

Notes

NEWMOA Hazardous Waste Conference Calls July 10, 2018

Topic: State RCRA training for LQGs and SQGs

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Participants: CT DEEP (4 people); Mass DEP (7 people); NH DES (7 people); NJ DEP (1 person); NYS DEC (10 people); VT DEC (4 people); EPA HQs (3 people); NEWMOA (1 person)

Call Leader: VT DEC

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Questions and Responses:

1. Do you specify training requirements in addition to the federal RCRA requirements? If so, what are they for each generator category?

CT: No. CT DEEP's current regulations are the same as the federal training requirements for LQGs, SQGs, and CESQGs. In addition, CT DEEP agrees with EPA's interpretation that LQG Contingency Plan and SQG/LQG personnel training requirements do not apply to satellite accumulation areas (see, for example, [RO 11373](#)).

MA: Training requirements match federal requirements for LQGs. For SQGs, training is required for handlers, but there is no record keeping requirement.

ME: Federal training requirements are required for Maine's fully-regulated generators (i.e., generate > 100 kg/mo and/or accumulate > 600 kg).

NH: Federal LQGs and SQGs (NH FQGs) are required to send one person to NH's Hazardous Waste Coordinator Certification Program training. An initial Basic

Course must be taken and then a renewal class must be taken annually thereafter.
Training requirements for VSQG extended storage.

NJ: Follows federal regulations

NY: For SQGs, all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies. For LQGs, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems.

VT: Training requirements mirror pre-Generator Improvement Rule requirements. No training for VSQGs.

2. Who is subject to training?

CT: Same as the federal requirements. LQGs must comply with 40 CFR 265.16, and SQGs with the requirements of 40 CFR 262.34(d)(5)(iii). Also, Universal Waste handlers are subject to the requirements of 40 CFR 273.16 (for Small Quantity Handlers) and 40 CFR 273.36 (for Large Quantity Handlers).

MA: Anyone who handles/manages HW. Satellite operators are required to receive training.

ME: Employees who generate, handle, or manage HW or implement the facility's contingency plan.

NH: All employees need training. LQGs and SQGs need a certified Hazardous Waste Coordinator. Anyone with hazardous waste duties needs annual training. Satellite operators need initial training and then refresher training every three years. Office employees should at least be trained on the components of the contingency plan relevant to them.

NJ: All employees need training.

NY: For SQGs, all employees relevant to their responsibilities during normal facility operations and emergencies. For LQGs, all employees relevant to effective emergency response as well as HW handling job descriptions.

VT: All people with HW responsibilities required to receive training. At least one person per satellite accumulation area (SAA) is required to receive training.

3. How do you interpret: "training must be directed by a person trained in HW management procedures"?

CT: Since CT DEEP adopts the federal training requirements, this answer would only be relevant for LQGs, since this is the only place in CT's regulations where this phrase appears. DEEP interprets this phrase as meaning that the person performing the training must have an appropriate level of training to appropriately instruct on-site personnel in the subject matter for which they require training. If an in-house trainer, such as the plant manager or EH&S supervisor, does not have adequate training in a particular area, they need to either get that training from an outside provider (e.g., a commercial training firm) or hire someone that is qualified to come in and train on-site personnel in that subject matter.

- MA:** One or a few people are trained off-site and then train the rest of the employees. Potential issue with off-site training is that it is not site specific. Often cite violations for not including site specific information in training programs. On-line training may be acceptable if the material can be reviewed during an inspection. Companies may hire consultants to conduct training.
- ME:** “Certified” trainer is not required. Trainer should have experience and/or knowledge of applicable Maine HW standards to conduct on-the-job training or classroom style training on the standards to ensure employees perform duties in a manner that complies with the HW standards.
- NH:** NH trains the trainer through the HW Coordinator Certification program. They train employees at their facility, which includes site specific information.
- NJ:** Training must be catered for each facility. Consultants can train.
- NY:** No prescriptive measure used to determine who can be the trainer, but a demonstration of their background and their own training may be requested. The training plan is comprehensive and relevant to listed job descriptions, which are also inspected.
- VT:** The trainer typically goes off-site to get trained and returns to train the rest of the staff. Larger companies may have adequate in-house training programs.

