

Notes

NEWMOA Hazardous Waste Conference Calls October 8, 2019

Topic: Lead-based paint waste and household exemptions and associated issues, including the scope of lead-based paint waste exemptions for household contractors; management onsite and offsite of lead-based paint – how to exempt work for offsite management of lead-based paint waste

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 (2 people); Mass DEP (2 people); NH DES (12 people); NJ DEP (2 people); NYS DEC (19 people); EPA Region 1 (2 people); EPA Region 2 (1 person); NEWMOA (1 person)

Call leader: Ross Bunnell, CT DEEP

Notes prepared by Cherrie Plummer, ME DEP

NH DES began by describing a situation that EPA decided did not qualify for HHW exemption. A contractor taking a window from a house and generating lead paint at its shop could not claim the waste has an HHW exemption. NH will share the EPA guidance with Terri for distribution. Specifics about the contractor and its practices were shared with the group later in the call.

CT DEEP described its lead program, which began before a lot of guidance was available for states. CT did not/does not want lead waste to go to incinerators, so contractors must perform hazardous waste determinations. In 1998, when an EPA opinion (RCRA Online #14459) was issued that stated that contractors working at a home can use the HHW exemption, CT did not change its policy. CT has multiple guidance documents available for contractors and homeowners that were shared prior to and during the call. CT does agree that HHW taken offsite to a contractor's location would not be exempt.

Lead waste generated from MA households is exempt, including larger components. They follow EPA's 7/31/2000 guidance letter. MA was asked if concentrated lead waste, i.e. HEPA filters, are managed differently in the State, and they are not. There is no language in its rules preventing lead waste from going for combustion.

In ME, contractors can use the exemption unless they take the waste back to their facility before disposing. The requirements do not distinguish between concentrations of lead in waste.

Contractors in NJ can use the HHW exemption. They use guidance from the early 1990s for disposal of solar panels. They asked whether casinos can use the HHW exemption since hotels can use the exemption. Ross from CT clarified that the exemption only applies to waste generated from hotel rooms.

NY follows EPA's guidance. Lead abatement is exempt, demolition debris is not. The military can use the HHW exemption at residential area such as barracks and base housing. Contractors cannot use the exemption if they take the waste back to their shop.

VT also allows contractors to use the HHW exemption as long as the waste is not taken back to their shop.

Prior to 1998, NH did not exempt lead waste. Now contractors have the exemption if the waste is not going back to their shop. Concentrated wastes are brought to HHW collection events. They mentioned EPA guidance for lead-contaminated soil that allows it to be managed as HHW if the lead is from weathered paint and not an industrial source. NH will share its guidance document with Terri.

CT DEEP shared some interesting results from the waste testing conducted in CT. Whole buildings usually do not fail when using a composite sampling process. Barns, garages, and warehouses are more likely to fail. Concentrated lead is worth segregating. Metal with lead paint can be recycled using the scrap metal exemption. In one case, pigeon droppings failed TCLP for lead and cadmium. Not sure if the pigeon's diet was contaminated or if the corrosive droppings leached metals from the building. In another example a brick building failed because the brick itself was high in lead, presumably from the clay source.

Ross asked if EPA had more information about the lead program, such as if more money will be available. Region 2 will check and let Terri know.

NH discussed the issues with landfills taking contaminated soil from homes. Maine asked if other states allow soil with lead to be landfilled. All states on the call agreed that the HHW exemption allows the soil to be landfilled.

Items for follow-up: NH will share the email guidance about the window contractor and the guidance allowing soil to be landfilled; EPA Region 2 will check with the lead program; CT will share the hotel waste guidance letter.

