

Notes

NEWMOA Hazardous Waste Virtual Meeting

March 9, 2021

Topic: Roundtable on States and EPA Experience with Offsite Compliance Monitoring Inspections – How are They Working in Addition to Onsite In-person Inspections?

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 (11 people); ME DEP (2 people); Mass DEP (15 people); NH DES (7 people); NJ DEP (15 people); NYSDEC (17 people); RI DEM (5 people); VT DEC (5 person); EPA Region HQ (3 people); EPA Region 1 (4 people); EPA Region 2 (76 people); EPA misc. (4 people) NEWMOA (1 person)

Call leader: Giles Steele-Perkins, MassDEP

Notes preparer: Mark Dennen, RI DEM

Each state was asked to address the following questions:

- How are programs conducting their compliance and enforcement activities now?
- What have been the challenges?
- What have been the positives?
- Have there been any surprises?

Massachusetts

Did a PowerPoint presentation on virtual inspection (see attached slides):

- MassDEP began doing inspections in June 2020 COVID exposure questionnaire was required. MassDEP four regions and HQs conducted combination of onsite and remote.
- 86 remote inspections were conducted from June 2020 to end of February 2021, 76 were at LQG, SQG, TSDFs, and VSQG. Also conducted 36 onsite inspections.
- Called a week ahead to set up remote inspections. Obtained photos of accumulation areas, container labels, inspection records, contingency plan, training plan, etc.

- Made traditional inspection reports and accompanying letters.
- The Central Regional Office issued five notices of noncompliance; two notices and a major enforcement action with penalty are pending.

Issues:

- Multiple requests for adequate photos
- Delays in information
- Limited grasp of facility layout and processes
- Some potential issues of confidentiality of information and photographs and how to handle it. DEP conducts large multi-media inspections. File sizes too big to share documents through email. Have been using Cloud-based solutions but need to maintain confidentiality. Trying to figure out at what point do certain documents become part of the public record. Some facilities are sensitive about the personnel information in their Contingency Plans. Have worked around this by referring the contingency plan as part of the facility's security plan, including the information on how to contact facility personnel. Getting legal advice on what point does DEP take possession of the documents. No formal response yet. Staff are using creative methods to address. For example, they will use Zoom or Teams and ask the facilities to show the documents and then they do not have to submit them. If the material is confidential, they do not take pictures of them.

Positives:

- Facility cooperation.
- Enforcement actions issued.

New Jersey

- Set up to work remotely before last March, so it was a little smoother.
- Priority inspections focus on TSDFs and recycling facilities. Aug. – Sept. started focusing on LQGs.
- Since end of September, they have been completing all normally assigned inspections onsite. Do paperwork in advance. Gather documents in advance.
- Sometimes have multiple emails back and forth regarding paperwork that is needed and to locate the right person.
- In-person inspections are given advanced notice.
- Opening conferences are done up front, facility personnel limited to minimum. Everyone wears a mask, observes social distancing, and sanitizes hands frequently.
- DEP office workers are remote; managers are working in the office.
- Using Teams to support internal meetings of staff and managers, meeting regularly. Also use to meet with regulated community. Staff are adapting to the new technology.
- Challenges in making sure facility personnel are available.
- Mostly cooperative.
- Staff is remotely working, meet on teams on regular basis.
- Became able to dump large amount of data into servers, which limits the security issues to the servers.
- Some inspectors are using Microsoft One Drive drop box. They have to go through the IT staff first to create a drop box on One Drive.

- Weekly inspections of TSDs – negotiated how to submit paperwork. DEP provides a link to drop the documents; has worked well.
- LQGs inspections or other inspections – harder; have to wait to get approval. Working on improving that process.
- Volume of paperwork is a challenge.

New York

- Issues very similar to NJ and MA. Not done strictly remote inspections. Give facilities notice that inspectors are coming.
- Challenges with technology hard to communicate outside of agency.
- Delayed inspections because of COVID at the site.
- Some sites closed for many months so follow up was difficult, which has delayed the inspections. Also, had an issue with response to pre-COVID issues due to shutdown with COVID.
- Compliance rates track at about same percentage as in the past. Not affecting enforcement.
- Focused on LQGs for the past few months. No surprises.

Challenges:

- Technology – DEC staff trying to connect with EPA using Teams – DEC does not have full build out so difficult.
- Inspections take longer; harder to schedule.

Positives:

- Keep inspections safe. Limit time onsite. Can conduct assessments.

Rhode Island

- SharePoint data dump works well for permits and other large documents.
- Did inspections on Teams for TSDF and transfer stations announced day before.
- Activities at facilities are greatly reduced.
- Ask facility personnel to show videos in walk through and DEM staff take notes.
- DEM also asks them to take still photographs.
- Generators still doing onsite inspections with modified SOPs.
- Issued 38 informal enforcement actions, still have difficulty issuing formal actions for other reasons.
- In 2020, inspected 19 LQGs, 33 SQGs, and 1 TSDF.
- In November 2020 transitioned away from onsite inspection, still on hold. Considering remote inspections.
- Find it difficult to get necessary information from companies before starting to use SharePoint for file sharing.
- In person difficulties with personal protective equipment (PPE), 6 foot distance and still getting information.
- Advance notice to inspection and notice often labels dated the day before inspections.
- May return to SQG inspections.

