HAZARDOUS WASTE INSPECTOR HANDBOOK

September, 2017

Acronyms

APA -	**Administrative Process Act**
BR -	**Biennial Report**
CEDS -	**Comprehensive Environmental Data System**
CEI -	**Compliance Evaluation Inspection**
CESQG -	**Conditionally exempt small quantity generator**
CFR –	**Code of Federal Regulations**
CMS -	**Compliance Monitoring Strategy**
CO -	**Central Office (DEQ)**
COV -	**Code of Virginia**
DEQ -	**Department of Environmental Quality**
DEQnet -	**DEQ Intranet website**
DSW -	**Definition of Solid Waste**
ECM –	**Enterprise Content Management**
EPA -	**Environmental Protection Agency**
FCI -	**Focused Compliance Inspection**
FF -	**Federal Facilities**
FOIA -	**Freedom of Information Act**
HSM -	**Hazardous Secondary Material**
HSWA -	**Hazardous and Solid Waste Amendments of 1984**
HW -	**Hazardous Waste**
HWCC -	**Hazardous Waste Compliance Coordinator (CO)**
LDF -	**Land Disposal Facility**
LPM -	**Land Protection Manager (DEQ Regional Offices)**
LQG -	**Large Quantity Generator**
LQH -	**Large Quantity Handler (UW)**
NOV -	**Notice of (Alleged) Violation**
OFRWP -	**Office of Financial Responsibility and Waste Programs (DEQ)**
OSHA -	**Occupational Safety & Health Administration**
PPG -	**Performance Partnership Grant**
RCRA -	**Resource Conservation and Recovery Act**
RCRAInfo -	**RCRA Information data system**
RO -	**Regional Office**
RP -	**Responsible Party**
SDR -	**Site Detail Report**
SNC -	**Significant Non-Complier**
SQG -	**Small Quantity Generator**
SQH -	**Small Quantity Handler**
SRF -	**State Review Framework**
SV -	**Secondary Violator**
SW -	**Solid Waste**
TSD(F) -	**Treatment, Storage and/or Disposal (Facility)**
UO -	**Used Oil**
USC -	**United States Code**
UW -	**Universal Waste**
VAC -	**Virginia Administrative Code**

VDQ - **Virginia Department of Environmental Quality**
VHWMR - **Virginia Hazardous Waste Management Regulations**
WL - **Warning Letter**

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CHAPTER 1 - INTRODUCTION

Note: This Hazardous Waste Inspector Handbook should be considered a companion document to existing Virginia and Federal regulations and guidance.

A. General

The mission of the Virginia Department of Environmental Quality (DEQ; Department) is to protect and enhance Virginia's environment, and to promote the health and well-being of the citizens of the Commonwealth. As part of this mission, through delegated authority from the United States Environmental Protection Agency (EPA) pursuant to the Resource Conservation and Recovery Act (RCRA) of 1976, Section 3006 (42 U.S.C. 6926), the DEQ administers the RCRA hazardous waste compliance monitoring and enforcement programs.

RCRA is the primary statute governing the regulation of solid and hazardous waste at the federal level - the hazardous waste requirements are found in Subtitle C of RCRA. The RCRA Subtitle C requirements applicable to Virginia have been adopted and incorporated into the Virginia Hazardous Waste Management Regulations (VHWMR). The VHWMR must: be equivalent to the federal RCRA Subtitle C program; be consistent with, and no less stringent than, the federal program and other authorized state programs; and provide adequate enforcement of compliance with Subtitle C requirements.

The RCRA compliance monitoring program is designed to attain and maintain a high level of compliance throughout the regulated community with statutory requirements, and applicable RCRA regulations, permits, orders, and settlement agreements. This is achieved through a comprehensive monitoring and inspection program, and addressing the most serious violators with timely, effective and appropriate enforcement action.

Implementation of RCRA compliance monitoring activities is a collaborative effort between EPA Regions and authorized states. States determine facility compliance, and have primary responsibility for ensuring adequate inspection coverage of the regulated universe for its general deterrent effect. In general, the relationship between EPA and DEQ is a Performance Partnership. Where a facility is subject to joint federal/state authority, inspections may be conducted by both federal EPA and DEQ inspectors, jointly or separately. Additionally, EPA will have certain sectors of the regulated community that they are interested in during any given year. As a result, EPA may conduct additional inspections within the state to support these sector initiatives each year.

The RCRA Subtitle C program encompasses compliance monitoring for a variety of hazardous waste operations, including:

- Treatment, Storage, and Disposal Facilities;
- Generators -- Large Quantity Generators (LQGs), Small Quantity Generators (SQGs), and Conditionally-Exempt Small Quantity Generators (CESQGs);
- Transporters; and
- Other RCRA Handlers.

DEQ continually strives to ensure that administration of the hazardous waste program incorporates the Department's values of commitment, collaboration, consistency, customer service, communication, certainty, and closure, in every aspect. This Hazardous Waste Inspector Handbook has been developed to ensure that hazardous waste inspectors are properly prepared to execute their duties and to most efficiently act as public servants of the Commonwealth of Virginia.

This inspector's handbook assumes that a hazardous waste inspector has a basic understanding of the RCRA program, the Virginia Hazardous Waste Management Regulations, the definitions of solid waste and hazardous waste, exemptions & exclusions from these definitions, basic generator requirements for each level of generator, and which types of facilities need permits. Some of these concepts will be described within this handbook. However, a new hazardous waste inspector must complete the requisite training listed in Chapter 3, Minimum Training Standards for Inspectors, **prior to undertaking any hazardous waste inspections**. Inspectors must also be familiar with the operations and practices of the facility to be inspected.

B. Purpose of the Handbook

The purpose of this Inspector Handbook is to establish inspection procedures for DEQ Hazardous Waste Inspectors, and to also:

- Provide a detailed overview of the elements of Compliance Evaluation Inspections (CEI);
- Describe the scope of inspector authorities and responsibilities;
- Provide detailed standard procedures for conducting RCRA inspections;
- Provide general inspection information that is comprehensive in scope and complements more detailed guidance on inspecting particular types of hazardous waste facilities;
- To provide a basis for general training of new hazardous waste inspection personnel; and
- To make essential regulatory information readily accessible to inspectors.

A *key objective* of all RCRA Subtitle C compliance monitoring should be to determine whether facilities:

- Have identified all of their regulated waste streams;
- Have properly characterized each hazardous waste stream; and
- Are properly managing each hazardous waste stream.

All hazardous waste inspections consist of the following elements, which will be described in detail in the chapters of this handbook:

1. Setting Up the Inspection
2. Pre-Inspection File Review
3. Gearing Up for the Inspection
4. On-site Activities
5. Inspection Report Write-Up
6. Inspection Follow-Up

CHAPTER 2 – INSPECTION WORKLOAD DEVELOPMENT

A. General

Virginia is authorized by EPA to administer the RCRA Subtitle C Compliance Program on behalf of EPA in Virginia. In order to fulfill the requirements of this authorization, DEQ must comply with EPA's inspection strategies. These strategies are found in EPA's Compliance Monitoring Strategy (CMS) [2015] document:
https://www.epa.gov/sites/production/files/2013-11/documents/rcracms.pdf.

The CMS is intended:

- To promote understanding of, and compliance with, minimum program requirements;
- To clarify the respective roles and responsibilities of EPA Regions and states;
- To promote National consistency in program implementation while allowing appropriate flexibility to improve health and environmental outcomes; and
- To begin to shift the perspective of the national program from solely counting outputs (e.g., inspections) to encompass identifying environmental outcomes (e.g., increasing the degree to which hazardous waste is properly handled as a result of inspections).

Inspections will be conducted at the frequency specified in the CMS. Each DEQ HW inspector and Regional Land Protection Manager is encouraged to review and become familiar with the CMS document.

B. Grant Commitments

As explained fully in the sections hereafter, EPA requires a certain inspection frequency for different types of facilities. EPA's Office of Enforcement and Compliance Assurance (OECA) through the CMS and *the National Program Manager's Guidance (NPMG)* contain expectations for TSDFs and other types of facilities. In summary:

- The RCRA statute mandates minimum inspection frequencies for TSDFs: annually for government-owned or operated TSDFs, and biennially for non-government TSDFs. OECA has established corresponding commitments.
- TSDFs that are no longer operating but still have compliance requirements must be inspected every three years.
- OECA has set annual inspection expectations for LQGs: at least 20 percent of the universe must be inspected each year. However, states may elect to inspect SQG, CESQG, Transporters, Non-Notifiers, and/or Other RCRA Handler facilities, in lieu of inspecting 20 percent of their LQG universe, under OECA's policy for State Alternative Plans (or "State Flexibility Plans").

Prior to the beginning of each fiscal year, DEQ will establish, with the assistance of EPA Region 3, DEQ's HW compliance goals for the upcoming fiscal year. Based on those goals, and based on the universe of regulated facilities in Virginia, a proposed DEQ HW Compliance Work Plan will be prepared to submit to EPA for approval. This Work Plan takes into account the required frequency of inspections noted above, and any inspection initiatives agreed to by the state and EPA, as well as the notifier universe for Virginia.

This Work Plan includes total numbers of specific types of facilities that must be inspected that fiscal year in each category, such as LQG, SQG, TSD, LDF, etc.

C. Initiatives

According to the CMS, in addition to inspecting facilities at the required frequencies specified earlier, EPA Regions and States should also focus compliance monitoring efforts on facilities that pose the greatest risk to human health or the environment. As a result, annual Initiatives are established by EPA and DEQ in order to target certain types of facilities perceived to pose a high risk. These initiatives might include:

- OECA National Priorities;
- Never-inspected LQGs;
- Non-notifiers believed to generate hazardous waste in quantities that would require notification;
- Persons that generate, treat, store, or dispose of significant quantities of hazardous waste, particularly those in proximity to population centers, areas with environmental justice concerns, or environmentally sensitive areas;
- Repeat violators;
- Facilities with complex operations or processes that increase the likelihood of missing waste streams or making improper exemption determinations;
- Facilities that are the subject of citizen complaints.

