

Final Notes

NEWMOA Hazardous Waste Conference Call

December 10, 2019

Topic: State Experiences with Very Small Quantity Generators (VSQG) Inspections/Documentation & Follow-up

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Participants: CT DEEP (1 person); ME DEP (1 person); Mass DEP (2 people); NH DES (8 people); NJ DEP (7 people); NYS DEC (19 people); RI DEM (1 person); VT DEC (3 people); EPA Region 1 (1 person); EPA HQs (4 people); NEWMOA (1 person)

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State Comments

Connecticut

1. How many active VSQGs are in your state?

- Connecticut has not yet adopted the Generator Improvements Rule, so they still refer to VSQGs as CESQGs. As a result, DEEP will refer to them as CESQGs in the remainder of their responses.
- Connecticut's regulations do not require CESQGs to notify and obtain an EPA ID Number. As a result, CT does not have an accurate count of the number of CESQGs in the State.
- RCRAInfo currently lists 1,594 CESQGs in CT. Most of these CESQGs were previously LQGs or SQGs and have reduced their status for one reason or another. DEEP knows

there are many more CESQGs than this that are not in RCRAInfo, but they can't provide a precise number. They suspect it is likely to be 5,000 or more.

2. Are any fees charged to your state's VSQGs and in what amount(s)?

No

3. What percent of active VSQGs have you inspected?

- DEEP doesn't really have any good data on this. RCRAInfo indicates that 1,113 of the 1,594 CESQGs in RCRAInfo have been inspected at some point in the past (which would translate to about 70 percent). However, in many cases, these generators were inspected when the generator was operating at a higher generator category (i.e., SQG or LQG). In addition, as noted above, the 1,594 CESQGs in RCRAInfo is probably a vast underestimate of the actual number of CESQGs in CT. If one assumes that half of the 1,113 inspections were conducted on actual CESQGs and the total number of CESQGs is 5,000, then the actual percentage would be much less – about 10 percent.
- On an annual basis, DEEP estimates that they currently conduct around 30 – 40 CESQG inspections each year. DEEP used to perform more CESQG inspections in the past as part of their annual manifest database inspections (see response to question 4 below), but the number of CESQGs involved in those types of inspections has fallen off in recent years.

4. How many compliance inspections of VSQGs do you aim to complete each fiscal year?

DEEP typically doesn't target CESQGs for inspections. However, DEEP does end up inspecting about 30 – 40 CESQGs each year as a result of complaints, CSEs, and the annual "manifest database" inspections. The manifest database inspections are scheduled pursuant to a review of manifest data for possible instances where generators may be operating outside their notified generator status. Some of these generators are in RCRAInfo as CESQGs, or believe they are operating as CESQGs. In addition, some of their CSEs involve sites that have lowered their generator status to CESQG. There are also instances where a generator that is in RCRAInfo as an LQG is scheduled for a CEI, and it is discovered that they are operating as a CESQG. In such cases, if DEEP is able to verify that they are actually operating as a CESQG, they will inspect them as such.

5. Does your state get credit with EPA for your VSQG inspections (i.e. bean)?

- Sort of - More specifically, CT DEEP gets credit for manifest database inspections as part of the overall PPA/PPG inspection obligations. As noted above, some of generators targeted under these inspections are notified as CESQGs. However, each CESQG inspection performed under this initiative is not given a one-for-one credit for a LQG inspection. Rather, the ten or so manifest database inspections they perform each year are just one of several alternative inspection commitments that they negotiate with Region 1 in order to reduce the number of LQG inspections they perform from 20 percent of the LQG universe to 10 percent of the LQG universe.
- In addition to the manifest database inspections, CT DEEP also agrees to perform a certain number of complaint inspections each year (60), about half of which are CESQGs. Again, DEEP does not get one-for-one credit for an LQG inspection for these complaint inspections; rather they, are a separate part of their negotiated commitments with EPA Region 1.

6. How do you target your VSQGs for an inspection?

See the response to question 4 above. CT typically does not specifically target CESQGs for inspection. However, they end up conducting a number of CESQG inspections each year for the reasons described above.