Connecticut

- Same as everyone else.
- Not going onsite. Safety office has not approved going onsite yet.
- In April, developed a questionnaire, which was finalized over the summer.
- Did drive by complaint inspections.
- In April, inspector developed questionnaire based on checklist finalized in summer. Like a self-audit.
- Called ahead of time to arrange inspection and have them do questionnaire. Mailed about 15 questionnaires to LQG and TSDFs ahead of time. Some rescheduling due to covid onsite.
- 1 formal enforcement action issued, mostly in compliance.
- Entered as NRR instead of CEI, required caveat in state review process so they could get credit.
- Nobody reads instruction sheet to questionnaire, lots of back and forth as answers did not have enough detail. Lot of back and forth to determine compliance.
- Large volumes of documents, if separate photos and documents could email.
- Got easier as went along. Took a month to complete one questionnaire. Most companies are in compliance, inspectors talked to some about making small changes.
- Occasionally doing Zoom.
- Sent a SOP for entering buildings to the safety office, waiting for a response.
- In 2020, did 25 LQGs, 2 TSDs – 40 inspections overall. Their staffing is down one inspector in 2021.

New Hampshire

- Same as others.
- Doing hybrid in-person inspections to minimize face to face time.
- Allow two weeks between inspections for inspectors. Use masks, social distancing, and other safety measures.
- Contact them day before by phone for pre-inspection and give them questionnaire includes things usually done at pre-inspection conference. Review COVID procedures. Done six inspections.
- Before inspection DES requests the facility's COVID procedures and they talk about them.
- Only one facility had to postpone the inspection because they had COVID cases the week before.
- Facilities submit documentation on drop box.
- Inspections have taken 2-3 hours.
- Challenges going back and forth on emails about what they are looking for.
- Much more challenging to do inspections this way.
- 1 facility had issues of confidentiality with submitting documents on drop box.
- They created a safe network drive for saving information. They have a recently approved OCM.

Challenges:

- Getting the requested documentation.
- Especially true for newer facilities or those that have not been inspected in recent past.

- Getting letters of deficiency out and 30-day report back. Companies are requesting extensions. Everything takes longer. Facilities write-ups on their compliance plans take longer.
- Enforcement is more sympathetic and is slowed down.
- Did have one facility concerned about confidential business information – did not want to provide information in the drop box. Inspectors set up a Teams meeting to share screens and have them show the documents. Took longer for DES to get what it needs. Facility felt more secure.
- Facilities not able to ask compliance questions and get advice as in the past; a lot of that kind of interaction is not happening.
- Doing exit debriefs using Teams or WebEx – what ever works.

Positives:

- Minimal COVID exposure.

Surprises:

- Still working remotely one year later.
- When get back to normal, will probably do a hybrid of remote and in-office work.

Vermont

- Inspection process hasn't changed much.
- Suspended inspections in March and resumed in June with protocols.
- One inspector per inspection; one inspector per vehicle. Use masks and observe social distancing. Modified inspections.
- All inspections are announced, no specific time frame.
- Documents submitted remotely or picked up during the inspection. Minimizing face-to-face contact.
- Since June, did 35 inspections, 16 have found violations, no formal enforcement yet.
- Focusing on LQGs and TSDFs to meet their federal commitments. Try to visit SQGs every five years.
- For CESQGs, trying to identify facilities that are operating out of compliance. Develop list quarterly and target for inspections.
- Some sites allow waiver to their COVID testing requirements.
- Advantage is that facility is ready for inspection so have information they need.
- Positive feedback from generators.
- Fewer NOV letters but for major compliance issues, are still finding them.

Challenges:

- Scheduling inspections.
- Getting waivers from some facilities to allow inspectors onsite.

Positives:

- No one has gotten sick; felt safe onsite.
- Facilities are respectful and adhering to the safety protocols.
- Inspections are more efficient because the facilities are prepared ahead of time. Don't have to wait around until they find the right personnel. Get in and out and work quickly.
- Received positive feedback from facilities.

- Able to keep up and meet LQG and TSDF commitments to EPA.

Surprises:

- Fewer NOV's than normal. Still finding plenty of violations. Container violations.
- Facility personnel go through and correct some simple violations ahead of time.

Maine

- Focusing on LQG and TSDFs.
- Lots of same experience as others.
- Record in RCRAInfo as Non-financial Record Reviews (NRRs) per EPA
- Conducting them as self-audit certifications.
- Supply them with checklist and have certification page.
- Initiate contact with phone call.
- Some facilities submit information by paper or on disk. If too much, select time frame to limit volume of paperwork required.

Challenges:

- Size of documents; done a variety of things, including submissions on paper. Also, allow submission on discs.
- For some facilities, they allow them to provide documentation for a limited date range (not the entire year) to reduce file sizes.

Positives:

- Lot of cooperation.
- No push back from LQGs and TSDFs.

Surprises:

- Forthrightness of companies.
- Self-disclosing problems/violations. Not holding back.

EPA Region 2

- Not been in the field since March.
- Focused on non-notifiers – sent out letters to facilities that have manifest activity but no ID numbers.
- Some sites say they are VSQGs when their manifest information indicates that they are shipping SQG or LQG quantities. Beginning to get feedback on the letters.
- Using un-scrubbed e-manifest database.
- Purpose is to bring people back into compliance.
- No onsite inspections since pandemic, don't know when will do it again.

General Discussion

Technology and document sharing is an issue – some people are fine, but others have significant issues.