EPA will inform DEQ of any national initiatives during the Work Plan negotiations for the upcoming year. DEQ will evaluate which initiatives would work best in Virginia, and propose to incorporate them into the Work Plan. Past initiatives have included the retail sector, hospitals, and plating shops.

D. Assignment of Inspection Numbers to Regions

Once EPA approves the proposed DEQ HW Compliance Work Plan, the Hazardous Waste Compliance Coordinator (HWCC) will break down the overall state inspection commitment numbers into DEQ regional commitment numbers. In these regional commitments, specific TSDs, LDFs, Federal Facilities (FF), and LQGs for each region will be specified by name based on which facilities are due to be inspected in any given year. The numbers of these types of inspections are not negotiable since they are based on the time since the previous inspection, and the number requiring inspection in each region in any given year will vary.

SQGs and CESQGs will have a total target amount for each region to complete. This number is determined based on the total number of HW inspectors in each region [BRRO (2), NRO (1), PRO (1), SWRO (1), TRO (1.5), VRO (1)], and the number of TSD, LDF, FF and LQG facility inspections required in that region based on the CMS frequency requirements. There is no set formula for this numerical breakdown for the regions. However, an informal calculation is made where each TSD, LDF, FF and LQG count as one point, each SQG/CESQG counts as ½. The relative experience of the inspectors in each region is also taken into account, as is whether or not a region is performing an initiative.

Each regional DEQ office is responsible to meet the inspection commitment for that region; however, results will be reported as state-wide total inspections in each category to EPA at the end of each fiscal year. The inspection period for each fiscal year is October 1 through September 30 of the following year.

E. Changes to Grant Commitments During the Year

Because DEQ proposes an exact number of LQGs to be inspected based on those that are due that fiscal year, the number of LQGs is set for that year. Those LQGs to be inspected are provided by name to the DEQ regional offices by Central Office – those are the facilities that are required to be inspected that fiscal year. Any deviation from the listed LQG facilities specified at the beginning of the year must be approved by the Regional LPM with the concurrence of CO. If for some reason a listed LQG inspection cannot be performed, a replacement facility may be selected from the list of those due for inspection by the next fiscal year, or from the list of facilities that have newly notified or newly become LQGs, or from those facilities determined during PReP or other investigations to be possible LQGs.

It is possible for DEQ Regional Offices to "trade" inspections, or for the inspectors from one region to perform inspections on behalf of another region should the need arise. These types of activities can be pursued if needed, but only with advance notice and concurrence of the regional LPM managers and CO program staff.

F. Inspection Referrals From Other Programs or Agencies

Additional inspections beyond the regional grant numbers in any generator category may always be completed by DEQ HW inspectors based on activities taking place in any region. Despite the breakdown of regional numbers, DEQ staff members work as a team. Extra inspections in one region might help another region that loses an inspector or cannot accomplish its inspections for some other reason.

These additional inspections or site investigations might be referred to an inspector in the form of a referral from DEQ's Pollution Response and Preparedness (PReP) program as a complaint or indication that a company may not be in full compliance. Referrals also may come from EPA or its complaint programs, other DEQ media programs, and other agencies, such as state OSHA or local fire marshals and storm water programs. Extra inspections are encouraged since DEQ reports accomplishments to EPA as total numbers in each category.

Because the quantity of these types of inspections in any given year cannot be determined in advance, this number cannot be included in the fiscal year Compliance Work Plan that is pre-negotiated. However, if these inspections turn out to be SQG or CESQG facilities, they can count toward the region's SQG/CESQG total number for the year if an actual hazardous waste compliance evaluation inspection is performed during the investigation or thereafter. If a referred inspection is an LQG, it can only count toward the grant commitment as an extra LQG which is helpful if any region cannot complete its LQG requirement, or it can replace an LQG on the list if it is determined after Work Plan negotiation that the LQG on the list cannot be inspected or does not need an inspection.

G. Other Evaluation Types

DEQ inspectors can sometimes be called upon to perform other types of hazardous waste evaluations not included in the Compliance Work Plan, but that are necessary to further the mission of the DEQ.

These evaluations could include: reviewing submissions of data on behalf of enforcement staff in order to return a facility to compliance; inspecting a facility that has voluntarily self-disclosed violations; performing a focused inspection at the request of the facility to help to determine the regulatory status of a new waste stream; and many other possible scenarios. While these activities don't "count", they should be logged into RCRAInfo and reported to EPA at the end of the year.

CHAPTER 3 – MINIMUM TRAINING STANDARDS FOR INSPECTORS

A. General

DEQ Hazardous Waste Inspectors are skilled professionals who represent DEQ and the Commonwealth of Virginia when dealing with industry and the public. As a result, inspection personnel are expected to perform their duties in a professional and responsible manner, incorporating DEQ's Seven Values (the Seven Cs) where applicable: Commitment, Collaboration, Consistency, Customer Service, Communication, Certainty and Closure found at http://www.deq.virginia.gov/aboutus/mission.aspx.

Each DEQ HW Inspector is required to have a certain baseline of RCRA knowledge prior to conducting any inspections. The following table of Inspector training requirements identifies courses, self-study reading material, and online training each inspector should complete prior to completing specific hazardous waste inspector training. If new inspectors have already successfully completed this training, they do not have to repeat the same training. Refresher training classes are listed in the table as well for experienced new inspectors, as well as DEQ inspectors who have already completed the basic training. Inspectors should also review major new regulations (including preambles) as they are promulgated, be familiar with new and existing guidance on inspecting, and be aware of new and existing technical guidance that could provide information on other types of facilities and practices.

Please note, in addition to the required training materials, new inspectors must accompany more senior inspectors on at least two inspections prior to leading an inspection. A new inspector Training Checklist can be found at the end of this Chapter to assist in tracking each required training element that is completed.

B. Inspector Training Requirements

BASIC TRAINING FOR ALL INSPECTORS
Pre-Requisite Training Requirements
Pre-requisite training requirements - https://www.epa.gov/compliance/national-enforcement-training-institute-neti-elearning-center Health and Safety Training (OSHA 24 Hour) - https://covlc.virginia.gov/Default.aspx and Environmental Statutes Review Course - https://www.epa.gov/compliance/national-enforcement-training-institute-neti-elearning-center
Mandatory and Recommended Training and Self-Study/Review Requirements
Mandatory Training • RCRA Training – includes Fundamentals for RCRA Inspectors Training, Hazardous Waste Determinations Course, Process-Based Inspections Course, and RCR110W – RCRA Subparts AA, BB, & CC - https://www.epa.gov/compliance/national-enforcement-training-institute-neti-elearning-center

Mandatory Self-Study/Review

Guidance/Reference Materials

- RCRA Inspection Manual (1998) – https://www.fdlp.gov/.../1890-revised-rcra-inspection-manual/file
- Virginia Hazardous Waste Management Regulations - http://law.lis.virginia.gov/admincode/title9/agency20/chapter60/
- Virginia Waste Management Act - http://law.lis.virginia.gov/vacode/title10.1/chapter14/
- RCRA On-Line - https://yosemite.epa.gov/osw/rcra.nsf/how+to+use?openform. Inspector must be competent in using online system.
- DEQ Civil Enforcement Manual - http://www.deq.virginia.gov/Programs/Enforcement/Laws,Regulations,Guidance.aspx
- Waste Information and Trade Secret Protection http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\440\GDoc_DEQ_5322_v1.pdf
- Must review a minimum of two completed inspection reports for each type of RCRA inspection. The regional LPM can require more than two inspection reports for each type of RCRA inspection.
- HW Inspection Checklists - http://deqnet/documents/index.asp?path=/docs/waste/Hazardous_Waste_Compliance/HW_Checklists

Optional Training

- Sampling for Hazardous Materials Course - https://trainex.org/offeringslist.cfm?courseid=20 (as available & funding allows)
- Chemistry for Environmental Professionals – Fundamentals - https://trainex.org/offeringslist.cfm?courseid=16 (as available & funding allows)
- Chemistry for Environmental Professionals – Applied - https://trainex.org/offeringslist.cfm?courseid=66 (as available & funding allows)

Recommended Self-Study/Review

- RCRA Orientation Manual (2014) – https://www.epa.gov/sites/production/files/2015-07/documents/rom.pdf
- Managing Your Hazardous Waste: A Guide for Small Businesses – https://www.epa.gov/sites/production/files/2014-12/documents/k01005.pdf
- HW Compliance Assistance Documents on the DEQ HW Page - http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/SolidHazardousWasteRegulatoryPrograms/HazardousWaste.aspx (right hand side under "Featured Topics"

Mandatory Refresher Training:

- Program specific refresher training as identified by supervisor.
- New Regulations & Policies: As new RCRA regulations and policies are issued, inspectors are expected to obtain the additional training necessary to ensure that they are sufficiently qualified to lead inspections. This will typically be arranged/scheduled by the CO HW Compliance Coordinator.
- OSHA 8- Hour Update (annual) - https://covlc.virginia.gov/Default.aspx
- Annual DEQ Hazardous Waste Inspector Workshop
- EPA Region III Inspector Workshop (as offered, typically held every 18 months to two years)

Additional requirements apply depending on what type of inspection will be conducted: Level 1 or Level 2.

TRAINING FOR RCRA - LEVEL 1 INSPECTORS - Inspectors who conduct inspections at Conditionally Exempt Small Quantity Generators, Small Quantity Generators, Large Quantity Generators (with simple processes and/or no VOC air emissions concerns), Transporters, and Used Oil Collection and or Storage Facilities must complete the following training requirements in addition to the requirements listed above for ALL RCRA Inspectors.

Mandatory and Recommended Training and Self-Study/Review Requirements:

Mandatory Training

- RCRAInfo - https://rcrainfo.epa.gov/ (contact RCRAInfo database administrator for log on credentials and training.)
- RCRA Info LearningZen – Online Training – access once you are logged in to RCRAInfo.
- Hazardous Waste Tracking Works Sheets – contact the HW Compliance Coordinator in CO.

