

Notes

NEWMOA Hazardous Waste Virtual Meeting July 27, 2021

Topic: States & EPA Regions Target Facilities for Inspections Roundtable

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Participants: CT DEEP (4 people); Mass DEP (8 people); NH DES (2 people); NJ DEP (7 people); NYSDEC (29 people); RI DEM (2 people); VT DEC (2 person); Puerto Rico (2); EPA (13 people); NEWMOA (3 people)

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The meeting focused on each state discussing strategies employed to target facilities for inspections.

Connecticut DEEP

DEEP has been in COVID "mode" for about a year. DEEP began the year with three inspectors; one inspector has since retired. The Department is currently training a new inspector. Inspections are being conducted through an off-site questionnaire as recorded in EPA's RCRAInfo as NRRs. Since March 2021, inspectors have been able to conduct in-building inspections and have since been given the okay to conduct on-site inspections following the facility's COVID-19 protocols. There have been limited off-site inspections. DEEP is currently aiming to inspect junkyards, marinas, autobody shops, dry cleaners, photoshops, metal working operations, hospitals, sites with explosives, and some mining operations. The Department is looking to explore the Biennial Reporting System (BRS) for LQGs and to take advantage of EPA's ten percent flex options. The Department struggled to meet flex requirements last year but got most of the LQG inspections done. DEEP is pulling data from RCRAInfo and selecting LQGs that have not been inspected in

five or ten years. They select candidates from that list. They look at the last compliance and enforcement inspection for the listed companies. DEEP is also inspecting TSDFs and targeting two out of their eight TSDFs to inspect: three are commercial and five are non-commercial. The Department is undertaking a manifest initiative to review sites that are sending large amounts of hazardous waste offsite. Most of the facilities are SQGs and LQGs, but some are non-notifiers. The Department is expecting a few enforcement cases among the non-notifiers. DEEP is reviewing their 2022 commitments and are likely to use the ten percent flex option again. They are considering targeting manifested sites or using a mix of sites, including transporters and corrective action sites. They have a universe of 1,500 SQGs. Under the flex plan, they can conduct two SQG inspections for one LQG inspection. There is some work being done to improve DEEP's training process. DEEP also responds to complaints and provides compliance assistance. The Department has separated pharmacies from traditional LQGs in its plans for inspections. DEEP is working on hiring new staff to replace the staff that retired in 2021. DEEP separates the LQG pharmacies (mostly CVS) from the other traditional LQGs because of their shifting status and their enforcement case against CVS.

Massachusetts DEP

MassDEP has experienced some turnover but has been able to hire one or two inspectors. Approximately one-third to one-half of inspections are being conducted off-site. DEP is using an alternative flex inspection approach as referred to in the Alternative RCRA Compliance Monitoring Strategy (ACSM). The Department utilizes a multimedia approach to all of its inspections. They have a focus on new LQGs, which are inspected once within the first five years of operation and are on an eight-year cycle afterwards. DEP is inspecting a minimum number of LQGs. For example, 39 LQGs are due for inspection this year to meet the ten percent flex requirement. The Department identifies facilities due for inspection in the following year and pulls them forward. These inspections are referred to as LQG extras. Under the flex plan, they inspect about 100 facilities, a blend of SQGs and LQGs. They want to cast a wide net and find smaller facilities that have problem activities. 40 of the 100 sites are SQGs and some VSQGs. They do look for air quality issues as well as HW. They track the 100 sites in RCRAInfo and ISIS Air to meet the EPA grant agreement for RCRA and air. There are ten TSDFs in MA, and DEP inspects all of these TSDFs every year. Each Regional office of the State gets a certain number of facilities to inspect each year. The Central Region is responsible for 27 right now. The Boston Office develops a spreadsheet covering all of the potential sources, which covers those regulated under the Toxics Use Reduction Act (TURA) and subject to air quality requirements. They examine transporter data (i.e., manifests) and groundwater and surface water discharges. They tend to pick sites with HW, waste oil, and air issues. If they go to a site that turns out to be closed, they pick another one from the list. They also respond to complaints. They try to pick sources that could be interesting to inspectors or one that DEP has not visited for a long time. There are many selected sites than they can visit in a year. They are targeting sectors, including auto body, auto repair, dry cleaners, and printers, in some regions. DEP's ACMS also lists 100 facilities. The Department uses the ACMS to target smaller facilities, which can be the source of more problematic activities. DEP has a strong focus on any air quality issues and tracks the 100 ACMS facilities under RCRA and the State's air program. They give EPA a list of the targeted sites in October, and if the list changes, they inform EPA. Word gets out in the regulated community when they visit a lot of facilities in a year. DEP also checks social media sites, like Facebook, and newspapers for information on sites. Staff also