4. Do you have specific criteria for a training plan (i.e., “a written description of the type and amount of both introductory and continuing training”)?

- CT:** Since CT DEEP adopts the federal training requirements, this question only applies to LQGs, since the federal training requirements only require a written plan for LQGs. Although DEEP does look for a written training plan when they do LQG inspections, they don’t have any specific criteria, other than those specified in 40 CFR 265.16(d)(3). However, DEEP interprets this section to require training hazardous waste personnel in the facility contingency plan, as relevant to their job duties. So, for example, a line worker that generates hazardous waste may require different training in the contingency plan than a member of an on-site spill cleanup crew, or the site’s emergency coordinator.
- MA:** Similar to federal requirements. Job descriptions are required and must list specific HW duties. New employees must be trained within six months.
- ME:** No specific criteria beyond the federal language.
- NH:** Follow requirements in 40 CFR 265.16.
- NJ:** Need to find out who is doing what during inspections.
- NY:** Nothing beyond that of the federal criteria.
- VT:** Written description of the type and amount of introductory and on-going training. Not specific beyond federal criteria.

5. What do you consider acceptable training?

- a. For the facility EH&S (environmental) lead?
- b. For emergency coordinator(s)?
- c. For personnel who complete manifests?
- d. For personnel who manage central accumulation areas?

e. For personnel who manage waste on the facility floor (e.g., satellite accumulation)?

CT: As noted above, DEEP recognizes that the content of the training for each of the above types of personnel might vary. However, the bottom line is that, at a minimum, each person with duties relating to hazardous waste must be adequately trained so as to properly carry out their hazardous waste duties. If an LQG wants to train all of their hazardous waste staff in every subject, DEEP does not necessarily have a problem with that. In fact, in a very small company, that might be the best way to proceed, since there may be a lot of overlapping duties, and the need for interchangeability of personnel and job duties. If the company wants to tailor the kind of training each employee gets based on their job duties, they can do that too. What DEEP often sees (and which they consider acceptable) is that LQGs will develop different modules for different elements of the training needed at their site, and they provide the training modules to individual employees as needed based on their job duties.

MA: Nothing specific.

ME: For each category [above], training must be sufficient to ensure employees perform duties in a manner that complies with the HW standards.

NH: EH&S person is usually the person who receives Hazardous Waste Coordinator certification. EC requires at least contingency plan training. Manifests - HW and DOT training - but DES does not enforce DOT training. Central Accumulation Area personnel - job specific. Satellite Accumulation Area personnel - job specific.

NJ: Must be specific to the facility and to each position.

NY: Nothing specific as long as facility is meeting minimum requirements. The training program must be designed to ensure that facility personnel are able to respond effectively to emergencies.

VT: Going off-site for training, training on federal and VT regulations, training needs to be specific to responsibilities. EC - contingency plan, evacuation routes, typically trained by environmental lead. Spot check employees on the floor against training records during an inspection.

6. Do you specify “OSHA 40-hour” training as a requirement? If not, does it “count” toward meeting the training requirement?

CT: DEEP does not specify OSHA 40-hour training as a requirement for LQGs or SQGs and would not consider such training acceptable for RCRA training purposes all by itself, since it is focused on hazardous waste field work as opposed to compliance with routine hazardous waste generation requirements. In addition, OSHA 40-hour training will typically not provide any of the important, site-specific information that CT DEEP believes must always be a part of hazardous waste training (e.g., evacuation procedures and routes, the hazards of the specific wastes generated at the facility, site-specific waste management procedures, etc.). However, if an LQG were to provide OSHA 40-hour training, there could be elements of it that would satisfy certain hazardous waste training requirements (e.g., general hazard recognition, emergency response techniques, use of personal protective gear, etc.).