Mandatory Self-Study/Review

Statutes/Regulations

- The Resource Conservation and Recovery Act (RCRA), http://www4.law.cornell.edu/uscode/42/ch82schI.html

RCRA Hazardous Waste, Universal Waste, Used Oil Regulations

- Hazardous Waste Management System: General; Identification and Listing of Hazardous Waste; Standards Applicable to Generators of Hazardous Waste (40 CFR Parts 260, 261and 262)
- Standards Applicable to Transporters of Hazardous Waste (40 CFR Part 263)
- Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities (40 CFR Part 266)

- Land Disposal Restrictions (40 CFR Part 268)
- Standards for Universal Waste Management (40 CFR Part 273)
- Standards for the Management of Used Oil (40 CFR Part 279)

Guidance/Reference Materials

- RCRA Training Modules: Definition of Solid Waste and Hazardous Waste Recycling; Generators; Hazardous Waste Identification; Solid Waste Programs; Used Oil; Land Disposal Restrictions; State Programs; Exclusions; Transporters; and Universal Waste - https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-training-modules

Recommended Training

- No additional training beyond that for pre-requisite and basic.

Recommended Self-Study/Review

- Hazardous Waste Compendium - http://deqnet/documents/index.asp?path=/docs/waste/Hazardous_Waste_Compliance/HW_Compendium. Become familiar with FAQ type questions/answers for RCRA regulation application and compliance implementation and assistance.
- Protocol for Conducting Environmental Compliance Audits of Hazardous Waste Generators under the Resource Conservation and Recovery Act - http://www2.epa.gov/compliance/guidance-protocol-conducting-environmental-compliance-audits-hazardous-waste-generators
- Protocol for Conducting Environmental Compliance Audits of Storage Tanks under the Resource Conservation and Recovery Act - http://www2.epa.gov/compliance/guidance-protocol-conducting-environmental-compliance-audits-storage-tanks-under-resource
- Protocol for Conducting Environmental Compliance Audits of Used Oil and Universal Waste Generators under the Resource Conservation and Recovery Act - http://nepis.epa.gov/Exe/ZyPDF.cgi/500001UN.PDF?Dockey=500001UN.PDF

Mandatory On-the-Job Training (OJT):

All RCRA Level 1 inspectors are required to participate in OJT by accompanying a Waste Inspector Senior/Senior II and/or CO Hazardous Waste Compliance Coordinator lead on at least two complete RCRA inspections. Each new RCRA inspector also will be required to lead at least two complete RCRA inspections while being observed by an experienced and fully qualified RCRA inspector. Note: This includes inspection preparation procedures with a senior inspector. The actual number of inspections required before the inspector is approved to lead inspections will be determined by the inspector's supervisor.

TRAINING FOR RCRA LEVEL 2 INSPECTORS - Inspectors who conduct inspections at complex LQGs and Hazardous Waste Treatment, Storage, and Disposal Facilities (TSDs) must complete the following training requirements in addition to the requirements listed above for ALL RCRA Inspectors and the requirements listed above for Level 1 inspectors

Mandatory and Recommended Training and Self-Study/Review Requirements:
Mandatory Training • No additional beyond Pre-Requisite, Basic and Level One.
Mandatory Self-Study/Review *Statutes/Regulations* • Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (40 CFR Part 264) • Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (40 CFR Part 265) *Guidance/Reference Materials* • RCRA Training Modules: Air Emission Standards; Containers; Land Disposal Units; RCRA Corrective Action; Treatment, Storage, and Disposal Facility Criteria; Tanks; Closure/Post-Closure; Containment Buildings; Drip Pads; Groundwater Monitoring; Miscellaneous and Other Units, Hazardous Waste Incinerators, Permits and Interim Status - https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-training-modules
Recommended Training • Criminal Enforcement for Civil Enforcement Inspectors - https://www.epa.gov/compliance/national-enforcement-training-institute-neti-elearning-center (under "Skills Refresher Training") • Compliance Assistance Policy - https://www.epa.gov/compliance/national-enforcement-training-institute-neti-elearning-center (under "Skills Refresher Training")
Recommended Self-Study/Review • Compliance Monitoring Strategy for the Resource Conservation and Recovery Act - https://www.epa.gov/compliance/compliance-monitoring-strategy-resource-conservation-and-recovery-act • Protocol for Conducting Environmental Compliance Audits of Treatment, Storage and Disposal Facilities under the Resource Conservation and Recovery Act - http://www2.epa.gov/compliance/guidance-protocol-conducting-environmental-compliance-audits-treatment-storage-and • A Guidance Manual: Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Wastes - https://www.epa.gov/hwgenerators/guidance-manual-

waste-analysis-facilities-generate-treat-store-and-dispose-hazardous • Introduction to Land Disposal Restrictions - https://www.epa.gov/sites/production/files/2015-09/documents/ldr05.pdf
Mandatory On-the-Job (OTJ):
• Prior to leading inspections at TSDs, RCRA Level 2 inspectors are required to complete all OJT training associated with Level 1 inspections and participate in additional OJT by accompanying a Waste Inspector Senior/Senior II and/or CO Hazardous Waste Compliance Coordinator lead on at least two complete RCRA inspections at TSD facilities. Additionally, new Level 2 RCRA inspectors are required to lead at least two complete RCRA inspections at TSD facilities while being observed by an experienced and fully qualified RCRA Level 2 inspector. Note: This includes inspection preparation procedures with a senior inspector. The actual number of inspections required before the inspector is approved to lead inspections will be determined by the inspector's supervisor.

Additionally, EPA has outlined training requirements for inspectors as follows:

EPA Executive Order – Training Requirements for inspectors: https://trainex.org/pdf/3500-1_2014.pdf
EPA Training Requirements for HW Inspectors - https://trainex.org/pdf/3500_1%20rcra.pdf
EPA Online training - https://www.epa.gov/compliance/national-enforcement-training-institute-neti-elearning-center - aka NETI Online – state personnel need to register for an account to access the training – see instructions on the webpage.
Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA:
https://www.epa.gov/sites/production/files/2013-09/documents/statetribalcredentials.pdf

C. Database/Drive Access

DEQ HW inspectors must obtain access to the DEQ RCRAinfo (rcrainfo$) drive on their work computers. This can be done by submitting the appropriate access request form to DEQ Office of Information Systems (OIS). A copy of the form can be found in Appendix 4 of this Handbook. Once the RCRA drive is accessed, the inspector's LPM or the Central Office Hazardous Waste Compliance Coordinator can provide information to the inspector on how to use the tracking spreadsheets and other information stored on this drive.

DEQ HW inspectors must also obtain access to the EPA RCRAInfo site, EPA's RCRA website and database. More information is provided regarding RCRAInfo in Chapter 11. RCRAInfo houses guidance documents, training courses, and data for companies that generate, treat, store or dispose of hazardous waste.

Initial Login Access to RCRAInfo can be obtained from the Manager of Waste Planning, Data & Reporting in the Office of Financial Responsibility & Waste Programs in Central Office.

D. Additional Inspector Considerations

Inspectors are skilled field professionals who represent DEQ from a regulatory standpoint when dealing with industry and the public. As a result, inspection personnel are expected to perform their duties in a professional and responsible manner. Inspectors are required to:

- Develop and report the facts of an investigation completely, accurately, and objectively;
- Conduct themselves at all times in accordance with Commonwealth of Virginia Employee Handbook as well as relevant DEQ policies and procedures;
- Avoid, in the course of an investigation, any act or failure to act which could be considered motivated by reason of personal or private gain; and
- Continually improve their professional knowledge and technical skill in conducting hazardous waste inspections.

The DEQ Code of Ethics can be found at:
http://deqnet/docs/admin/admin_hr/First%20Day%20NEO%20Material/Code%20of%20Ethics.pdf

A conflict of interest may exist whenever an inspector has a personal or private interest in a matter which is related to his or her official duties and responsibilities. It is important to avoid even the appearance of a conflict of interest to avoid damaging the integrity of DEQ or DEQ employees. All employees must therefore be constantly aware of situations which are, or give the appearance of being, conflicts of interest when dealing with others inside or outside of the government.

Also, it is important that cooperation be obtained from, and good working relations established with, EPA, other DEQ staff, the public, and the regulated community. This can be accomplished by using tact, diplomacy and persuasion. Even a hostile person should be treated with courtesy and respect. Personnel should not offer opinions concerning any person, regulatory agency, manufacturer or industrial product. All information acquired in the course of duty is for official use only.

Gifts, meals and gratuities should not be accepted from any group that has a contractual or financial relationship with DEQ, has an interest that may be substantially affected by an employee's official actions, or that conducts operations regulated by DEQ/EPA. Money in varying amounts may be offered by persons whose activities are being investigated. Inspectors should ask "What is this for?" if offered something of value. The inspector should then explain politely, if the offer is repeated, that both parties to such transactions may be guilty of violating state and federal laws. The inspector should decline money or goods of any kind, and then report immediately any such incident in detail to his or her supervisor.

E. TRAINING CHECKLIST FOR NEW INSPECTORS

(To assist in tracking Mandatory Training prior to conducting inspections)
If courses were taken during former employment, please indicate so and provide approximate date.