7. What are the common violations that are seen during a VSQG inspection?

- Operating out of status (i.e., the CESQG is actually an SQG or LQG, and is not complying with the correct set of generator requirements).
- Failure to perform and/or document proper hazardous waste determinations on all waste streams generated by the CESQG.
- Failure to use permitted hazardous waste transporters (a CT-specific requirement).
- Disposal of hazardous waste in the trash (not allowed in CT).
- Failure to dispose of hazardous waste at a properly-permitted facility (required if disposed of at a facility located in Connecticut).

8. What enforcement actions and penalties for non-compliance has your state taken out against your VSQGs?

- Generally, instances of non-compliance by CESQGs are handled in the same manner as non-compliance by other types of hazardous waste handlers.
- If violations are found during the inspection of a CESQG, DEEP will take appropriate enforcement action per the Agency-wide [Enforcement Response Policy](#). Such action could consist of a Notice of Violation or other informal action, and, in addition (if warranted), an Administrative Order, Consent Order, or Referral to the State Attorney General. In addition, if deemed appropriate per our ERP, CT would pursue civil penalties against the CESQG. If there are suspected criminal violations, they would be referred to the Chief State's Attorney or to EPA Criminal Investigation Division (CID).

9. What type of technical assistance or outreach is provided to your VSQGs?

- DEEP has a [CESQG web page](#) that has links for numerous guidance documents, fact sheets, etc. that provide information and assistance to CESQGs.
- DEEP has developed a [CESQG Handbook](#) that provides comprehensive guidance to CESQG regarding compliance with CESQG requirements. It also includes many BMPs and tips for waste reduction, recycling, and how to get additional assistance from CT DEEP.
- DEEP has a toll-free hazardous waste compliance assistance telephone line that CESQGs (and other hazardous waste handlers) can use to ask questions and get information about hazardous waste requirements in CT.
- Through the [Hazardous Waste Advisory Committee](#), DEEP offers periodic open meetings that CESQGs (and other types of generators) can attend and receive both general training in hazardous waste requirements and learn about specific topics of current interest.
- DEEP offers [free compliance audits](#) for hazardous waste handlers, including CESQGs.
- DEEP has a [free on-line hazardous waste training course](#). Although intended primarily for SQGs and LQGs, it can also be a useful tool for CESQGs.

10. Additional Information

- Connecticut has 3 full-time inspectors and 1 part-time inspector.
- VSQG's are subject to fewer requirements, so inspections tend to be quicker than LQG inspections. Connecticut uses different forms for VSQG inspections than for LQG inspections.

Maine

1. How many VSQGs are in your state?

Maine has two categories of CESQGs: SQG and SQG Plus. SQGs have 55-gallons or less of hazardous waste on-site and SQG Plus facilities can have greater than 55-gallons of hazardous waste on-site and have additional container management requirements. Maine estimates that there are approximately 1,000-2,000 SQGs in the state. Only SQG Plus facilities are required to notify Maine DEP.

2. Are any fees charged to your state's VSQGs and in what amount(s)?

Maine charges transportation fees at a rate of \$0.03/lb., paid on a quarterly basis by transporters.

3. What percent of active VSQGs have you inspected?

Maine is unsure of the percentage of VSQGs that have been inspected, but expect it is fairly low.

4. How many compliance inspections of VSQGs do you aim to complete each fiscal year?

Maine was inspecting about 20 VSQGs per year plus an additional 10-15 VSQGs in complaint inspections in previous years when fully staffed. Currently, Maine is conducting inspections of 20 percent of the LQG universe and additional inspections related to complaints.

5. Does your state get credit with EPA for your VSQG inspections (i.e., bean)?

Maine has not received credit for VSQG inspections.

6. How do you target your VSQGs for an inspection?

- Manifest reviews
- Directories/Yellow pages
- Industry specific initiatives

7. What are the common violations that are seen during a VSQG inspection?

- Hazardous waste determinations
- Container labeling
- Storage time greater than 180 days
- Open containers for SQG Plus facilities
- Improper disposal
- Not conducting container inspections

8. What enforcement actions and penalties for non-compliance has your state taken out against your VSQGs?

Maine had 20 penalty cases against VSQGs between 2005-2014, averaging about two per year.

9. What type of technical assistance or outreach is provided to your VSQGs?

- Phone calls and emails
- Small business assistance program
- Webinar available online covering VSQG regulations

10. Additional Information

- Maine has four inspectors plus a supervisor
- Maine conducts full CEIs at VSQG facilities
- Maine's small business assistance program takes phone calls from small businesses and is generally advertised via the Maine DEP website (<https://www.maine.gov/dep/assistance/index.html>)

Massachusetts

1. How many active VSQGs are in your state?

14,413 CESQGs; 8,051 facilities are registered because they generate waste oil.

