list of state-specific waste codes for New England states that is easily found when doing an internet search. Are there any codes on this list that no longer apply or are there any state-specific codes that are missing from this list? (Suggests that NEWMOA create something similar to include NY and NJ and make it available on the website).

NH03 for strontium sulfide will be removed. NHX1 means \$0.06/lb. fee not applied to wastes with this code.

VT DEC

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?

Yes, regulated under separate subchapter 8 of the Vermont Hazardous Waste Management Regulations (VHWMR), similar to federal rules where used oil is exempted from regulation as hazardous waste but regulated under separate standards; VT used oil standards are more stringent than federal in areas. Vermont does regulate waste materials containing 5 percent or greater petroleum as hazardous waste under the VT02 hazardous waste code. Subcategory in subchapter 8 addresses “used oil fuel” that is exempt from subchapter 8 requirements w/ exception of basic burning, marking and container management standards. No manifest or EPA ID# needed.

2. Does your state have a “fuel for fuel” exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?

Yes, similar to NH, the VHWMR include a recycling exemption (See 7-204(I)) for waste fuel that is used for its fuel value. Vermont’s exemption includes a number of conditions for handling and “aggregation facilities” that serve as consolidation points prior to shipping off-site for use as fuel.

3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?

If >700 ppm ethylene glycol, waste material is a VT-listed hazardous waste (VT08 hazardous waste code). The VHWMR also include a conditional exemption, that most facilities use, for waste antifreeze that is treated, recycled or reused. Few businesses ship spent antifreeze as hazardous waste; ethylene glycol-contaminated debris is more commonly shipped as a VT-listed waste.

4. Does your state plan to adopt aerosol cans as universal waste?

Draft regulations under EPA review, adopting as is but are seeking approval from EPA to change the planning requirement for puncturing cans to allow for generators to use VT's established procedure as alternative to developing/submitting their own plan. Vermont believes that it is unrealistic to expect small businesses to create plan that address all concerns associated w/ puncturing/draining aerosol cans. NH may look into adding/changing this requirement too in their draft regulations.

5. The attached chart is a list of state-specific waste codes for New England states that is easily found when doing an internet search. Are there any codes on this list that no longer apply or are there any state-specific codes that are missing from this list? (Suggests that NEWMOA create something similar to include NY and NJ and make it available on the website).

VT also has codes for PFOA >20ppt and PFOS >20ppt (VT20, VT21 respectively). The VT06 waste listing for pesticide wastes is being revised to limit applicability (e.g., under current listing waste citronella candles generated by a business would technically be regulated); the VHWMR are implemented by the VT Agency of Agricultural, Food and Markets with respect to pesticide waste. VT99 is to denote tax exempt non-hazardous waste on a manifest.

CT DEEP

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?

No, follow federal rules for used oil; no ID# or manifest required. If the used oil has total halogens over 1,000 ppm or has been mixed with listed hazardous waste or with characteristic hazardous waste and still exhibits a characteristic, then regular hazardous waste regulations apply. CT includes unused formulations in its definition of "used oil" (e.g., unused motor oil, unused machining lubricants, etc.).

2. Does your state have a "fuel for fuel" exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?

Yes, follow federal fuel-to-fuel exemption, not a hazardous waste.

3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?

Antifreeze is typically subject to regulation as a non-hazardous "Connecticut-Regulated Waste, waste code CR04 (see answer to question 5 for more information). As a result, no manifest or EPA ID number is required. Certain types of antifreeze in the past were hazardous – for example, waste emergency power generators with metals and antifreeze from cars using leaded gasoline.

4. Does your state plan to adopt aerosol cans as universal waste?

Yes, will be adding to the universal waste list next round of regulation changes; aerosol cans that have hazardous contents or propellants are regulated like any other hazardous waste. Aerosol cans that are non-hazardous are regulated as non-hazardous "Connecticut-Regulated Waste, usually waste code CR04 (see answer to question 5 for more information).