RCRA LEVEL 1 INSPECTOR

Course Name	**Date Taken/Reviewed**
Basic Inspector Course	_____
OSHA 24- or 40-Hour Health & Safety	_____
Environmental Statutes Review Course	_____
Fundamentals for RCRA Inspectors	_____
Hazardous Waste Determinations	_____
RCRA Inspection Manual (1998)	_____
RCRA On-Line	_____
DEQ Civil Enforcement Manual	_____
Waste Information & Trade Secret Protection	_____
Two LQG Inspection Reports	_____
Two SQG Inspection Reports	_____
Two CESQG Inspection Reports	_____
Hazardous Waste Inspection Checklists	_____
RCRAInfo Training	_____
RCRAInfo LearningZen – Online Training on RCRAInfo	_____
Hazardous Waste Tracking Worksheets	_____
The Resource Conservation and Recovery Act (RCRA)	_____
RCRA Parts 260, 261, 262 (Applicability, Identification, and Gen. Rqmts.)	_____
RCRA Part 263 (Transporters)	_____
RCRA Part 266 (Specific HW at Specific Facilities)	_____
RCRA Part 268 (Land Disposal Restrictions)	_____
RCRA Part 273 (Universal Waste Management)	_____
RCRA Part 279 (Used Oil Management)	_____
RCRA Training Modules	_____

All RCRA Level 1 inspectors are required to participate in OJT by accompanying a Waste Inspector Senior/Senior II and/or CO Hazardous Waste Compliance Coordinator lead on at least two complete RCRA inspections. Each new RCRA inspector also will be required to lead at least two complete RCRA inspections while being observed by an experienced and fully qualified RCRA inspector. Note: This includes inspection preparation procedures with a senior inspector. The actual number of inspections required before the inspector is approved to lead inspections will be determined by the inspector's supervisor.

Level 1 Accompanied Inspection #1	_____
Level 1 Accompanied Inspection #2	_____
Level 1 Lead Accompanied Inspection #1	_____
Level 1 Lead Accompanied Inspection #2	_____

RCRA Level 2 Inspector

All of the RCRA Level 1 Training Requirements	_____

RCRA Part 264 Standards for Owners & Operators of HW TSD Facilities _____
RCRA Part 265 Interim Status Standards _____
RCRA Training Modules _____
Process-Based Inspections _____
RCR110W – RCRA Subparts AA, BB & CC _____
Two TSD Inspection Reports _____
Two LDF Inspection Reports _____

Prior to leading inspections at TSDs, RCRA Level 2 inspectors are required to complete all OJT training associated with Level 1 inspections and participate in additional OJT by accompanying a Waste Inspector Senior/Senior II and/or CO Hazardous Waste Compliance Coordinator lead on at least two complete RCRA inspections at TSD facilities. Additionally, new Level 2 RCRA inspectors are required to lead at least two complete RCRA inspections at TSD facilities while being observed by an experienced and fully qualified RCRA Level 2 inspector. Note: This includes inspection preparation procedures with a senior inspector. The actual number of inspections required before the inspector is approved to lead inspections will be determined by the inspector's supervisor.

Level 2 Accompanied Inspection #1 _____
Level 2 Accompanied Inspection #2 _____
Level 2 Lead Accompanied Inspection #1 _____
Level 2 Lead Accompanied Inspection #2 _____

CHAPTER 4: EVALUATION TYPES

Prior to evaluating a facility, a HW inspector must determine the type of evaluation which needs to be performed at that facility. The type of evaluation that is typically included in the Compliance Work Plan is a Compliance Evaluation Inspection (CEI). A CEI is generally what is meant when we discuss HW compliance inspections. However, there are many other different types of evaluations that can be performed. Some of the evaluations require an on-site visit; other types of evaluations can be performed in the inspector's office. Not all evaluations can count toward the fiscal year grant commitment. A CEI is always able to be counted against the grant commitment. A Groundwater Monitoring Evaluation (GME) performed by a trained geologist or Corrective Action staff can count as an LDF inspection. Other types of evaluations, such as CAVs, can only be counted if they were included in the Fiscal Year Work plan negotiated with EPA. A Follow-Up Inspection (FUI) is not typically a full CEI inspection and would not count against the grant if performed in the same year as the initial CEI. If an FUI is conducted in a different year than the original CEI, it should be conducted as a full CEI in order to count. If an FUI is conducted where only portions of the facility are inspected based on alleged violations noted during a previous inspection, the FUI is a type of Focused Compliance Inspection (FCI), which would not count against the grant commitment. It should be noted however, that all inspections are reported to EPA as a DEQ accomplishments for a given fiscal year, and are necessary elements of a good hazardous waste compliance program whether or not they can be counted against grant commitment required inspections. The Fiscal Year Work plan primarily requires DEQ to perform CEI inspections. In order for an inspection to be counted as a CEI, all RCRA aspects of the facility must be inspected including (but not limited to) hazardous waste, used oil, universal waste, transporter activities, etc.

Following completion of the evaluation, EPA requires all evaluations of hazardous waste generator facilities to be entered into the national database known as RCRAInfo. The type of evaluation conducted by DEQ inspectors must be identified on each RCRAInfo form for submission to the Office of Waste Planning, Data & Reporting and subsequent entry into the RCRAInfo database. Following are the different types of evaluations:

A. Comprehensive Monitoring Evaluation (CME) Types:

CODE	DESCRIPTION
CAC	**Corrective Action Compliance** – An evaluation of a site's compliance with the corrective action requirements of a permit, Agency agreement (e.g., EPA facility lead agreement), or an order. When a CAC is conducted as part of another inspection type (CEI, GME, etc.), a separate entry for a CAC should be done for the CAC component.
CAV	**Compliance Assistance Visit** – The compliance assistance activity is conducted to assist the site in achieving compliance. A CAV evaluation does not include evaluation events that would otherwise qualify as another type of evaluation such as a CEI or OAM evaluation, or conducted under a confidentiality agreement via a small business assistance or local government assistance program (amnesty program). However, this CAV activity code would include technical site-specific

	compliance assistance not considered "interpretive technical assistance." CAVs are conducted without the threat of enforcement (unless high priority violations are observed). CAVs cannot be linked to violations or enforcement actions. Issues of concern should be noted in the RCRAInfo Notes field. A CAV does not count toward the grant commitment unless it is followed by a CEI. EPA compliance assistance tools and resources can be found at: https://www.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance
CDI	**Case Development Inspection** – A CDI is an on-site inspection conducted for the sole purpose of gathering additional information that supports the evidence (i.e., samples, on-site record review, interview, etc.) for a potential or pending enforcement case. A CDI is performed only after an initial evaluation of another type (e.g., CEI) has resulted in the observation of potential violations.
CEI	**Compliance Evaluation Inspection** – A CEI evaluation is the primary on-site evaluation of the compliance status of the site with regard to all applicable RCRA regulations and permits (with the exception of groundwater monitoring and financial assurance requirements) and is considered the standard for achieving a grant commitment. Although portions of a CEI evaluation may routinely be conducted in an agency office setting, such evaluations are considered an integral part of a CEI in terms of completing an evaluation. The overall evaluation of a site's compliance status may take place over multiple days necessitating multiple site visits and activities. The entire set of activities and associated effort is considered one CEI. The major function of a CEI is an overall review of the site's performance. The inspection includes an on-site examination of records and other documents maintained by the site and an evaluation of the site's compliance with all applicable requirements and adequate sampling, when necessary. Where appropriate, it can include groundwater monitoring assessment outlines or plans, closure & post-closure plans, contingency plan reviews, waste analysis plan reviews, and preparedness and prevention plan reviews. Specifically excluded from the CEI type of evaluation are financial assurance requirements and inspections of groundwater monitoring systems. A review of financial assurance requirements is most often conducted by DEQ experts in the Office of Financial Responsibility & Waste Programs, and appropriately coded as a Financial Record Review (FRR) evaluation. Inspections of groundwater monitoring systems are coded as either a GME or OAM and conducted typically by Office of Remediation Programs staff.
CSE	**Compliance Schedule Evaluation** – An evaluation conducted to verify compliance with an enforceable compliance schedule associated with a formal enforcement action. When a CSE is conducted as part of another inspection type (CEI, GME, etc.), a separate CSE entry should be made in RCRAInfo for the CSE component.
FCI	**Focused Compliance Inspection** – An FCI is an on-site inspection that addresses specific portions or subparts of RCRA or the VHWMR. Some examples of an FCI are a Subpart CC inspection, BIF inspection, Universal Waste inspection, closure verification inspection, training inspection, etc. Nationally defined Focus Areas must be used with this evaluation type to further define the specific scope of the FCI. An FCI typically will not count toward the grant commitment unless it has been

	negotiated with EPA during the work plan negotiations. An example would be an FCI of a TSD component of a Federal Facility without also inspecting the facility's generator activities. Definition and types of focus areas, and when an FCI may be used for grant commitments are discussed later in this chapter.
FRR	**Financial Record Review** – An extensive, detailed review of a site's compliance with financial assurance responsibility requirements. FRRs are conducted by DEQ's Office of Financial Responsibilities and Waste Programs, Division of Financial Responsibility.
FSD	**Facility Self-Disclosure** – Indication that a site has self-disclosed the existence of a violation and/or performed an audit and has submitted the information as appropriate to DEQ or EPA. While not available as a grant commitment type, an FSD may be followed by a CEI or FCI. FSDs will also often result in some form of enforcement, including referral for formal action.
FUI	**Follow-up Inspection** – A partial on-site inspection conducted to verify the status of violations cited during a previous evaluation. An FUI code should only be used if the effort involved or extent of areas inspected are insufficient to qualify as one of the more comprehensive evaluation types. Follow-up inspections include those inspections following formal/informal enforcement actions where no enforceable compliance schedule has been established. Follow-up inspections do not include any inspections involving an enforceable compliance schedule association with a formal enforcement action. When an FUI inspection is conducted as part of another inspection type (CEI, GME, etc.), a separate FUI entry should be made in RCRAInfo for the FUI component. Please note than new violations may be cited as a result of an FUI evaluation, and those new violations should be linked to the FUI. If noncompliance observed in the initial evaluation (e.g., CEI) is observed as a continuing noncompliance during the FUI, it should be linked to both the original evaluation and the FUI.
GME	**Groundwater Monitoring Evaluation** – A detailed evaluation of the adequacy of the design and operation of a site's groundwater monitoring system in accordance with EPA guidance. Evaluation of the groundwater monitoring system design should be conducted by a hydrogeologist and include the review of the Owner/Operator's (O/O) characterization of the hydrogeology beneath hazardous waste management units, monitoring well placement and depth/well spacing, and well design and construction. It is essential for the GME to ensure that the O/O has designed an adequate groundwater monitoring system. In addition, an integral part of the GME is the review of the operation of the groundwater monitoring system through an evaluation of the O/O's sampling and analysis plan, and its implementation. GMEs should be scheduled, to the extent possible, to coincide with the O/O sampling events to permit the field evaluation of sampling techniques. Inspectors should collect splits or conduct EPA/DEQ sampling as a random check of groundwater quality data at any wells that may have indicated releases to support enforcement or corrective action. A comparison of EPA/DEQ and O/O analytical results can be used to assess laboratory accuracy and establish the reliability of O/O submitted data. A GME should encompass everything