2. Are any fees charged to your state's VSQGs and in what amount(s)?

Massachusetts does not charge notification or annual compliance fees but does charge transportation fees.

3. What percent of active VSQGs have you inspected?

A low percentage; uncertain of the actual number.

4. How many compliance inspections of VSQGs do you aim to complete each fiscal year?

Between the four regions and Boston, Massachusetts conducts 60-100 CESQG inspections.

5. Does your state get credit with EPA for your VSQG inspections (i.e., bean)?

Yes, Massachusetts does get credit for CESQG inspections under an alternative compliance plan. Massachusetts inspects 10 percent of LQGs and conducts 100 other inspections.

6. How do you target your VSQGs for an inspection?

- Massachusetts maintains a spreadsheet with transporter information that is used to target CESQGs
- Complaints

7. What are the common violations that are seen during a VSQG inspection?

- Operating out of status
- Open containers
- Container labeling
- Not maintaining records for self-transport
- Failure to register

8. What enforcement actions and penalties for non-compliance has your state taken out against your VSQGs?

- Massachusetts does take low- and high-level enforcement action against CESQGs; and
- Higher penalties have been taken for delivering hazardous waste to an unauthorized facility.

9. What type of technical assistance or outreach is provided to your VSQGs?

- Fact sheets
- Office of Technical Assistance

10. Additional Information

- Massachusetts has approximately 22 inspectors between 4 regions and Boston
- CESQGs are subject to many of the same requirements as SQGs and LQGs
- VSQGs are restricted to generating less than 100 kg/month, accumulating 1000 kg or less on site, no accumulation time limit.

New Hampshire

1. How many active VSQGs are in your state?

1,858 as of August 20, 2019

2. Are any fees charged to your state's VSQGs and in what amount?

- All new hazardous waste generators must submit a RCRA C Site Identification Form and pay a non-refundable fee of \$150 to obtain their EPA ID number;
- SQGs must also submit a fee of \$90 per year, payable every three years at the time of certification. The renewal fee is \$270 payable every three years; and
- A report summarizing the hazardous waste shipments is sent to generators each quarter. If facilities manifest more than 660 lbs. of hazardous waste that is not recycled, a quarterly fee is due based on the amount of waste shipped. The minimum fee is \$100.00 and increases based on the volume of waste shipped.

3. What percent of active VSQGs have you inspected?

8 percent

4. How many compliance inspections of VSQGs do you aim to complete each fiscal year?

For FY20, New Hampshire plans to inspect eight VSQGs.

5. Does your state get credit with EPA for your VSQG inspections (i.e. bean)?

Yes, New Hampshire's VSQG inspections are entered into RCRAInfo and are a full Compliance Evaluation Inspection (CEI).

6. How do you target your VSQGs for an inspection?

- Our SQG Program refers generators
- Complaints, which have resulted in targeted inspections
- Sector specific initiatives, for example dry cleaners

7. What are the common violations that are seen during a VSQG inspection?

Common issues that have been identified during the SQG Self Certification process include notification issues, incorrect generator status (for example, the facility is really a federal SQG or LQG), potential disposal issues (for example, “neutralizing” waste that is also hazardous for metals), and incomplete waste determinations.

8. What enforcement actions and penalties for non-compliance has your state taken out against your VSQGs?

- SEPs = Ownership attend HWCCP and/or third-party audits
- Suspend a portion of the penalty if they have a follow-up CEI without any Class I violations

9. What type of technical assistance or outreach is provided to your VSQGs?

- The SQG Self-Certification and Declaration of Compliance Form is sent to businesses which are located within the applicable county every three years. Training is provided in locations within those counties during the fall season before their certification forms are due, in order to help NH SQGs file their SQG self-certifications. The SQG Self-Certification Program requires each SQG to review its hazardous waste management procedures, conduct a self-inspection of its facility and certify compliance to NHDES every three years.
- New Hampshire has two groups that businesses can contact for free assistance with environmental regulations. The Small Business Technical Assistance Program and the Pollution Prevention (P2) Program. They are both non-regulatory programs that provide confidential information about regulatory requirements and practical, cost-effective technical assistance to encourage compliance with environmental regulations. They can help evaluate a facility for compliance issues and ways to economically reduce wastes and their resulting liability, health effects and impact on the environment.

