Call Notes: September 12, 2006 NEWMOA Conference Call
Management and Recycling of Sandblast Grit

10:05 Bill Cass opened call with a roll call of states. All member states except for RI were represented on the call. State participants summarized their state's policies concerning sandblast grit and waste derived building blocks/fence posts.

Connecticut: Carey Hurlburt and K.C. Alexander participated on the call, Ross Bunnell joined the call a few minutes later. Carey reported that CT handled sandblast grit as a special waste and that it goes to a special waste landfill. She noted that CTDEP is trying to streamline/expedite the issuance of BUDs and has recently issued BUDs permits for tires and shingles. Participants asked what happens if the material fails TCLP. Bill Moore asked if CT and other states had been looking for PCB's and noted that NY has seen high PCB levels in sandblast grit. Ross Bunnell added that CT's hazardous waste program requires testing of sandblast grit, and, if it is found to exceed TCLP limits it would be classified as a hazardous waste. Ross indicated that it is not uncommon for sandblast grit to fail TCLP for lead, chromium, and/or cadmium in CT. Ross also explained that CT has received requests from both U.S. Technology Corp. and Poly Pacific Corp. to approve their manufacturing processes as meeting the use/reuse exemption of 40 CFR 261.2(e). Although CT approved U.S. Technology's plastic debris recycling process in the early 1990s, the both the type of grit the company recycles *and* the product that the company produces is now different (i.e., they recycle silica sand, black beauty, glass bead and other types of grit in addition to plastic grit, and produce decorative face concrete block instead of bathroom vanities, etc.) As a result, CT's old determination for the plastic media is no longer valid. CT has not yet approved either company's current request due to problems with the companies' claims. For both companies, the problems are associated with a lack of testing to show that the waste-derived product has similar levels of toxic constituents as the equivalent virgin material-based product, and over concerns about possible uses involving contact with the ground (e.g., fenceposts, use in retaining walls or foundations), which could qualify as Use Constituting Disposal.

Maine: Some high-temperature paints contain PCBs, meaning that PCBs can be a constituent of concern in spent sandblast grit.

Maine: In Maine, non-hazardous sandblast grit can be reused under a beneficial use process. Like CT, Me had also approved this company's plastic media recycling product in the past (mostly used in military applications). However, ME has not yet received any questions regarding any other types of grit other than plastic at this point.

Massachusetts: Bill Sirull indicated that MA has dealt with the management of dust and sandblast grit waste with the MA DOT's bridge projects. He indicated that grit that fails TCLP for lead and chrome is shipped has hazardous waste. He further indicated that MA has state-specific requirements for companies that want to recycling hazardous waste into products that are applied to the land. He believed that they did not approve sending spent grit to U.S.

Technology, because it was not felt that it was legitimate recycling. However, Bill indicated that they did not get many requests for interpretations on the reuse of non-hazardous sandblast grit, although MA does have a beneficial reuse program. This program involves a 4-tiered system based on how the material is reused: (1) use in commercial products; (2) use in regulated systems (e.g., landfills); (3) restricted use; and, (4) unrestricted use. He indicated that sandblast grit could qualify for the "commercial product" reuse scenario, but it would be necessary to show that the product had comparable levels of toxics as compared to the virgin product. Also, spent grit could qualify for the "restricted use" category – for example, above-ground concrete block – although this would require a more extensive life-cycle review, since at end-of-life concrete block could be reused as unregulated aggregate. Bill indicated there was detailed information about their BU program on the MA DEP website. This website includes a guidance with regulatory concentrations. Go to www.ma.gov, click on "DEP," then "Waste & Recycling," then "Laws & Regulations," then "Solid & Hazardous Waste," and look for the BU link.

New Hampshire: Bob Bishop indicated that NH was petitioned by U.S. Technology in 1992 for its plastic media. They went back and forth with the company for a couple of years, and issued a letter in September, 1995, based on similar letters from other states and EPA Region 4. The basis for the approval was that the spent sandblast grit served as a substitute for the calcium carbonate typically used in cultured marble products, and contained less toxics than the equivalent virgin material-based product. However, NH is not aware of anyone actually using the U.S. Technology product. NH also had a case with a rifle manufacturer that used black beauty on their rifles. The spent black beauty contained total chromium at 130 ppm, making it potentially a hazardous waste. However, the unused black beauty tested at 100 ppm, indicating that the black beauty itself is contaminated as produced. The TCLP testing of the waste showed it to be non-hazardous, however. The material was therefore approved to go to a solid waste landfill. The virgin black beauty was a coal slag product that was produced in Pennsylvania.

New Jersey: NJ regulates sandblast grit in much the same way as the other states (i.e., considered hazardous if it fails TCLP). NJ DEP has received some applications proposing BU, but they are not aware of anyone actually engaging in BU of this material. NJ has a pretty sophisticated BU program. Also, some spent grit could go into the soil reuse program.

New York: Bill Yeeman indicated that NY has dealt with U.S. Technology and Poly Pacific, and also another firm, Composite Leasing. This company does not recycle the material themselves, but has a partner, Solid Surface Acrylics (aka Dynel) in Tonawanda that manufactures the product. Bill indicated that NY has looked to several EPA compendium documents for their policy on spent grit recycling. In particular, EPA Faxback numbers 11491 and 11573 both clearly preclude placement on or contact with the land. As a result, they feel that fence posts (such as those made by Poly Pacific) would be considered "use constituting disposal" (UCD). But, Bill pointed out that even if the ultimate use is UCD, this only means that the spent grit must be managed as hazardous waste from the point of generation through to production of the final product, which must also meet LDRs. NY does look closely at "toxics along for the ride" (TARs), however (see EPA Faxback # 11573). In particular, **they look at the levels of toxics as compared to those found in the raw materials being replaced.** A problem has arisen, however, with EPA's promulgation of the CRT rule preamble (see p. 43927). In the preamble, EPA said that the use of CRT glass as a fluxing agent in copper smelting was exempt.

In other background documents, it is made clear that this interpretation applies to CRT glass only, but the preamble does not specifically say so. As a result, NY is concerned that this will cause confusion and possibly contradict EPA's previous policy. Also, other EPA Faxback documents (11900, 14734) complicate the issue by also appearing to allow TARs to go to smelters, which NY disagrees with. Bill noted that some states interpret these documents (11900 and 14734) as a green light to allow TARs to go to smelters, and that they rightfully should not. He opined that EPA has an obligation to make sure states don't dip below the federal floor and that NEWMOA should use its clout to get EPA to level the playing field by getting all states to toe the same line. Bill also mentioned that NY agrees with EPA's July 31, 2000 guidance indicating that household lead wastes (including sandblast grit) qualify for the household hazardous waste (HHW) exemption.

New Hampshire: NH also allows the HHW exemption for materials, but only if they are managed at the work site. If the contractor takes the material back to their shop, the material would be fully regulated hazardous waste. MA and VT view this situation the same way.

Vermont: Like MA, VT has had historic problems with their DOT bridge projects. Sandblast grit is considered hazardous in VT if it fails TCLP. If non-hazardous, it may be managed as a regular solid waste. VT denied a request from Poly Pacific to have their materials deemed exempt from hazardous waste requirements.

Maine: ME asked how the states on the call ensure proper disposal, and in particular, who is responsible for complying with generator requirements? MA replied that it requires the DOT subcontractor to be listed as the generator.

Massachusetts: Bill Sirull suggested that Bill Cass collect all the NEWMOA States' letters to U.S. Technology and Poly Pacific, and distribute them back to the states. Bill agreed to do this.

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