- MA:** 40-hour OSHA training does not qualify, not enough detail.
- ME:** OSHA training may “count” toward required training if it covers contingency plan implementation and/or topics that ensure employees perform duties in a manner that complies with the HW standards.
- NH:** OSHA training may count for emergency coordinators if it includes site specific information and the EC has no other HW duties not covered by the training.
- NJ:** 40-hour OSHA and Right to Know training may be part of training but needs a hazardous waste component.
- NY:** Depends on the 40-hour OSHA curriculum. Would need to review the specific course outline in greater detail. In most cases, the 40-hour (and subsequent 8-hr refresher) would not be fully acceptable.
- VT:** Generally accepted for SQGs. Have not been consistent in either accepting or not accepting it for LQGs.

7. What qualifies as an adequate training record (e.g., certification, name on a list)?

CT: Again, CT DEEP adopts the federal training requirements. With respect to LQGs, 40 CFR 265.16(d)(4) specifies what training records must be kept. The federal SQG training requirement does not include any provision to maintain training records, and CT DEEP has found this to be a problem (i.e., DEEP will ask an SQG if they provide training, and they say “yes,” but cannot document that they have actually given the training). CT DEEP is planning to amend its SQG regulations to require SQGs to maintain records of training. During LQG inspections, DEEP looks for confirmation that each person with hazardous waste duties has had training relevant to their job duties involving hazardous waste. This documentation could be in the form of an in-house training log listing the employee name, the type of training provided in accordance with the site’s training plan, the training date, and the signature of each employee that was trained. It could also include training certificates from outside training providers. More and more companies also provide computer-based training and/or retain training records electronically. CT DEEP has issued a [letter](#) confirming that it finds computer-based training and maintenance of electronic training records acceptable provided that certain conditions are met. In reviewing training records, DEEP looks through and compares/cross-checks the following information: (1) the name and job title of each employee with hazardous waste duties; (2) the written job description for each such position; and (3) the written description of the type and amount of both introductory and continuing education that will be provided to each such position. DEEP then checks the personnel training records to confirm that all such training has been provided to all personnel involved in hazardous waste. In addition, during their walk-through of the facility, they will ask personnel on the floor if they have duties involving hazardous waste, and if so, confirm whether or not they have been properly trained based on their hazardous waste responsibilities. With respect to job descriptions, DEEP often finds that they are not very specific with respect to hazardous waste responsibilities. As a result, LQGs often have to modify generic HR job descriptions to include the hazardous waste duties so that DEEP can verify proper training as described above.

MA: Sign-in sheet, names on a list with the date. Try to match up list with employees on the floor. No records required for SQGs, but most have them anyway.

ME: Compilation of names, dates of training, training subject/description typically is considered adequate to document training that has been provided or conducted.

NH: Certificates, sign-in sheets/logs, exams

NJ: Flexible. Not required for SQGs. Can use quizzes/tests, review syllabus.

NY: Certificates, sign-in sheets, (paper or electronic with dates) must match the job position description and name of all employees. No requirements for SQGs

VT: Certificates, sign-in sheets, paper or electronic records. No record keeping requirement for SQGs.