New Jersey

1. How many active VSQGs are in your state?

Can this be obtained from RCRAInfo or NJEMS based on flags (VSQG & CESQG flags)? NJ can obtain it one of two ways: 1.) From NJEMS, DEP’s database where they enter inspections; and 2.) Possibly from EPA’s new reporting tool, METABASE to pull eManifest data.

2. Are any fees charged to your state’s VSQGs and in what amount?

VSQGs are charged an annual fee of \$30.00, sometimes \$40.

3. What percent of active VSQGs have you inspected?

That is not something NJ has inquired about but should be able to obtain it by comparing a query from NJEMS and comparing it against the information in METABASE.

4. How many compliance inspections of VSQGs do you aim to complete each fiscal year?

They shoot for 185 each year, but typically do more than that.

5. Does your state get credit with EPA for your VSQG inspections (i.e. bean)?

As part of NJDEP's Performance Partnership Agreement with EPA Region 2, they do receive credit for VSQG inspections. They are required to inspect 20 percent of the LQG universe annually, TSD (commercial and non-commercial) facilities annually, Federal TSDs annually, O&M/CME inspections are done every three years, and a minimum of 200 additional inspections consisting of a mixture of VSGs, transporters, and Class D recycling operations (used oil and universal waste handlers).

6. How do you target your VSQGs for an inspection?

A mixture of new or never inspected sites. In addition to VSQGs that were not inspected in the last 5 to 10 years or have had enforcement issues in the past. NJ has also used the EPA targeting platform to filter to specific NAICS codes.

7. What are the common violations that are seen during a VSQG inspection?

Used oil and universal waste violations are the most common.

8. What enforcement actions and penalties for non-compliance has your state taken out against your VSQGs?

VSQGs are treated like every other company that has non-compliance issues. NJDEP has established Grace Period Regulations that identify all of our violations as "Minor" or "Non-minor". Minor violations are primarily administrative in nature and pose little risk to human health or the environment. Minor violations have an established period of time to return to compliance and not receive a penalty, unless the violation was willful, knowing, deliberate, they did not return to compliance, or they had the same violation within the past 12 months. Non-minor violations receive a penalty, regardless of whether compliance was obtained within the established time frame and these violations have the ability to varying extents, to potentially cause harm to human health or the environment. There are published base penalties for minor violations and the majority of non-minor violations. However, for violations that do not have an established base penalty, or the base penalty does not provide enough of a deterrent, DEP uses a penalty matrix. Matrix penalties are established taking both the "Conduct" and "Seriousness" of the violation into consideration. Matrix penalty assessments can be as low \$3,000, and as high as \$50,000 per day, per occurrence. There are established regulations that prescribe how the matrix penalty assessments are calculated.

9. What type of technical assistance or outreach is provided to your VSQGs?

NJDEP does not specifically target the VSQG universe for technical assistance outreach. However, VSQGs are encouraged, along with all of the SQGs and LQGs, to attend compliance assistance workshops that DEP provides twice a year. In addition, DEP has a compliance assistance packet that is available online for all hazardous waste generators.

10. Additional Information

- New Jersey has 16 inspectors and 5 additional inspectors for transporter oversight inspections.
- VSQG site inspections are usually quicker, but also inspecting for used oil, universal waste, and medical waste at VSQG sites. Report write-up process is generally the same as with inspections of LQGs.

- New Jersey inspects all TSDFs on an annual basis; New Jersey has approximately 15 TSDFs, including commercial, non-commercial, and federal facilities; New Jersey also conducts weekly, bi-weekly, or quarterly spot visits of TSDFs.