	covered in the CEI for groundwater monitoring facilities. In addition, GMEs should include: • A detailed investigation of the engineering features and effectiveness of the groundwater monitoring system; • A detailed review of the site's groundwater sampling and analysis plan; • Re-calculation of statistics at detection monitoring facilities to ensure that the site should not be in assessment; • Detailed examination of the site's assessment monitoring plan & field implementation; • A substantial amount of sampling. A GME can count as a CEI for a land disposal facility. These are performed by the Office of Remediation Programs as part of RCRA Corrective Action.
NRR	**Non-financial Record Review** – An evaluation conducted in the DEQ office involving a detailed review of non-financial records. Use this when reviewing a facility's response to an NOV or GW plans or reports, etc. It can also be used to review non-routine documents not associated with another evaluation. NRRs do not count toward the grant commitment.
OAM	**Operation & Maintenance Inspection** – Periodic inspection of how effectively a groundwater monitoring system continues to function once it is considered well designed. The inspection focuses on the condition of wells and sampling devices. Evaluation of well recovery notes, turbidity of water, total depth, depth to water, etc. should be made and compared to historic data. Sampling devices should be tested and if necessary pulled and visually inspected. The findings of an OAM inspection will indicate whether case development is warranted and/or will focus future GMEs. The inspection should be experienced in evaluating groundwater monitoring systems (i.e., hydrogeologist). This inspection may include sampling and is typically performed by Groundwater Corrective Action staff in the Office of Remediation Programs.
SNN	**No Longer a Significant Non-Complier** – A determination has been made to remove the SNC designation for a site. Entry of an SNN record is required to remove a site from being a SNC. Often submitted in conjunction with a final order (enforcement code 310) and return to compliance of violations linked to the order.
SNY	**Significant Non-Complier** – A determination has been made to designate a site as a SNC using guidelines as set forth in the current version of the Hazardous Waste Civil Enforcement Response Policy (ERP). A SNC is a site that has caused actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous waste constituents; is a chronic or recalcitrant violator; or deviates substantially from the terms of a permit, order, agreement, or from RCRA and VHWMR requirements. In evaluating whether there has been actual or likely exposure to hazardous waste or hazardous waste constituents, implementers should consider both environmental and human health concerns. However, environmental impact or a substantial likelihood of impact alone is sufficient to cause a violator to be a SNC, particularly when the environmental media affected

	require special protection (e.g. wetlands or sources of underground drinking water). Additionally, when deciding whether a violator meets this criterion, implementers should consider the potential exposure of workers to hazardous waste or hazardous waste constituents. Further, although consideration should be given to compliance status with other environmental statutes and regulations, a SNC in RCRAInfo should be linked to all applicable violations that contributed to the SNC designation. Although there are benefits to doing so, linkage of SNY determination to specific RCRA violations is optional. A SNC determination is a post-CEI determination regarding the type of violations found at a facility. SNY is often submitted in conjunction with a referral to enforcement (enforcement code 122).

B. Focused Compliance Inspection (FCI) Focus Areas

The Focused Compliance Inspection (FCI) category must identify one of the following specific types :

CODE	DESCRIPTION
BIF	**Boiler/Industrial Furnace Inspection** – Inspections focused on compliance with regulatory requirements for boilers and industrial furnaces.
CAR	**Corrective Action/Remediation Oversight** – Inspections focused on the oversight of corrective action or DEQ remediation activities. Use this code only when the oversight does not represent an evaluation of the site's compliance with the corrective action requirements present in a permit or order. This latter would be a CAC evaluation type.
CCI	**Subpart CC Inspection** – Inspections focused on compliance with air emission standards for tanks, surface impoundments, and containers as covered in 40 CFR Parts 264 and 265, Subparts CC.
CPC	**Closure/Post-Closure Inspection** - Inspections focused on oversight of closure/post-closure activities, including certification of closure/post-closure.
DOS	**Definition of Solid Waste** – Inspections to verify information related to variance requests, delisting, solid/hazardous waste determination, speculative accumulation, on-site review of Hazardous Secondary Materials (HSM), etc.
EMR	**Emergency Response Activity** – RCRA activities related to emergency response and subsequent cleanup.
IEI	**Import/Export Inspection** – Inspections to evaluate regulatory compliance for hazardous waste imports and exports.
INC	**Hazardous Waste Incinerator Inspection** – Inspection/observation of other incinerator activities.
ISI	**Inactive Site Inspection** – Inspections to verify the status of a site. This code should only be used when the site's status was verified as inactive.

OTH	**Other** - Used when DEQ Inspector conducts inspection of Virginia-specific regulations while accompanying EPA on an EPA-lead inspection.
PTB	**Performance Test (Trial Burn)** – Inspection to evaluate trial burn performance.
PTX	**Performance Test (Subpart X**) - Inspection to evaluate performance under Subpart X requirements.
UOI	**Used Oil Inspection** – Inspections focused on compliance with the Used Oil regulations as covered by 40 CFR Part 279.
UWR	**Universal Waste Rule Inspection** – Inspections focused on compliance with the Universal Waste Rule as covered by 40 CFR Part 273.

The codes noted above are the specific codes that need to be entered onto the RCRAInfo form following completion of an FCI. Completion of the RCRAInfo form is detailed in Chapter 11, RCRAInfo.

C. Performing a CEI vs an FCI:

An FCI is performed when a complete facility inspection is not needed. This could be in response to a complaint, as a follow-up to an enforcement action or previous inspection, when inspecting Virginia-specific requirements during an EPA-lead inspection, at an inactive site to verify generator status, or in the case of an FCI at a TSD facility, when the FCI has been pre-negotiated with EPA for inclusion in the Compliance Work Plan for that fiscal year. Typically, FCI inspections do not count against the grant commitments in any given fiscal year to evaluate permitted units only; however, FCIs at TSDs can count when certain conditions exist, and when the FCI is included in the Work Plan for that year. This decision is typically made in Central Office with the concurrence of EPA and the LPM in the regional office. Once a state has become adequately familiar with a TSDF and has established that the facility has a good track record of compliance, an FCI may be substituted for a CEI if:

- At least two CEIs have already been conducted at the facility;
- The facility must not have received a formal enforcement action as a result of the most recent CEI;
- The facility must not be identified as a current significant non-complier (SNC).

Additional rules include:

- FCIs may only be substituted for CEIs twice consecutively;
- A CEI must be conducted following renewal of a facility permit;
- A CEI must conducted following the change of a facility owner or operator;
- A CEI must be conducted following a significant change in process, operating procedure, production, or the wastes generated or managed at a facility, etc.

When an FCI is conducted in lieu of a CEI at a TSDF, EPA's CMS states that the following should be inspected at a minimum:

- Financial Assurance;
- Determine if all waste streams have been identified and properly characterized, and all hazardous waste streams are being handled properly;
- Evaluate facility operations to determine if any process changes have occurred at the facility since the last inspection that would affect hazardous waste management practices;
- Spot check facility compliance with the regulations and permit requirements for those areas that have not changed.

CHAPTER 5 – INSPECTION TYPES

A. General

There are many types of inspections. Inspections are one type of evaluation that might be performed at a regulated facility. Others were identified in Chapter 4. Types of inspections differ based upon the purpose, facility status, and the probable use of inspection results. However, the Compliance Evaluation Inspection (CEI) is the primary mechanism for assessing compliance and for detecting and verifying RCRA violations by hazardous waste generators, transporters and TSDFs. The purpose of this section is to describe the different types of hazardous waste inspections, and to establish a uniform, consistent process for conducting CEIs at small quantity generators, large quantity generators, permitted/interim status TSD facilities, transporters, used oil generators, universal waste handlers and other types of facilities. The following table describes the different types of inspections in the RCRA universe.

Table 5-1 Inspection Types

Type of Inspection	Description	Applicable Guidance
*Compliance Assistance Visit (CAV)	CAVs can take place at facilities that have never been inspected, or have had a change in management or operating status. These visits are designed to help a facility determine its compliance requirements, and to help a facility find waste minimization and pollution prevention opportunities.	
*Compliance Evaluation Inspection (CEI)	CEIs are routine inspections of hazardous waste generators, transporters, and TSD facilities to evaluate compliance with the requirements of RCRA. CEIs encompass a file review prior to the site visit, an on-site examination of generation, treatment, storage and/or disposal areas, and a review of records. Inspections of facilities with delisted waste may be conducted as part of a CEI. Also correction action inspections are specifically intended to evaluate facilities' compliance with consent orders or agency agreements and/or permits. The compliance evaluation inspection (CEI) is an on-site evaluation of a hazardous waste handler's compliance with RCRA regulations and permit standards. The purpose of the CEI is to gather information necessary to determine compliance and support enforcement actions.	Revised RCRA Inspection Manual (November 1998 Revision); Hazardous Waste Tank Systems Inspection Manual OSWER Dir. 9938.1A 1988 Hazardous Waste Incinerator Inspection Manual OSWER Dir. 9938.6, 1989 Guidance for Inspection of Facilities with Delisted Waste, OSWER Dir. 9938.2B Conducting RCRA Inspections at Mixed Waste Facilities OSWER Dir. 9938.9, 1991
*Focused Compliance Inspections (FCI)	FCIs are inspections of hw generators, transporters, and TSD facilities to evaluate compliance with a subset of the full requirements of RCRA. FCIs are conducted, to review a specific compliance issue, or can be used to evaluate inactive facilities. FCI types are described fully in Chapter 4, Evaluation Types.	
*Case Development	CDIs are conducted when RCRA violations are suspected or revealed during a CEI for the specific purpose of gathering	Technical Case Development Guidance Document OSWER Dir.