Items that were shared following the call:

From CT DEEP:

- CT DEEP guidance for the testing and management of lead-based paint wastes:
https://www.ct.gov/deep/lib/deep/waste_management_and_disposal/construction_renovation_demolition/lead_debris_disposal_guidance_5-18-07.pdf
- CT DEEP Lead-based paint disposal fact sheet for homeowners and small contractors:
https://www.ct.gov/deep/lib/deep/waste_management_and_disposal/construction_renovation_demolition/lead_fact_sheet_pdf_website_version_5-18-07.pdf
- Renovation and Demolition – Environmental, Health & Safety Requirements You Should Know About:
https://www.ct.gov/deep/cwp/view.asp?a=2718&q=325410&deepNav_GID=1646
- Renovation and Demolition “Red Flag List”:
https://www.ct.gov/deep/cwp/view.asp?a=2718&q=325412&deepNav_GID=1646
- Renovation and Demolition – Sample Checklist of EH&S Requirements:
https://www.ct.gov/deep/lib/deep/waste_management_and_disposal/construction_renovation_demolition/renovation_and_demolition_checklist.pdf
- Renovation and Demolition – “Strategies for Success” Handout:
https://www.ct.gov/deep/lib/deep/waste_management_and_disposal/construction_renovation_demolition/Strategies_For_Success_Handout.pdf

Applicability of HHW exemption to residential soil:

- RO 11898, Applicability of the HHW Exemption to Lead-Contaminated Soil: <https://rcrapublic.epa.gov/files/11898.pdf>.
- CT DEEP letter regarding lead-contaminated residential soil being able to be managed as HHW: http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/hazardous_waste/Compendium/31059701_DEP_Letter_re_Status_of_Lead-Contaminated_Soil_from_Residential_Lead_Abatement.pdf

Applicability of HHW exemption to wastes generated in hotels:

- RO 12624, Dry cleaning/vehicle maintenance wastes from hotels are not household hazardous waste (HHW): <https://rcrapublic.epa.gov/files/12624.pdf>.
- RO 13736, Wastes produced by a hotel dry cleaning facility are not household wastes and therefore are not excluded from RCRA regulation:
<https://rcrapublic.epa.gov/files/13736.pdf>

From NH DES:

Two separate documents were shared. The first is the 9/16/19 EPA e-mail that covered off-site paint removal from households, and the second is a 4/12/95 NHDES letter on the “regulatory status of the removal and disposal of lead contaminated soil from a household”. The situation laid out in the 4/21/95 NHDES letter is what prompted the EPA RCRA Online 11898 letter as NH worked closely with EPA Region 1 on that.

Link to the NHDES Fact Sheet on “Management of Lead-based Paint Waste” that was first published in 2001 (with tweaks over the years):

<https://www.des.nh.gov/organization/commissioner/pip/factsheets/hw/documents/hw-22.pdf>

From EPA Region 1:

On the 10/8 call, I committed to following up with the EPA R1 Regional Lead Coordinator on any updates in the lead abatement/removal/renovation world. Here’s what she provided:

1. In September, the EPA OIG put out a [report](#) that found EPA needs more effective implementation, oversight, and enforcement of the RRP program. EPA is tasked with several corrective actions, outlined in the report.
2. EPA also recently established a [new dust lead hazard standard](#), which identifies when lead-based paint, lead-contaminated dust, and lead-contaminated soils are hazards. All R1 states are authorized for this standard and have until January 2022 to adopt the new standard. EPA is also in the process of developing a new dust lead clearance (residential cleanup) standard.
3. EPA R1 has kicked off several geographic-based initiatives focusing on renovation, repair, and painting program compliance assistance and inspections/enforcement. The most recent initiative has put EPA resources into VT, which is not currently authorized for the RRP program.
4. Finally, as far as funding goes, only states that are authorized for lead abatement or RRP receive EPA funding and it does not sound like there has actually been any recent changes in funding levels. HUD also provides funding, especially for abatement, but we don’t have a lot of information on the status of that money.

Sara Kinslow
U.S. EPA Region 1
5 Post Office Sq., OSRR07-1
Boston, MA 02109-3912
617-918-1648 | kinslow.sara@epa.gov | Pronouns: She/Her