New York

1. How many active VSQGs are in your state?

New York does not have an exact number, but estimates approximately 20,000 CESQGs

2. Are any fees charged to your state's VSQGs and in what amount(s)?

No fees

3. What percent of active VSQGs have you inspected?

No data

4. How many compliance inspections of VSQGs do you aim to complete each fiscal year?

150-200 CESQGs

5. Does your state get credit with EPA for your VSQG inspections (i.e., bean)?

Yes, get same credit as SQG

6. How do you target your VSQGs for an inspection?

- Manifest data
- Non-notifiers
- Complaints
- Generator status change from SQG to CESQG

7. What are the common violations that are seen during a VSQG inspection?

- Hazardous waste determination violations
- Universal waste violations - lamps and batteries
- Used oil violations

8. What enforcement actions and penalties for non-compliance has your state taken out against your VSQGs?

- Follow EPA's civil penalty policy
- Penalties range from \$2,000-\$30,000
- Some penalties for "big box" stores have reached \$60,000-\$70,000

9. What type of technical assistance or outreach is provided to your VSQGs?

- Remainder of day after an inspection is often spent providing technical assistance and answering question at the facility.
- New York did have an SQG hotline, but still maintains a SQG email which receives about 30 emails a month including from VSQGs.

10. Additional Information

- New York has 30 to 35 inspectors and will soon be adding 6-7 more.
- CESQG inspections are typically shorter due to fewer requirements, but New York does a full CEI; correspondence is similar to LQG inspections.

Rhode Island

1. How many active VSQGs are in your state?

508 notified CESQGs in database, but this is probably low; 2,142 SQGs.

2. Are any fees charged to your state's VSQGs and in what amount(s)?

Charges \$0.02/lb. of hazardous waste shipped.

3. What percent of active VSQGs have you inspected?

20 percent of the notified CESQGs

4. How many compliance inspections of VSQGs do you aim to complete each fiscal year?

Rhode Island inspects 20 percent of LQGs and 35 additional SQGs and CESQGs

5. Does your state get credit with EPA for your VSQG inspections?

No specific credit, but the additional 35 inspections are part of the overall compliance plan.

6. How do you target your VSQGs for an inspection?

- Industry type initiatives
- Geographic initiatives- GIS mapping of flood zones, 100-year flood plains, sea level rise areas

7. What are the common violations that are seen during a SQG inspection?

- Hazardous waste determinations
- Incorrect generator status
- Storage greater than 365 days
- Container labeling

8. What enforcement actions and penalties for non-compliance has your state taken out against your VSQGs?

- 85 percent informal enforcement
- Expedited citation with a penalty if in compliance within 30 days
- One big case that resulted in a \$35,000 penalty

9. What type of technical assistance or outreach is provided to your VSQGs?

- Online hazardous waste guidebook
- Pollution prevention group working on an environmental results program for CESQGs
- Technical assistance group

10. Additional Information

Rhode Island has 3 full-time inspectors for hazardous waste generators and 1 full-time inspector for TSDFs and transporters.

Vermont

1. How many active VSQGs are in your state?

3,123 CESQGs

2. Are any fees charged to your state's VSQGs and in what amount(s)?

\$75/year handler fee

3. What percent of active VSQGs have you inspected?

Vermont to calculate and share the number with the group.

4. How many compliance inspections of VSQGs do you aim to complete each fiscal year?

No specific number, but Vermont inspects 20 percent of LQGs and tries to inspect SQGs every 4-5 years.

5. Does your state get credit with EPA for your VSQG inspections (i.e., bean)?

Yes

6. How do you target your VSQGs for an inspection?

- Notification issues
- Complaints
- Fee issues
- Shipping out of status

7. What are the common violations that are seen during a VSQG inspection?

- Container management
- Universal waste
- Used oil
- Failure to make determinations

8. What enforcement actions and penalties for non-compliance has your state taken out against your VSQGs?

- Same enforcement procedure as for LQGs, informal at first, then formal if required
- Penalties have ranged from \$1,500-\$25,000

9. What type of technical assistance or outreach is provided to your VSQGs?

- No routine technical assistance
- Online resources
- Sector-based assistance
- VSQG Handbook

10. Additional Information

- Vermont has 3 full-time inspectors.

- Vermont has several requirements for VSQGs that are more stringent than federal requirements including:
 - Notification requirements
 - Container management standards
 - Spill response requirements
 - Hazardous waste must be delivered to a TSDF, permitted solid waste facility, certain recycling facilities, and household hazardous waste collection events

Further Discussion

Question: What are the common universal waste violations seen during inspections?

NY: open lamp boxes and battery labeling

NJ: accumulation time greater than 1 year, labeling, lamps not stored in containers

CT: lamps in trash (tanning salon example)

Follow-up information from CT DEEP after the Call

Inspection checklist:

https://www.ct.gov/deep/cwp/view.asp?a=2718&q=416912&deepNav_GID=1967. The CESGQ checklist is the third link on this page.