

**NEWMOA Conference call
November 4, 2010**

Topic: Definition of Wastewater

The topic was: Definition of "Wastewater" and state policies concerning waste streams that may not conform to the traditional concept of "wastewaters." This term is used in dozens of places in RCRA (e.g., WWTU exemption, F006 definition, etc.), but it is not defined. How do states deal with this lack of a definition, especially for wastes that may be "wastewater-like" but not conform to the traditional concept of "wastewater" (i.e. dilute solutions treated and discharged via CWA-permitted treatment system)?

Prior to the call Doug Nevel from NYS DEC forwarded the EPA April 2010 document titled, "Biennial Report: Reportable and Non-Reportable Wastes" that contains relevant information.

Call participants:

CT.: Not on call
ME: Heather Jackson (note-taker)
MA: Bill Sirull
NH: Linda Birmingham and 5 others
NJ: John Scott
NY: Bill Yemen plus 6, and others in Regions 3, 4, 8 and 9
RI: Not on call
VT: Lynn Metcalf and Steve Simoes
EPA Region 1: Sharon Leech and Steve Magee
NEWMOA: Jennifer Griffith

NEWMOA: asked the group if there were any comments on the October 12, 2010 conference call and notes. There were none. Jennifer asked if there should be a presenter for the call next month in December on contaminated soils in addition to the state by state review of cases. If anyone thinks of someone who should do this, let Jennifer know. MA asked why today's topic on wastewater was suggested. VT thinks it was or is an issue in CT or RI where they are trying to add definitions to their hazardous waste regulations. CT and RI were not on this call to confirm though.

VT: started discussion mentioning that this is not a big concern to them. Most of their waste is drummed, but there are a few CWA direct discharge exemptions. Federal and VT definitions are identical. A facility can't evaporate a hazardous waste in VT.

NY: the definition of wastewater is in the section on fees with wastewater subject to a lower fee. NY uses the EPA LDR definition - minimum water content of 95%. Mentioned RCRA 11315 EPA guidance that spent baths are not wastewaters. Then RCRA 11511 EPA guidance backed away from prior position. NY suggested that the EPA definition should focus on the "waste" part of wastewater – the contaminant rather than minimum water content. RCRA 11851 EPA guidance was a 1994 letter related to F006 and solids obtained from a closed loop system (261.448).

NJ: follows the federal definition. They have a large wastewater group/enforcement group and do not have problems related to this issue.

NH: has no definition of wastewater but they do have a definition of wastewater treatment unit. A facility that recycles wastewater from metal etching was talked about. What is considered F006 sludge versus treated F006 pre-cursor effluent? Is it a sludge if it's rejected by a RO filter due to salt content, even though what is rejected has no solids? January 1985 Federal Register stipulates that wastewater cannot be beneficially used. So can a treated wastewater be

beneficially used? NH does have limited permits – does the permit condition stipulate where they have to ship it to? If it's a wastewater, then it's not subject to manifest vs. wastewater sludge, which is subject to manifest. EPA Region 1 will try to help NH sort out this case.

MA: as with other states, this is not a big issue in MA. There is no definition of wastewater in the RCRA program but industrial wastewater is loosely defined in the water program. MA does not use the federal LDR definition - uses 1% solids. If higher than 1% solids would question if it was really a wastewater. In ion exchange systems, the cartridge treating wastewater would be F006, but it's not really a wastewater because the water is being reused. Should the cartridges be automatically F006 or subject to characterization?

ME: not aware that this is an issue in ME, but not prepared to talk about the issue and are hoping to learn more by listening in.

RI: not on call but has a new definition that Jennifer will share over e-mail after the call. Note: it is copied here FYI:

In 270.1(c)(2)(v) delete existing language and replace with the following: “The owners or operators of elementary neutralization units as defined in 40 C.F.R. § 260.10. Also, the owners and operators of wastewater treatment units provided that all of the following conditions are met for each unit: (a) the unit receives and treats or stores an influent wastewater that is a hazardous waste as defined in these *Rhode Island Hazardous Waste Regulations* or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined these *Rhode Island Hazardous Waste Regulations* or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in these *Rhode Island Hazardous Waste Regulations* (b) the unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982) (note: Concentrated hazardous wastes are not covered by this exemption. The disposal of concentrated hazardous waste down the drain is prohibited.) (c) the unit is a tank or tank system as defined in 40 C.F.R. § 260.10 (e.g., wastewaters when stored or transported in containers are not covered by the exemption), (d) the unit has a current ongoing discharge to surface waters or the sewers which is on site and is subject to regulation under Section 402 or 307(b) of the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island, as amended (e.g., zero discharge units such as evaporators are not covered by this exemption, but rather must comply with the RCRA requirements for generators or Treatment, Storage and Disposal Facilities, as applicable, in addition to any requirements specified in any permit issued by the Department’s Office of Water Resources or a Publicly Owned Treatment Works), and (e) the unit has been specifically described in a water permit application (e.g., in a schematic diagram) and specifically referenced in a water permit as being part of the facilities subject to regulation under the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island (e.g., tanks used to store hazardous wastewaters or sludges not covered by a water permit application and permit are not covered by this exemption). Provided that any sludge or other waste materials generated from an elementary neutralization unit or a wastewater treatment unit must be managed as a hazardous waste if such sludge or waste material meets the criteria of a hazardous waste. The full *Hazardous Waste Regulations* apply to such sludge or other waste material when it leaves the exempted elementary neutralization unit or exempted wastewater treatment unit, e.g., when a sludge is stored in containers on site.

For zero discharge units, the hazardous waste requirements apply both to any hazardous wastewaters and to any hazardous sludges, when either is generated.”

EPA: not aware of problems (but EPA participants in this call today are in permitting and not enforcement)

NEWMOA: asked the group to look at upcoming topics for conference calls to make sure they are still worth covering.