drive around to preview sites and to identify new sites. They keep a running list of facilities that they find from driving around. They look for sites that are shipping out of status.

DEP sets aside the universe of LQG pharmacies from the traditional LQGs. Mass has 271 pharmacies that were registered as LQGs. They visit the pharmacies on a different schedule from the traditional sites. They visit a certain number of the pharmacies per year.

New Hampshire DES

DES has fine-tuned its targeting system and feels it has a good handle on the traditional LQG universe. The Agency increased its flex rule from 10 percent to 15 percent over the last 2 years and are hoping to do a 15 percent flex again in FY2022. DES has conducted onsite inspections since July 2020, and recently received approval to review onsite records. The Department is looking to recruit and hire new inspectors, as they are currently understaffed. DES is prioritizing inspections of new LQGs or LQGs that have never been inspected. DES assigns a priority date based on the previous inspection date. So far this year, they have inspected 11 LQGs; it is taking them longer to conduct each inspection because of COVID limits. The Agency normally has five HW inspectors, but now there are only two full-time inspectors. They are recruiting new staff. They prioritize new LQGs or never inspected LQGs. After that they inspect LQGs not inspected in the last five years. Some sites have not been inspected for nine years. They also target sites where there is no current HW coordinator. Every LQG and SQG is required to take a DES training course on proper hazardous waste management and RCRA compliance. The Department targets sites that were former LQGs and received non-compliance notices to ensure they are in current compliance. NH also participates in EPA's retail flexibility plan and selected five percent LQG pharmacies, primarily CVS in the past. CVS facilities have more recently re-notified to be SQGs or VSQGs. DES dropped out of retail pharmacy flex plan two years ago. Prior to that, they did two SQG inspections for one LQG. A few years ago, they did a straight trade-off between one SQG inspection for a LQG inspection. They are also targeting dry cleaners, hospitals, printers, labs, and retail pharmacies.

New Jersey DEP

New Jersey DEP coordinates with EPA Region 2 to target inspections. They use the EPA Region 2 targeting platform for this purpose. They use RCRAInfo and e-manifest data to identify targets. They review complaints, incidents, or referrals, and follow-up on referrals from EPA Region 2 or HQs. They frequently inspect TSDs, both noncommercial and commercial sites. Commercial TSDFs – depending on their size – are inspected weekly, biweekly, or quarterly. DEP conducts maintenance inspections at five to six foreclosure sites. The schedule for LQGs is every two to three years. SQGs are inspected about every three to four years. VSQGs are inspected every five or so years. Their agreement with EPA remains at inspecting 20 percent of the LQG universe plan every five years. There is no flex plan for them. Many pharmacies have dropped out as LQGs due to EPA's Pharmaceutical Rule. There were 600 at one time; and most have changed their status. Walgreens never notified as LQGs. Most of the CVS facilities have now notified as VSQGs. NJ has adopted EPA's Pharmaceutical Rule by reference. DEP is ramping up inspections of hospitals and health care facilities – added a lot of the hospitals they have not visited in three or four years. DEP is also looking at targeting Rage Rooms, which is an emerging business in which people pay to break televisions and electronics. They are

investigating what happens to the wastes that are generated. They are focusing on improving data quality in the next few quarters.

