

NEWMOA Hazardous Waste Conference Call July 8, 2014

Topic: Top Five Most Frequent Violations that RCRA Inspectors Find

Disclaimer

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Participants: CT DEEP (6 people); ME DEP (1 people); Mass DEP (9 people); NH DES (3 people); NJ DEP (2 person); NYS DEC (14 people); VT DEC (3 people); EPA Region 1 (3 people); EPA Region 2 (2 person); NEWMOA (1 person)

Call leader: Massachusetts

A representative of each state summarized the top most frequent RCRA violations that their inspectors have observed.

Mass DEP

1. Outdated emergency postings – no appropriate phone number, incorrect person listed
2. Not labeling containers
3. Open containers – no lids (tied with number 4 in terms of frequency)
4. Failing to register as a generator of waste oil (may be particular to State's waste oil requirements)
5. Lines demarcating hazardous waste (HW) accumulation area - not marked with proper lined
6. Failure to conduct proper waste determinations
7. Manifest issues (i.e., wrong identification, failure to determine as HW)
8. Weekly inspections
9. Training

In summary, the most frequent problems appear to be related to lines, labels, and lids.

To reduce the frequency of these violations, DEP has conducted outreach as part of the notices of non-compliance (NONs) that are issued. They have posted publications, such as fact sheets, on the Agency's website, and prepared a handbook for small quantity generators (SQGs) that is available online. They are using pictures to illustrate the problems. They undertake enforcement for high level repeat violations.

CT DEEP

DEEP conducted a study in 2008 examining the frequency of RCRA violations. They used information available from RCRAInfo in the analysis. They found that the results were impacted by how they categorized and dissected the violations. They examined the results of RCRA inspections and association violations from October 2007 – October 2008. The Agency issued 63 Notices of Violation (NOVs) in that period of time involving 323 violations. Most of the violations that inspectors observed resulted in NOVs. They categorized the violations and put together a spreadsheet and sorted by type and created a top ten list as follows:

1. Improper inspections (46 of the 323 were violations at SQGs or LQGs that failed to conduct proper inspections and maintain correct logs).
2. Inadequate personal training (36 violations)
3. Inadequate emergency preparedness (35 violations)
4. Improper container management (30 violations)
5. Incorrect making and dating (30 violations)
6. Improper HW determinations (28 violations)
7. Improper management of used oil (23 violations)
8. Universal waste (22 violations)
9. Closure / financial assurance (13 violations)
10. Transporter (9 violations)

Prior to the conference call, CT DEEP shared the following link to a presentation that summarizes the results of their analysis of RCRA violations -

http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/hwac/hwactop10_mostcommon_rcraviolationsnov608.pdf

To address the areas of non-compliance and reduce the violations, DEEP has overhauled their website, posted a HW determination form, developed and posted a “soup to nuts” basic primer on RCRA, conducts free compliance audits, offers advice in the field, offers free training, and supports a HW Advisory Committee. They hold RCRA compliance training for large quantity generators (LQGs) and SQGs a few times per year in the afternoon. They presented the top ten violations presentation at a HW Advisory Committee meeting.

ME DEP

1. Failure to properly do HW determination
2. Failure to label as HW or label without an accumulation start date
3. Open containers

4. Failure to store on a proper surface to prevent the material from leaving the area
5. Failure to conduct weekly inspections of containers

They issue NOVs and follow-up with penalty actions for repeat or significance violations.

They have a number of education and outreach efforts underway, including seminars, web-based information, and handout handbooks that summarize the regulations during inspections or upon request. They collaborate with the outreach and education group in the Commissioner's Office to get information out to the regulated community. They have examined past NOVs and compiled the results for the past five years, but they did not do an exact count for each one.

NH DES

They examined 2011, 2012, and 2013 violations that are included in a State-run database. They focused on class 1 violations that are higher level and result in a penalty. This covered 90-100 inspections. The top five violations were:

1. HW determinations (21 violations cited)
2. Disposal or shipment to facility no authorized to accept HW (17 violations cited)
3. Manifest record-keeping – copy of manifest signed by the Treatment, Storage, and Disposal Facility (TSDF) generator failed to receive back (8 violations cited)
4. Manifest errors (6 violations) – failed to identify facility shipping to – no emergency contact information
5. Universal waste (UW) (5 violations) – there were 38 total UW violations (5 were class 1 violations and 33 were lower level)
6. Storage area (5 violations) – did not do inspections at all or more than one inspection missed

Three other categories has lots of violations that were not class 1: used oil, satellite storage, and training.

