

Notes

NEWMOA Hazardous Waste Conference Call

October 13, 2020

Topic: Landlord / Tenant Responsibilities for Hazardous 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 (5 people); Mass DEP (4 people); NH DES (8 people); NJ DEP (11 people); EPA Region HQ (2 people); EPA Region 1 (2 people); EPA Region 2 (4 people); NEWMOA (1 person)

Call leader: CT DEEP

Notes prepared by Terri Goldberg, NEWMOA

CT DEEP

George Dews, CT DEEP reviewed the following questions/topics that were focused on during the meeting. The purpose of these questions was to determine if other states were finding issues in selecting LQG inspection candidates and in tracking them in a timely and efficiently manner.

1. When an inspector reviews the BRS for an LQG CEI inspection, locates the LQG on the BRS and then visits the site to find out that the LQG is no longer there (out of business or OOB), can the inspection be logged into RCRA INFO as an LQG CEI inspection to get credit on the SRF LQG inspection metric report?
2. What is the best way to determine if a company is OOB (an inactive site) before conducting an inspection?
3. As a related issue, how does one find active LQG sites that failed to submit their BRS Report?
4. When conducting an LQG's CEI inspection, the generator may be acting as an SQG and changes status post-inspection to an SQG. How can a state get SRF and EPA LQG credit for this inspection?

5. If an LQG CEI inspection is conducted and the generator notified post 2015 BRS, how does a state get SRF LQG credit if the inspection does not appear on SRF LQG metrics?
6. CT DEEP would also like to address the related issue of how to handle inspections during which it is discovered that the generator has gone out of business, or has otherwise significantly changed its generator status

CT DEEP inspectors have developed a questionnaire based on the Agency's inspection checklist to use with facilities to conduct offsite reviews.

New Jersey DEP

1-4. Uncertain about LQGs. DEP missed two quarters of inspections in 2020. They target facilities using the EPA Region 2 targeting platform. The EPA Region 2 platform helps DEP select LQGs for inspections based on annual reports submitted in previous years. The platform also includes e-manifest data. DEP can see that the LQG is operating using the e-manifest data and has an active ID. NJ DEP also relies on data in their state system, called NJEMS. This system gives the inspectors a way to view data from all of the relevant regulatory programs (i.e., air, water, waste, tanks, cleanup, etc.). The inspector can check and see if there has been a recent air or water, etc. inspection recently.

5. If the inspector is visiting an LQG facility and it seems like it should be an SQG, they count it as an LQG inspection and report it as a LQG. The State Review Framework (SRF) tracking system uses the existing reporting data to identify LQGs and that's what DEP relies on. The Region 2 platform is a great source of information on all LQGs and helps DEP identify who to target for an inspections. It helps the agency avoid targeting a facility at the same time as EPA Region 2. The latest Biennial Reporting System (BRS) data shows up if submitted. Latest data available now is 2017. DEP can filter on all LQGs that reported in 2017 for targeting. 2019 data is being uploaded in the first week of November. If they find an LQG that is no longer active, they flag it as an LQG and then they try to figure out its status.

DEP calls its LQG inspections of sites a CEI in RCRA Info for recent inspections during the COVID pandemic. They do the same walk through at the facility as pre-COVID now, but they request that the facility mail in their paperwork. They are reviewing the paperwork in the office and not onsite. They call these inspections a CEI. If they do offsite compliance monitoring or drive by inspection, they record this as NRR in RCRA Info. They are able to conduct a CEI by walking through the sites. They are reviewing manifests through RCRA Info.

DEP's Standard Operating Procedures (SOP) include safety and health measures when going onsite. They are required to wear a mask and/or face shield and have gloves available, but these are not required. They call prior to going onsite for the inspection. They are slowly getting back to normal.

In Southern, NJ, they have found a few inactive sites since March. They are doing walk throughs. If they are unable to reach people at the site, they conduct multiple drive bys to see what's going on there. A lot of the environmental management staff are working from home so it can be hard to meet people onsite.

New Jersey has adopted the Generator Improvement Rule and is now getting closure reports. The LQG notifies that its closing. This is another way to get information to help with targeting inspections.

DEP offers compliance assistance packages that cover general categories and requirements. They put a check mark next to items that they think are applicable. They ask for paperwork that the facility is required to have.

New Hampshire DES

1. Do not use the BRS to target inspections. They use their own system. LQGs must renotify DES every year. If they are closing, they must report this to DES. It's rare to find that a company is out of business.

2. DES will review the results of previous inspections and check the company's website to see if they are closing. DES is often told about companies that are going out of business during their regular RCRA trainings for generators.

3. DES submits the BRS forms on behalf of the generators. DES has a reporting person and the companies send their reports to her and she helps them submit their information. The staff, therefore, knows who did not submit their forms and can check up on them.

4. If an LQG changes its status after an inspection, DES logs the inspection as an LQG. They consider the company an LQG at the time of the inspection. They get credit from EPA for these inspections.

5. As noted, they do not use BRS to target inspections. Their metrics are based on what inspections they conduct each year. EPA tells DES which sites to review when they do the SRF. If a business went out of business and was failed to be declassified, DES will follow-up. They have two recent examples. A previous generator left a site and there are two new tenants. DES inspected the new tenants. They listed the review as a focused inspection with a closure. They verified that all of the previous LQGs waste was gone.

NH DES does annual data verifications of their LQG universe. This is done for their state data system and not for the BRS of RCRA Info. During their last SRF review in 2017, they used their state database and not EPA's. EPA acknowledged that and was ok with it.

If an LQG is closed, they do not get credit for a full CEI since they is no paperwork review. They report the inspection as focused. They check to make sure all of the paperwork is filled out correctly.

EPA's Caribbean Office

The office is doing limited inspections and not doing onsite inspections. They sometimes get credit when they inspect closed facilities. EPA Region 2 is doing informational reviews at private facilities and federal facilities. They are asking for paperwork and doing paperwork reviews. They are about a month away from restarting onsite inspections.