8. Do you require annual review training within each calendar year (e.g., 1/1/17, 12/31/18), or something different?

CT: DEEP answered this question in a [February, 1995 letter to Pratt & Whitney](#), and in a [follow-up letter to Pratt & Whitney in September of 1995](#). In these letters, DEEP indicated that its interpretation of “annual” means at least once every 12 months. However, at the same time DEEP recognizes that there are certain times when discretion is appropriate if more than 12 months goes by. For example, if a large company has an on-line training program, and requires each employee to complete the on-line training within a 30-day window each year, DEEP would not take action against them if some employees complied with the 30-day window but went over 365 days without training on one or more occasions. However, if a company’s training program is poorly managed, or has a consistent problem with providing “annual” training (i.e., yearly, or once every 365 days) on a regular basis, then DEEP would cite this as a violation. Also, with respect to the content of annual “refresher” training, DEEP does not necessarily require that the training consist solely of a recap of the initial training. If the LQG site wishes to perform training on new regulatory requirements or focus more closely on a particular part of the original training, and if such training is appropriate to the duties of the staff being trained, DEEP would find it acceptable. In addition, DEEP provides training through its periodic [Hazardous Waste Advisory Committee meetings](#), and provides training certificates to participants, which they can use (at least in part) to satisfy their hazardous waste training requirements. One last point with respect to the design and content of the on-site Contingency Plan (required in CT for LQGs only), and the required training in the Contingency Plan. DEEP increasingly finds that LQGs are contracting out emergency response capabilities to outside spill response companies. That is, they will have such a company under contract to respond in the event of a spill or other emergency. DEEP requires such spill responders to have a [permit from DEEP](#). In such cases, DEEP often gets asked how this kind of arrangement should be presented in the LQG’s Contingency Plan and personnel training plan. In other words, these LQGs often ask if it is acceptable to write their Contingency Plan to indicate that the outside contractor will be called in the event of an emergency, and if they need to provide emergency response training to their employees in light of the fact that this function is contracted out. In response, DEEP has indicated that it is acceptable to contract out emergency response capabilities,

although someone on-site has to function as the emergency coordinator until the time that the contractor arrives. At a minimum, this should entail facilitating evacuation from the affected areas of the site, contacting local fire/police, etc. In addition, DEEP has indicated that the personnel training provided can reflect this reduction in responsibility for emergency response. However, all personnel still need to have an appropriate, if minimal, level of training relevant to their job duties (e.g., training in emergency evacuation routes and procedures, summoning the emergency response contractor, calling local police and fire, etc.).

MA: 365 days- not in rules, no written policy.

ME: An annual review within each calendar year is considered adequate.

NH: 365 days with inspector discretion.

NJ: 365 days with flexibility.

NY: Training event must fall within each calendar year.

VT: Once per calendar year.

9. Bonus: Discussion on Job Descriptions

CT: Over time, LQGs generally have come to meet the requirements for having written job descriptions. Sometimes they don't get updated when people start or leave or if there is a change in responsibilities. Newer LQGs (like pharmacies) have had issues with this requirement.

MA: Job descriptions required, must include HW related duties.

NH: Often cite violations for not including HW specific information in job descriptions. Sometimes it is necessary for a supplemental job description because a company's HR department may not want to change their descriptions.

NJ:

NY: Solely used during LQG inspections to verify training is relevant and comprehensive with regard to job descriptions.

VT: Larger LQGs generally meet the job description requirements, but smaller companies have trouble.

Additional Points

CT: Has an online RCRA training program for use by businesses. It does not cover site specific information, so can't be the sole training material.

CT: How does contracting out spill response affect training? Contingency plan needs to include the information. Training needs to cover the duties required by employees until the contractor takes control of the situation.

MA: Requires LQGs to have a contract in place for spill response.

CT: Has a spill response statute that requires a licensed contractor to be hired if an incident occurs (or State will hire and charge the business at increased price), but this does not require a contract to be in place before the incident occurred.

- NH:** UW handlers and used oil generators are not required to have a certified Hazardous Waste Coordinator unless they are also a federal LQG or SQG (NH FQG).
- NY:** Summary of the training requirements are provided on the NYDEC website with appropriate hyperlinks to the state regulation citations. Also, the vagueness of the SQG requirements poses a challenge for inspections where multiple violations are discovered. Some inspectors interpret that the generator has not fully familiarized their employees and will cite this as an additional violation. Some inspectors will not cite this violation unless they specifically ask the facility about HW familiarization actions. They will choose to cite or not based on the given response and further questioning.
- EPA:** No federal position/policy on whether the annual training review should be by calendar year or every 365 days. There is no training requirement for satellite operators, but EPA encourages it - see pg. 85797 of November 28, 2016 *Federal Register* and RCRA Online SAA FAQ memo from 2004.