In one on case the Agency issued a \$300K penalty for improper disposal that was handled by the Attorney General's (AG) Office. The Agency issued lower penalties for other violations in the range of \$3K to 10K. HW determination violations tend to be in the \$10K – 20K range.

They have a HW coordinator training program. LQG representatives come in for annual training, which includes modules on inspections and enforcement and cover what inspectors are looking for. In the past few years the classes have focused more on issues with HW determination. The P2 program also does confidential audits and provides technical assistance.

Conditionally Exempt Small Quantity Generators (CESQGs) have a self-certification program. They require CESQGs to self-certify.

NYS DEC

They were able to do some limited data mining to address the topic of the call. They focused on violations related to their university laboratory rule.

1. HW determinations

2. Labeling
3. Dating
4. Open containers
5. Satellite accumulation
6. Emergency posting and signage

They conduct outreach during inspections. They post publications on compliance. They will conduct outreach and hold meetings when they finalize revisions to their HW rules. They will share copies of inspection forms and checklists.

In New York City they have the largest number of regulated facilities in NY State. The most common LQG violations are:

1. Failures to make arrangements with local authorities and emergency contractors
2. Deficient training records – provide training on labeling and manifests; lack training on responding to fire, explosions, and spills
3. Areas over sole source aquifers – inadequate closure plans if generating liquid HW
4. Failure to notify NYS DEC if they are intending the recycling HW
5. Used oil regulations – facilities almost universally manage used oil and must meet local fire and building codes (local codes trump state codes); need approval from the building department and fire department permit - common violation

For SQGs and Conditionally Exempt Generators (CEGs):

1. Posting information at local fire extinguishers and fire alarms – don't have phones and posted information is out of date or inadequate
2. Failure to make a HW determination
3. Improper transportation to disposal
4. Improper management of fluorescent lamps – not marked properly, not stored properly, broken lamps in UW boxes and boxes not marked or closed; boxes that new lamps are delivered in are not adequate to meet UW requirements

In NY City they are conducting outreach to address companies and government agencies that have HW violations. They are devising protocols and processes to address HW issues system-wide. They hope to expand this effort throughout the city as staff expands. They have a grant from EPA after Superstorm Sand to identify P2 opportunities at facilities and work on minimizing releases now and during natural disasters. They are working with communities and environmental groups. The South Bronx area of the City was hard hit by the storm. They are inspecting 60 facilities and identifying P2 opportunities and working with the community and environmental groups to develop protocols to minimize releases. They expect to finish phase 1 within a month and move to the next phased later in the fall.

NJ DEP

Their assessment of the top violations is based on their experience and not on hard calculations.

1. Incorrect date on labels
2. Aisle space
3. Failure to do HW determination or do an inadequate determination

4. Open containers
5. Inadequate training or no training

They have posted extensive information on their website. They have held at least two outreach seminars per year. They conduct compliance assistance visits with new generators, and upon request.

VT DEC

They examined RCRAInfo data for 2007-present and found:

1. Failure to do HW determination
2. Used oil container labeling
3. Used oil rags – failure to comply with exemptions
4. HW containers marked and labeled for CEGs
5. Open used oil containers

They are also finding issues with inventories and inspections of storage areas. The regulations state that generators have to inventory storage areas.

To ensure compliance they inspectors discuss them during inspections. They issue NOVs with citations. If there is no response or it is inadequate will raise to formal enforcement. The Agency's Environmental Assistance group conducts outreach to HW generators. They have posted sector specific information on their website, along with fact sheets. They have a CEG handbook available. They have conducted training modules.

EPA Region 2

Have found similar violations to what states have presented. When they find a violation, they issue a verbal warning. If the facility has repeated violations or releases to the environment, they write a NOV. If they find an open container violation, they require the facility to send a picture of the new container with a proper lid. They expect the facility to correct verbal violations in the presence of the inspector.

The top five serious violations at LQGs include:

1. Open containers
2. Failure to inspect
3. Contingency plans – failure to update

At SQGs they find:

1. Do not post emergency information on coordinator
2. Can't find Manifest return copy
3. Used oil
4. UW labeling issue
5. Broken fluorescent bulbs

Question from Jim O'Leary, EPA HQs

Prior to the call, Jim O’Leary from EPA HQs asked for information on whether any states have conducted an analysis of the environmental implications of RCRA violations. The group discussed this question. They CT DEEP responded that they quantified the amount of hazardous waste association with violations as part of their reporting to EPA Region 1 under the Performance Partnership Agreement.