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The codes in the chart are correct, but they are used only for nonhazardous wastes in CT. Changes that should be made in the information in the chart include: CR02 (should just say "waste oil") and CR05 (should remove ~~no~~ "semisolids"). A transporter license is required for those who engage in the business of transporting CR01 – CR04 wastes (but not CR05), and facility permits are required for those who engage in the business of storing or treating CR01 – CR04 wastes. In addition, a facility permit is required for anyone that disposes of CR01-CR05 wastes, regardless of whether or not they are engaged of the business of disposal. There is no Cr3+ exemption like the EPA has; also, did not adopt federal manufactured gas plant ("MGP") waste exemption; have not adopted the Pharmaceutical Waste Rule. If MGP waste is going to New Hampshire for disposal (thermal desorption/incineration), we have been told in the past by NH DES that there is a special statement that is required to be put on the manifest indicating that it is hazardous in the generating state but not in NH. Have not adopted federal low-level waste or pharmaceutical rules yet.

NYSDEC

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?

No, no manifest, no ID# but need to abide by DOT shipping paper requirements. If facility receives from or sends to state where used oil is regulated, the correct codes have to be used on paperwork.

2. Does your state have a "fuel for fuel" exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?

Yes, gas/water mixtures are exempt only if there is a recoverable amount of fuel from the water.

3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?

It is a solid waste.

4. Does your state plan to adopt aerosol cans as universal waste?

Yes, will adopt, have internal comments, have pending UW rule too for paint.

5. The attached chart is a list of state-specific waste codes for New England states that is easily found when doing an internet search. Are there any codes on this list that no longer apply or are there any state-specific codes that are missing from this list? (Suggest that NEWMOA create something similar to include NY and NJ and make it available on the website).

NYSDEC provided a listing of codes, including numerous codes for PCB waste. Have assessment tax based on destination facility, either L-landfill; B-incinerator; T-chemical treatment; R-recovery operation. Will follow-up and share document with Terri.

MassDEP:

MassDEP:

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?

Yes, generators may have dual waste status, one for hazardous waste; one for used oil (or waste unused oil). Three codes apply: MA97-specification used oil, similar to NH; MA98-off-specification used oil fuel; and MA01-waste oil and waste oil mixtures. Manifests and EPA ID#s are required. Except, VSQG HW, VSQG waste oil or SQG waste oil generators can still use their older MV+phone number ID#, they just cannot use e-manifest. For out of state waste, if it is on a manifest, an EPAID# is required. If on a bill of lading for recycling, the receiving facility may require an EPA ID#. The CT table that was circulated has this explained too. The standards for SQGs and LQGs of waste oil are the same as for HW generators except LQGs of waste oil do not have to have contingency plan or training plan, among other requirements.

MA transporters will not pick-up hazardous waste or waste oil without an ID#. They do not like MV+phone number ID#s because the waste is not tracked as easily in e-manifest, but they are valid. There are still approximately 6,000 MV ID#s. All generators are listed on MassDEP website spreadsheet <https://www.mass.gov/guides/hazardous-waste-generation-generators>, which is updated weekly and that transporters consult first before pick-up.

2. Does your state have a “fuel for fuel” exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?

No fuel-to-fuel exemption per se, but DEP requires recycling permits for waste when if it were to be disposed it would be hazardous waste but is recycled instead. Permits are required for sending or receiving HW that is recycled and onsite recycling; these materials are Regulated Recyclable Materials and depend on amount generated/received and type of material. Gas/water mixtures are exempt as HW if meet certain standards and the gasoline is recycled.

3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?

It is a solid waste that requires a determination like any other waste.

4. Does your state plan to adopt aerosol cans as universal waste?

Yes, MassDEP started a regulation revision process a year ago that included aerosol can universal waste rule, air bags rule and removing over-the-counter nicotine products from the acute HW P code listing.

5. The attached chart is a list of state-specific waste codes for New England states that is easily found when doing an internet search. Are there any codes on this list that no longer apply or are there any state-specific codes that are missing from this list? (Suggests that NEWMOA create something similar to include NY and NJ and make it available on the website).