Inspection (CDI)	additional data in support of a pending or proposed enforcement action.	9938.9, 1991
**Comprehensive Groundwater Monitoring Evaluation (GME)	CMEs are conducted to ensure that the groundwater monitoring systems are designed and function properly at RCRA land disposal facilities. In addition to the CEI activities, CMEs include observation of sampling and analysis of the facility's groundwater monitoring system and hydrogeological conditions.	RCRA Groundwater Monitoring Technical Enforcement Guidance Document, OSWER Dir. No. 9950.1, September 1986. Comprehensive Groundwater Monitoring Evaluation Guidance Document OSWER Dir. No. 9950.2, March 1988
Compliance Sampling Inspection (CSI)	CSIs are inspection in which samples are collected for laboratory analysis. A sampling inspection may be conducted in conjunction with a CEI or any other type of inspection except a CDI. Virginia DEQ does not typically perform CSIs.	
**Operation & Maintenance Inspection (OAM)	O&M inspections of land disposal facilities are conducted to determine the adequacy of the operation and maintenance of groundwater monitoring systems at RCRA facilities after a land disposal facility has closed. O&M inspections are usually conducted at facilities that have already received a thorough evaluation of the groundwater monitoring system. Periodic inspection of how effectively a groundwater monitoring system continues to function once it is considered well designed. The inspection focuses on the condition of wells and sampling devices. The inspector should be experienced in evaluation of groundwater monitoring systems (e.g., hydrogeologist). This inspection may include sampling.	Operation and Maintenance Inspections for Groundwater Monitoring (RCRA Groundwater Monitoring Systems), OSWER Dir. No. 9950.3, March 1988.
State Oversight Inspection	State oversight inspections are conducted by EPA personnel to determine the effectiveness of state hazardous waste management programs and to determine facility compliance.	RCRA State Oversight Inspection Guide, OSWER Dir. No. 9946.1, December 1987

*Conducted by DEQ HW inspectors.
**Conducted by DEQ Corrective Action staff.

B. Compliance Evaluation Inspections

The Compliance Evaluation Inspection (CEI) is the primary mechanism for detecting and verifying RCRA compliance by hazardous waste generators, transporters, and TSD facilities. EPA policy has established that a CEI is intended to be a comprehensive evaluation of the compliance status of a facility under all applicable RCRA regulations and permits. Thus, upon completion of a CEI, the DEQ inspector should fully understand not only the plant's permit and compliance status, but also the extent of the facility's operations related to hazardous waste, including:

- What are the facility's business or operations and how all major processes operate;
- Whether all waste streams have been identified, including those generated during start-up, shut-down, turnaround, and malfunction;

- Whether proper hazardous waste determinations have been made for all waste streams generated by those processes; and
- Whether waste is being handled properly.

In order for a facility to ensure, and an inspector to verify, its compliance status, the facility must first determine what hazardous wastes it generates and how much of each waste stream is being generated on a monthly basis in order to determine its generator status.

The complexity of a CEI is specific to the amounts of waste generated and the types of waste management being conducted at a facility. During the CEI inspection, the inspector will verify that each waste stream generated by a facility has been characterized properly. The inspector will ensure that the facility has counted its waste properly to determine its correct level of generation and subsequent generator requirements. The inspector will ensure that any exclusions and exemptions being applied by the generator to his waste are being applied correctly. The inspector will ensure that any listings applied to wastes have been applied correctly. The inspector will do these things by looking at facility processes, waste profiles, waste analysis data, and waste generation and management records. Once the inspector is sure of how much hazardous waste is generated by a facility on a monthly basis, and how much is being accumulated prior to shipping off site, the inspector can determine whether a facility has correctly interpreted those generator requirements which apply to that facility.

Additionally, the inspector can determine what other types of regulated activities are taking place at the facility. These may include hazardous waste transportation, used oil and/or universal waste management, treatment of waste on site, storage of hazardous waste, etc. Inspections have available a selection of checklists to guide the inspector through that type of inspection. Choice of checklist(s) will be discussed later in this chapter.

The compliance responsibilities at any particular facility are based on the amount of hazardous waste being generated in one calendar month. Hazardous wastes include spent solvents, paint, contaminated antifreeze or oil, wastewater treatment sludge, heavy metals, and many other types of manufacturing and process wastes. Hazardous wastes also include discarded and off-spec commercial products. There are three classifications of hazardous waste generators discussed below. The requirements for these three levels of generator are also summarized in the associated Inspection Checklist for that type of facility. Inspection Checklists can be found in Appendix 1 of this handbook..

1) <u>CEI – Conditional Exempt Small Quantity Generator (CESQG)</u>

A **CESQG** generates less than 100 kg (220 lb.) of hazardous waste or 1 kg (2.2 lb.) of acutely hazardous waste in a calendar month. [Note: 100 kg is the equivalent of approximately one half of a 55-gallon drum containing hazardous waste with at least the density of water (8.34 lb/gallon)]. A CESQG also may not accumulate on-site more than 1,000 kg (2,200 lb.) of hazardous waste at any one time. [Note: 1,000 kg is the equivalent of approximately five full 55-gallon drums of waste with at least the density of water (8.34 lb/gallon)]. When either the weight of hazardous waste produced in one calendar month exceeds 100 kg (220 lb.), or when more than 1,000 kg (2,200 lb.) of hazardous waste have accumulated on-site, the facility is required to comply with the more

stringent standards applicable to a Small Quantity Generator (SQG). When the volume of acutely hazardous waste exceeds 1 kg , or spill residue, contaminated soil, waste or other debris from acutely hazardous waste exceeds 100 kg, then the waste is subject to standards applicable to large quantity generators (LQGs). A CESQG does not have a time limitation on accumulating hazardous waste unless/until the CESQG has accumulated enough on site to become an SQG (2,200 lb). At the point at which a CESQG has accumulated 2,200 lb and become an SQG, the 180/270-day time limitation for accumulation begins.

CESQG requirements are: To identify their hazardous waste; to comply with storage limitations; and to treat or dispose of their hazardous waste in an on-site or off-site hazardous waste TSDF, state-permitted, licensed or registered solid waste disposal facility; recycling facility; or universal waste facility. It should be noted that no municipal solid waste landfill in Virginia has been approved to accept hazardous waste from CESQGs.

Checklists completed for every CESQG inspection consist of a Survey and the CESQG checklist. Possible extra checklists that may be applicable are the Used Oil Checklist, Universal Waste Checklist, and Excluded Solvent-Contaminated Wipes Checklist. No container management checklist is required as CESQGs are not subject to container management requirements; however, the requirements for container management found in the regulations would be an applicable best management practice (BMP) for CESQGs.

In order to keep track of CESQG inspections for facilities that may not have an EPA ID number for facilities that are not willing to obtain a number on their own since none is required, HW inspectors can assign these locations a Virginia CESQG number. There is a separate tab on the Hazardous Waste Tracking Sheet for each region that will assign numbers to CESQGs based on the date when the number is assigned. Additional guidance is provided in Chapter 10.

2) <u>CEI - Small Quantity Generator (SQG)</u>

A SQG generates between 100 kg (220 lb.) and 1,000 kg (2,200 lb.) of hazardous waste in a calendar month. Hazardous waste generated by an SQG cannot accumulate on site for more than 180 days (unless the waste is transported more than 200 miles to an approved destination facility in which case the SQG can accumulate on site for up to 270 day). At no time can an SQG accumulate more than 6,000 kg (13,200 lb.) of hazardous waste at his facility [Note: This is the equivalent of approximately 30 full 55-gallon drums]. If the volume of hazardous waste generated by an SQG in one month exceeds 1,000 kg (2,200 lb.) of non-acutely hazardous waste or 1 kg (2.2 lb.) of acutely hazardous waste, the SQG becomes a large quantity generator. If the accumulation time limit for an SQG is exceeded, or if the facility accumulates more than 6,000 kg (13,200 lb.) of hazardous waste onsite at one time, the SQG is an operator of a storage facility required to obtain a storage permit and comply with the requirements of 40 CFR 264 and 40 CFR 265. Checklists typically completed during a SQG inspection include the Survey, SQG checklist, plus unit-specific checklists (containers and/or tanks). Used Oil, Universal Waste and Excluded Solvent-Contaminated Wipes checklists may also apply.

3) CEI - Large Quantity Generator (LQG)

An LQG generates more than 1,000 kg (2,200 lb.) of non-acute, or more than 1 kg of acute, hazardous waste in a calendar month. (NOTE: This is approximately five full 55-gallon drums of hazardous waste, assuming the waste is at least as dense as water [8.34 lb/gallon]). Inspections of LQGs generally should be CEIs, and should verify compliance with at least the following requirements:

- Identification of all hazardous waste streams, and proper characterization of all hazardous waste.
- Provision of information on the general chemical composition of hazardous waste to persons transporting, treating, storing and disposing such waste to ensure proper completion of manifests and LDR notifications, and correctly applied hazardous waste codes.
- Recordkeeping on the management and disposition of waste.
- Proper labeling and identification of waste for storage, transport, and disposal.
- Proper handling of hazardous waste on-site, including use of a containment building, proper containers, and tanks and drip pads.
- Use of the manifest system and all other means necessary to ensure that hazardous waste is sent to the appropriate destination facility.
- Submission of Biennial Reports reporting the waste generated.
- Contingency plan, general inspection requirements, security, and preparedness and prevention.
- Proper training of staff involved in HW and UW management.

4) Comparison of RCRA Generator Requirements

Whether the facility is a CESQG, SQG, or a LQG determines whether and how the RCRA regulations apply to that facility. Regardless of the amount of hazardous waste generated, the regulations require every facility to test or use knowledge of materials or processes to determine if its waste is a listed hazardous waste or exhibits one of four hazardous characteristics (ignitability, corrosivity, reactivity , toxicity).