New York State DEC

DEC heavily relies on manifest data to understand generators' status. E-smart, a NY-state only online tool mainly used for assessing fees that get levied on generators, helps DEC to identify the most recently inspected facilities. It includes all of the manifest data, and DEC could manipulate the information to help with targeting. DEC staff can pull a list of all inspections conducted since RCRA was implemented from the data system and use the information to narrow down the facilities to inspect based on certain criteria, including least recently inspected sites. They sort by all past inspections, last inspected date, and how often facilities have filed an annual report. DEC is working with EPA to pull in e-manifest data directly to the e-smart tool. They also use other tools, including RCRAInfo.

NY has a large number of sites to inspect and figures out a manageable number of facilities to visit and chooses 20 percent of the shortened list to meet RCRA requirements for LQGs. They take 15,000 sites and whittle them down to a relatively small number of facilities based on various criteria. They sort by past inspections and last inspected date. They also look to see how often the facility filed its annual report. They sort out the small generators to get to the LQG universe, which is still a large number of sites. They strip out the sites that are in the remediation program and sort on keywords, like highways/bridges (to remove temporary sites). They pair down the list to a manageable number and pick 20 percent of that as a goal. They create a LQG and SQG list and run them by EPA Region 2. They consider who has not been inspected in the last nine years, and those are given priority. After creating the targeted LQG list, they fill in the gaps with SQGs. They also look at new notifiers. They also review the TSDF's permit and follow the frequency of inspections outlined in the permit. DEC conducts 35-40 inspections off the top of the list. They are starting to see a consistent approach to targeting year-to-year. DEC is learning to use EPA Region 2's targeting platform. Right now, they use the tool to avoid conflicts with EPA inspection targets.

The Department is still deciding on how to handle rage rooms. Rage rooms allow people to have a space to let out anger and break various items, including electronics and other objects that may be hazardous.

Rhode Island DEM

DEM develops a compliance strategy every year. DEM has used the RCRA flex program for the last four years at a five percent flex of pharmacy LQGs and are continuing this rate next year. They have not yet finished working on the Pharmaceutical Waste Rule. DEM is proceeding with a 20 percent traditional LQG universe, averaging a three to four- year inspection cycle. The Department has employed many strategies over the last 20 years to target SQGs and VSQGs, including targeting autobody shops, auto salvage yards, electroplating, and dry cleaners (using an environmental results program approach), but has also recently shifted to looking at environmental receptors and well-headed protection areas. They procure a list of SQGs from RCRAInfo. They use geographic information systems (GIS) models to target facilities. They also do drive-by surveys. They try to maintain an accurate list of SQGs in the State and eliminate facilities that have closed, moved, or changed their name. In the previous two-year cycle, DEM

has prioritized inspecting SQGs located in 100-year flood plains or anticipated seven-foot flood stages based on sea-level rise. They have been struggling with their staff levels this past year and have been challenged to meet their targets. They are doing data reviews electronically using SharePoint, but this can be time consuming with all of the back-and-forth, which eats up a lot of time.

Vermont DEC

DEC currently has three inspectors. They are down one inspector. They are recruiting for an inspector position. DEC typically conducts 75 inspections per year and has renegotiated the number of inspections because they are short staffed. DEC is currently not participating in flex plans but are exploring flex for TSD inspections. DEC is inspecting seven to eight LQGs (20 percent of universe) and between 35-40 SQGs per year. DEC conducts a quarterly review of HW shipments to look at facilities that are generating out of status. If a site claims to be a VSQG but is shipping 700 – 800 pounds of HW every quarter, DEC adds them to their list of inspections. Facilities may grow and be unaware that their generator status has changed. The remaining facilities selected for inspections are VSQGs using Generator Out of Status (GOOS) data. As part of this information, DEC reviews quarterly tax data to see what level of business activity is underway. The Department is targeting facilities that may be generating more than allowed, and DEC is basing this assumption on shipment status. The remaining facilities that are targeted are generated from public complaints, follow-up inspections with previously inspected facilities, or noncompliant facilities, which DEC wants to inspect to ensure compliance. They sometimes target sectors. They may focus on medical facilities in the future. DEC has stopped inspections of pharmacies as the Department expects these facilities to renotify under the Pharmaceutical Rule once the Rule is implemented. They are working on picking up the Pharmaceutical Rule later this year.