The waste code list is accurate with two additions: MA02-PCB waste > 50 ppm concentration; MA04-waste paint from paint manufacturer that is not characteristic HW or a listed waste but contains listed constituents. Rarely seen.

RI DEM

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?

No, regulate similar to the federal rules. No manifest or EPA ID# is required, but a permit is required for commercially transporting used oil fuel. Only on-spec used oil is allowed to be burned; no off-spec is.

2. Does your state have a “fuel for fuel” exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?

Follow the federal program; if it is being used for fuel or to make fuel it is not a solid waste.

3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?

No special consideration for antifreeze; it is a solid waste subject to HW determinations. Chance of it being HW has gone down with change in truck engine construction from steel-soldered to aluminum radiators. There could be some gas in antifreeze, however, but not like in older model vehicles.

4. Does your state plan to adopt aerosol cans as universal waste?

Are looking at adopting the Universal Waste provision.

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Chart is no longer accurate. R001 changed to electronics; R002-R006 are defunct; R011-R016 are fee exempt codes; R009 is for Hg; R010 is used waste oil. R014 is for used oil going to state that regulates it. RI does not issue recycling permits; either a material is HW or it is not and it either goes to a TSDF or it does not. Fees are applied to the generators of HW. Do expect both used oil and HW codes to be on manifest if both codes apply.

NJ DEP

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?

No, similar to federal regulations; no manifest required, bill of lading okay; no ID# required.

2. Does your state have a “fuel for fuel” exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?

Incorporated federal fuel-to-fuel exemption as is.

3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?

Is a solid waste or Class D recyclable in some cases (for Universal Waste and antifreeze recyclers).

4. Does your state plan to adopt aerosol cans as universal waste?

Have incorporated by reference.

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No state only waste codes, did away with them in the mid-1990's.

ME DEP

1. Is used oil regulated as a hazardous waste in your state? Does your state require generators to ship used oil on a manifest? Does your state require a used oil generator to obtain an EPA ID to ship used oil?

No, but have separate rules for waste oil dealers, transporters, and facilities storing or handling more than 1000 gallon per month for re-sale. Rules require that waste oil coming into Maine from out-of-state be documented on a manifest; EPA ID# not needed. Maine DEP is currently working on a draft rule for waste oil that will probably incorporate many of the EPA used oil standards of 40 CFR 279.

2. Does your state have a "fuel for fuel" exemption? If your state does not have a fuel for fuel exemption, what are the shipping requirements for off-spec. or unused fuels (e.g., manifest with waste code D001/D018)?

No, but have an exemption for commercial chemical products going back to manufacturer or distributor. This provision has been used in the past, for example when gasoline was delivered to a retail gasoline station into a diesel tank by accident and the mixed product could be shipped back to the manufacturer or distributor for re-refining or use as a fuel.

3. How is automotive antifreeze regulated in your state (e.g., universal waste, state hazardous waste, solid waste)?

It is handled as a waste with HW determination as necessary, no Universal Waste listing or hazardous waste listing for antifreeze.

4. Does your state plan to adopt aerosol cans as universal waste?

Have not decided on whether or not to incorporate aerosol can rule; have concerns about VOC emissions from puncturing activities. An EPA/California DTSC study of an aerosol

can-puncturing device indicated that due to potential breakthrough of VOCs, compromised gaskets, and other factors, that it was “unable to conclude that potential exposures will not occur in the absence of appropriate engineering and administrative controls, or personal protective equipment. Therefore, specific conditions were included in the certification to address potential health and safety concerns.”

Maine DEP has concerns that these issues may not be adequately addressed at typical facilities using aerosol can-puncturing devices under the new aerosol can rule.

See study report:

https://dtsc.ca.gov/wp-content/uploads/sites/31/2016/01/TD_REP_KATEC_VR2.pdf

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Waste code chart is accurate; ME has K, P and U-listed wastes that are not federally-listed (but were included by EPA in proposed federal rules).