LQGs and SQGs are subject to regulations contained in 40 CFR Part 262 and 9 VAC 20-60-262 that require each generator to: identify and count waste; obtain an EPA identification number; comply with accumulation and storage requirements; provide for training, contingency planning, and emergency arrangements; prepare the waste for transportation; track the shipment and receipt of waste; and meet recordkeeping and reporting requirements. A synopsis of these regulatory requirements is found in Table 5-2.

Table 5-2 Comparison of Generator Requirements

Requirement	CESQG	SQG	LQG
Determine Whether Solid Waste is Hazardous	Yes	Yes	Yes
Non-acute Waste Quantity Limits	≤100 kg/mo (220 lb./mo)	100 kg/mo (220 lb.) to 1,000 kg/mo (2,200 lb.)	>1,000 kg/mo (2,200 lb./mo)
Acute Waste Quantity	≤1 kg/mo (2.2 lb./mo)	≤1 kg/mo (2.2 lb./mo)	>1 kg (2.2 lb/mo)

Limits			
EPA ID Number	Not required	Required	Required
Facility Receiving Waste	State approved, RCRA permitted, interim status, or exempt recycling facility	RCRA permitted, interim status, or exempt recycling facility	RCRA permitted, interim status, or exempt recycling facility
Use Manifests	No	Yes, unless the waste is reclaimed under contractual agreement in accordance with the requirements of 40 CFR 262.20 (e).	Yes, unless the waste is reclaimed under contractual agreement in accordance with the requirements of 40 CFR 262.20 (e).
Manifest Exception Reporting	Not required	Required within 60 days of hazardous waste being accepted by initial transporter	Required within 45 days of hazardous waste being accepted by initial transporter
On-site Accumulation Limits (without permit)	1,000 kg (2,200 lb.)	6,000 kg (13,200 lb.)	No limit
Accumulation Time Limits (without permit)	None	180 days [or 270 days if transported more than 200 mi. (321.87 km)] DEQ may grant an additional 30 days for unforeseen, temporary, and uncontrollable circumstances.	90 days DEQ may grant an additional 30 days for unforeseen, temporary, and uncontrollable circumstances.
Storage Requirements for Accumulated Hazardous Waste	None	Basic requirements with technical standards for containers or tanks	More stringent requirements with technical standards for management of containers or tanks
RCRA Personnel Training	Not required	Basic training required	Required
Contingency Planning	None	Basic emergency info	Required
Biennial Report	Not required	Not required	Required

a) Identification and Counting of Waste

A facility that generates solid waste of any kind is responsible for determining if that waste meets the definition of hazardous waste, either through analysis or through knowledge of the waste stream including materials used or processes being conducted. Once a facility determines each hazardous waste stream it is generating, the facility must count the hazardous waste it generates on a monthly basis in order to determine the generator requirements to which it must adhere. Failure to make waste determinations and/or failure to properly count waste to

determine generator status are both potential violations of the regulations and may increase the likelihood for additional potential violations for management of the waste.

b) EPA Identification Number

Each LQG and SQG of hazardous waste is required to obtain an EPA Identification Number. CESQGs are not required to have an EPA Identification number; however, many CESQGs have obtained an EPA ID number.

Anyone (except CESQGs) who generates, treats, stores, disposes, transports or offers for transportation any hazardous waste is required to have an EPA Identification Number. A generator also may not offer his waste to a TSD that does not have an EPA Identification Number.

Locations that do not normally generate hazardous waste but have a one-time need for an EPA ID number can obtain a Provisional EPA Identification Number through the appropriate DEQ Regional Office. Provisional ID numbers are discussed in Chapter 12 of this handbook.

c) Accumulation and Storage Requirements

LQGs and SQGs are subject to the waste management standards found in 40 CFR Part 262 and cross referenced to Part 265, as applicable.

LQGs may accumulate waste properly in containers, tanks, drip pads or containment buildings. Containers must be closed, and containers and tanks must be managed in accordance with the regulations. Tanks and containers must be marked with the date on which accumulation began and the generator must ensure and document that the waste is shipped off site within 90 days.

SQGs may accumulate waste properly in containers or tanks. Containers must be closed, and containers and tanks must be marked in accordance with the regulations. Tanks and containers must be marked with the date on which accumulation began and the SQG must ensure and document that the waste is shipped off site within 180 days, or 270 days if the destination facility is greater than 200 miles away. An SQG may never accumulate more than 6,000 kg (13,200 lbs) [approx. 30 full 55-gallon containers] on site at any one time.

CESQGs do not have a limit on accumulation time. Accumulation time for a CESQG does not start until the CESQG has accumulated 1,000 kg (approximately five full 55-gallon containers). At that point, the CESQG becomes an SQG, subject to SQG requirements, and must ensure and document that the waste is shipped off site within 180 days (or 270 days as stated above) as well as complying with other SQG requirements. Unless and until a CESQG accumulates 1,000 kg, no accumulation or storage requirements apply to a CESQG.

d) **Satellite Accumulation Area Management**

A satellite accumulation area (SAA) is an area at or near the point of generation where no more than 55-gallons of a hazardous waste or one quart of acutely hazardous waste is accumulated.

The satellite accumulation area must remain under the control of a single operator, which is typically interpreted to mean within the line of sight of the operator and housed within the same room. When the 55-gallon limit is reached within a SAA, the operator has three days to date and move the excess waste to a <90 day or <180/270-day accumulation area or a permitted TSDF. These standards apply to SQGs and LQGs only.

e) **<90 Day or <180/270-Day Areas**

A <90 day or <180/270- day storage area is an accumulation area where hazardous waste is accumulated or stored before being sent off-site for disposal. Storage in these areas is temporary, and the permissible length of time for accumulation depends on whether the facility is classified as an LQG, SQG, or CESQG.

f) **Pre-Transport Requirements**

In developing hazardous waste pre-transport regulations, EPA adopted DOT's regulations for packaging, labeling, marking and placarding found at 49 CFR Parts 172, 173, 178 and 179. Essentially, hazardous waste shipped off-site by SQGs and LQGs must be properly packaged to prevent leakage of hazardous waste during both normal transport conditions and potentially dangerous situations. Containers must be packaged, labeled and marked to identify characteristics and dangers associated with its transport. The vehicles used to transport the waste must be placarded in accordance with DOT regulations. There are no pre-transport requirements for CESQGs; however, DEQ HW inspectors can recommend closed, labeled containers and other best management practices where necessary.

g) Land Disposal Restrictions

In order to keep generators and facilities from managing hazardous waste in land-based units (i.e., land treatment units, landfills, surface impoundments or waste piles), which have a high potential to threaten human health and the environment through groundwater contamination, RCRA was amended in 1984 under the Hazardous and Solid Waste Amendments (HSWA) to include Land Disposal Restrictions (LDRs) for untreated hazardous waste. Treated hazardous wastes must meet specific treatment standards before they can be disposed.

LDR requirements are applicable to SQGs, LQGs, TSDs and LDFs. LDR requirements do not apply to the following: wastes generated by CESQGs; waste pesticides and container residues disposed of by farmers on their own land; newly identified or newly listed hazardous wastes for which EPA has not promulgated treatment standards; and certain waste releases mixed with a facility's wastewater and discharged pursuant to the Clean Water Act.

There are three main components to the LDR program: the disposal prohibition, the dilution prohibition, and the storage prohibition. LDRs require facilities to identify waste streams, and underlying hazardous constituents of waste streams, and notifying the designated TSD facility for each type of hazardous waste generated. LDRs also require facilities to provide LDR notifications and certifications with hazardous waste manifests, and keep appropriate records.

HW Inspectors must inspect each facility's notifications, certifications and records applicable to LDR. HW Inspectors must also ensure that underlying hazardous constituents are identified for characteristic hazardous waste, no land application is taking place, no dilution is taking place, and that LDR restricted wasted are not being stored for greater than one year unless the facility has proved that such storage is being maintained in order to accumulate quantities necessary for effective treatment or disposal. The LDR requirements are found on the LQG and SQG checklists.

h) Shipment Tracking

The RCRA Subtitle C program is designed to manage hazardous waste from cradle to grave. The Uniform Hazardous Waste Manifest (EPA Form 8700-22) plays a critical part in this management system. The manifest allows all parties involved in hazardous waste management to track the movement of hazardous waste from the point of generation to the point of ultimate treatment, storage, and/or disposal.

LQGs and SQGs are required to use manifests to ship hazardous waste, and retain these manifests for at least three years. Electronic copies of manifests are acceptable records. Key elements to be inspected on a manifest include: Name, address and EPA ID number of the generator, transporter(s), and designated facility; DOT proper shipping name; Quantities and container types of the wastes being transported; Accurate descriptions of wastes, correct hazardous waste codes, and waste minimization certification; Dates and signatures for each transfer of waste made; and Final signature by the designated facility. It should be noted that the use of manifest is not required for CESQGs, who may ship hazardous waste using a shipping paper in lieu of a manifest.

i) Emergency Plan

LQGs are required to have a formal written contingency plan and emergency procedures in place in case of a spill or release of hazardous waste.

SQGs are not required to have written contingency plans. They are required to ensure that an emergency coordinator is on the premises or on-call at all times, and they must have basic facility safety information readily accessible. CESQGs are not required to have any emergency planning or an emergency coordinator. However, once again, this would be a BMP.

j) **Personnel Training**

At an LQG facility, facility personnel must be trained in the proper handling of hazardous waste and emergency procedures through an established training program. This training program must include a list of job titles and job descriptions for employees involved in hazardous waste management at the facility. Annual updates to the training are also required. Additional training requirements exist if the LQG also manages UW.

SQGs are not required to have an established training program. However, SQGs must ensure that employees handling hazardous waste are familiar with proper handling and emergency procedures. Additional training requirements exist if the SQG also manages UW.

There are no general training requirements specific to CESQGs. However, if the CESQG manages universal waste, there are universal waste training requirements that must be met.

k) **Recordkeeping and Reporting**

Multiple recordkeeping and reporting requirements are applicable depending upon a facility's generator status. LQGs must submit a biennial Hazardous Waste Report (BR). LQGs and TSDs must report by March 1 of each even-numbered year regarding activities conducted during the previous odd-numbered year. When shipments of hazardous waste are shipped off-site and a signed copy of the manifest is not received back from the designated facility, an exception report must be filed with DEQ. All hazardous waste documents have a three-year retention requirement, which must be extended for any issues undergoing enforcement during that time period.

