

**Draft**  
**MINUTES – NEWMOA CONFERENCE CALL 1/10/12**

**Subject: Fuel-to-Fuel Exemption**

States represented during this teleconference included Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont. The following summarizes the comments made during this teleconference.

Vermont:

Vermont was the lead state on this subject. They have an environmental contractor that is treating all gasoline/fuel contaminated UST maintenance and spill cleanup materials (i.e., tank bottom water/sludge, contaminated soil and speedy dri) as non-hazardous under the fuel-to-fuel exemption. These wastes are being sent out-of-state under Bills of Lading rather than Manifests. The receiving facility, which is not a TSD, claims they use a hydraulic press to “recover” fuel from the material. Vermont wanted to know how other states in NEWMOA handle this issue.

Vermont has its own fuel-to-fuel exemption in Section 7-204(1) of their rules. To see it go to: [http://www.anr.state.vt.us/dec/wastediv/rcra/hazregs/VHWMR\\_Sub2.pdf](http://www.anr.state.vt.us/dec/wastediv/rcra/hazregs/VHWMR_Sub2.pdf). Vermont also has a fact sheet on this issue, which is available at: <http://www.anr.state.vt.us/dec/ead/sbcap>. At that page click Fact sheets, compliance guides and other publication resources, then click Fact Sheets and select “Managing Waste Fuel and Fuel/Water Mixtures”.

Vermont’s position on this issue is that they allow mixed/trans-mixed fuels and fuel-water mixtures to be managed as exempt waste. They do not allow “tank cleaning wastes, rinse waters, water that contains hazardous constituents not found in the fuel product, tank bottom sludge and bilge water to be managed under the exemption”. Fuel-contaminated solids are subject to hazardous waste determination in Vermont. The state also regulates “wastes containing 5 percent by weight of petroleum distillates...” as a state regulated VT02 hazardous waste. Finally, all wastes are subject to hazardous waste determination in the State of Vermont.

Connecticut

- Follows Federal Rules
- Does not apply to absorbents or soil if shipped to CT
- Need a permit in CT to have a process that recovers this material
- If shipped out-of –state must have legitimate 5,000 BTU value to qualify for exemption

Maine:

- Has not adopted the federal exemption
- Any waste material with a flash of less than 100 degrees Fahrenheit is a hazardous waste
- These materials are state wastes (do not recognize TCLP waste, i.e., D018)

Massachusetts:

- Has not adopted the federal exemption
- This material is subject to recycling permits
- Has an exemption for gasoline/water mixtures
- Other materials are subject to hazardous waste determination

- Requires manifest to accompany these shipments out-of-state, and request receiving facility to note that receiving state does not consider it a hazardous waste

#### New Hampshire:

- Have state regulations that are similar to federal
- Recognized two processes = (1) burned for energy recovery (2) reclaimed
- They can reclaim first and then blend them
- Absorbents do apply if the reclamation has a legitimate BTU value, but they are not sure that one can legitimately reclaim materials from absorbents
- Tank bottoms are not considered a Commercial Chemical Product (CCP), and need a hazardous waste determination
- Water in tanks can contain recoverable fuel
- If material that is exempt in NH is shipped to a state where it is regulated/non-exempt it must be accompanied by a manifest and state in section 18 that it is exempt in NH

#### New Jersey:

- Generally follow federal rules
- If the material can be fuel blended then it is exempt
- Facilities basically “self-police” in that they only want what they can fuel blend
- Gasoline contaminated solids are shipped for incineration as a D018 hazardous waste

#### New York:

- Uses the EPA Table 1 and CCP exclusions
- Tank bottoms may be eligible as a CCP if material is recoverable
- Absorbents may be eligible as a CCP if material is recoverable
- Contaminated soil is not eligible for exemption
- Liquid phase and tank bottoms are considered the same waste type

#### Rhode Island:

- Follows the Federal Rules
- Considering adopting their own set of rules on the subject
- Material must have a BTU value of at least 18,000 in order to be exempt