SQGs are not subject to the biennial Hazardous Waste Report. SQGs are required within sixty days of the signature of the last transporter on a shipment to send a copy of the original manifest to DEQ with a note indicating that a signed copy has not been received from the designated facility. SQGs must also retain copies of all documents related to hazardous waste management for a period of three years.

l) **Waste Minimization/Pollution Prevention**

Waste minimization and pollution prevention programs are being increasingly discussed and implemented by both environmental managers and environmental policy makers. Usually defined as a reduction in the volume and toxicity of waste, waste minimization often pays for itself through reduced disposal costs, operating costs, and liability. While these cost savings are often enough to justify a program, there are an increasing number of voluntary and mandatory programs that drive waste minimization/pollution prevention.

Under RCRA, LQGs are required to sign a certification on each manifest stating that they have a program in place to reduce waste to the degree that is economically feasible and to select a disposal method that minimizes threats to human health and the environment. SQGs must show a "good faith effort" to minimize waste and to select the best waste management method available.

5) CEI – Permitted/Interim Status TSD Facility :

A TSD is a treatment, storage/and or disposal facility. Facilities that perform certain kinds of treatment, storage and disposal of hazardous waste are required to have a permit to conduct these activities. Other types of facilities are exempted under the regulations and do not require a permit. TSD inspections conducted by DEQ are for those facilities that do require a permit. There are two types of TSD facilities – permitted and interim status. Interim Status facilities are facilities that

existed and were in operation prior to the development of current permitted TSD standards, and a permit has not yet been issued. Interim status facilities were given strict deadlines in RCRA by which to come into compliance with the applicable RCRA requirements. Once the facility is in compliance with the TSD requirements, a permit would be issued. The requirements for TSD facilities are found in 40 CFR Part 264 for facilities with permits, and in Part 265 for facilities with Interim Status. TSDs have both general facility standards and technical facility standards with which to comply, and these standards are identified in both the regulations and the facility's site-specific permit.

TSD facility inspections should verify compliance with at least the following requirements:

- Maintaining records of all hazardous waste that is treated, stored, or disposed, and the manner in which all such waste is treated, stored, or disposed.
- Satisfactory reporting and compliance with the manifest system.
- Proper treatment, storage, or disposal of all waste received by the facility.
- Establishing contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of hazardous waste.
- Submission of required Reports.
- General inspection requirements, security, and preparedness and prevention.
- Personnel training, as applicable (e.g., financial assurance is not required for federally-owned facilities).
- Financial responsibility.
- The facility must have a closure plan for the treatment, storage and/or disposal units.

The inspector should inspect the facility for any permit-specific requirements contained in the facility permit. The inspector should also ensure that all permitted aspects of the facility remain in good condition and are properly maintained. The inspector should complete every checklist that is applicable to activities being conducted at the permitted facility.

If a TSD facility is also a generator, the appropriate level generator inspection should be conducted in addition to the TSD inspection. If the facility is also a transporter, a transporter inspection must be done as well. **To get full credit for a CEI, the DEQ HW inspector must inspect all the different RCRA-regulated aspects of the facility unless otherwise instructed.**

Occasionally a HW inspector will inspect a generator facility that is operating as an unpermitted TSD facility because it has been found to be storing greater than the time allowed for its generator class, or it is treating its hazardous wastes by methods that are not specifically excluded and would normally require a permit. Unpermitted TSDs are inspected as the generator class into which they fall.

Inspectors should keep in mind that certain types of treatment and recycling, as well as certain activities subject to permits from different environmental programs, are exempted from RCRA permitting requirements. For a TSD, HW inspectors will have to inspect the facility against a permit summary created for that facility, in additional to other applicable inspection checklists.

6) CEI – Hazardous Waste Transporter

Hazardous waste transporters who conduct off-site transportation of hazardous waste by air, rail, highway or water are regulated by both RCRA and DOT standards. The hazardous waste transporter regulations were developed jointly by EPA and the DOT. Transporter DOT requirements can be found in 49 CFR Parts 171-179. Transporter RCRA requirements can be found in 40 CFR Part 263. A DEQ HW inspector should review the DOT Transporter requirements at least once prior to inspecting any HW transporters.

Transporter regulations only apply to the off-site transportation of hazardous waste. Off-site transportation does not include transportation to geographically contiguous properties unless travel along public roads is required – travel directly across public roads to a contiguous property would not require compliance with transporter regulations.

Transporter inspections should verify compliance with at least the following requirements:

- Proper notification of HW transporter activities to obtain an EPA Identification number which are assigned to the transportation company as a whole.
- Recordkeeping.
- Properly labeled waste.
- Use of the manifest system.
- Compliance with transfer facility requirements, if applicable.
- Proper management of hazardous waste during transportation, including managing any hazardous waste spills or discharges.
- Hazardous waste delivered to designated facilities permitted to accept such waste.

If the transporter is also a hazardous waste generator, a CEI should be performed on the generator aspects of the facility as well as the transporter requirements.

A transporter may not accept hazardous waste from an SQG or LQG without a manifest. Transporters must retain the transporter copy of a manifest for at least three years.

A transporter can operate a transfer facility without having a RCRA permit. A transfer facility is a transportation-related facility, including loading docks and parking and storage areas where shipments of hazardous waste are temporarily held during the normal course of transportation. A transfer facility can temporarily store a manifested shipment of hazardous waste for ten days or less without a TSD permit. However, a transporter that stores wastes at a transfer facility for longer than ten days is subject to all TSD permitting requirements.

7) CEI - Other RCRA Handlers

a) Used Oil Handlers

Used Oil is regulated under Part 279 of RCRA. Compliance with Used Oil management requirements is generally conducted at any facility that generates used oil. The inspections are usually conducted in conjunction with Hazardous Waste Generator Inspections or as a result of a citizen concern. However, Used Oil only compliance evaluation Inspections may also be conducted at used oil aggregation point facilities, used oil burners, used oil collection centers, used oil fuel marketers, used oil processors and re-refiners, and used oil transporter and transfer facilities. Facilities that commonly generate used oil include:

- Machine shops.
- Automobile repair shops.
- Automobile dealers.
- Salvage yards.
- Trucking companies.
- Power plants.
- Any company with moving machinery.

Companies that do not generate hazardous waste but do generate and/or manage used oil in some way are subject to the RCRA Used Oil requirements. Every CEI should include a review of Used Oil management and a Used Oil Checklist should be completed, if applicable.

Used oil generators are not required to notify the department or obtain an EPA Identification number. However, used oil aggregation points and used oil collection centers are required to notify the DEQ of their activities using an EPA Form 8700-12. A copy of the EPA Form 8700-12 can be accessed on the DEQ external website at: http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/SolidHazardousWasteRegulatoryPrograms/HazardousWaste.aspx, and can also be found in Appendix 7 of this document . Used oil burners, used oil marketers, used oil processors and re-refiners and used oil transporters and transfer facilities are also required to notify DEQ and obtain an EPA Identification Number.

b) Universal Waste

Universal Waste is regulated under Part 273 of RCRA. In Virginia, universal waste currently consists of batteries, lamps, certain pesticides, and mercury-containing equipment. It is possible for a company that does not generate hazardous waste to generate universal waste, and that company would therefore be subject to the RCRA universal waste requirements. Every CEI should include a review of Universal Waste management practices and a Universal Waste Checklist should be completed, if applicable.

c) Excluded Solvent-Contaminated Wipes

Under the VHWMR, wipes that are contaminated with solvents that are either cleaned at industrial laundries or dry cleaners and reused, or sent for disposal to a municipal solid waste landfill or a solid waste combustor, are conditionally excluded from certain hazardous waste requirements provided they are not hazardous waste due to the presence of trichloroethylene. However, all required conditions must be met in order for the wipes to be excluded from full regulation. To be excluded, solvent-contaminated wipes must be managed in closed, labeled containers and cannot contain free liquids at the point in time when they are sent for cleaning or disposal. Facilities generating these wipes also must comply with recordkeeping requirements and may not accumulate wipes for longer than 180 days. There is a specific checklist for facilities that manage solvent-contaminated wipes under the exclusion.

d) Non-Notifying Facilities

Occasionally, a DEQ HW inspector will inspect a company that has never been inspected and that does not have an EPA Identification number. Sometimes one of these facilities is found to be handling hazardous waste at a generator level that requires the facility to have an EPA Identification number. These types of facilities should be inspected and if found to be generating or otherwise managing any RCRA-regulated wastes, should be evaluated against the appropriate regulations using the appropriate checklists. These inspections would count toward the grant commitment in the applicable generator category.

If the facility is a non-notifier and no hazardous wastes are generated, but the facility is an Other RCRA Handler (i.e., transporter, e-waste processor, Used Oil generation, or UW generation), the inspection would only count if Other RCRA Handler inspections are included in that year's Fiscal Year Work plan. If the facility does not generate hazardous waste, the company may generate Used Oil or Universal Waste, or may not generate anything at all. In order to keep track of non-notifying facilities that are inspected by DEQ so that they are not visited again in the future, HW inspectors will need to assign these locations a Virginia Non-Notifier number. There is a separate tab on the Hazardous Waste Tracking Sheet for each region that will assign numbers to non-notifiers based on the date when the number is assigned. Additional guidance is provided in Chapter 10.

e) Hazardous Secondary Materials Notifiers

In 2014, EPA revised Part 261 to define certain types of hazardous secondary materials now exempted from the definition of solid waste, which also exempted them from HW regulation. Any facility claiming this exclusion must submit a notification to DEQ using Form 8700-12 prior to managing hazardous secondary materials under the exclusion, and every two years thereafter. Persons recycling hazardous secondary materials or hazardous wastes under any RCRA Subtitle C recycling provision also must notify DEQ if their recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate, but which is still legitimate recycling. An example of hazardous secondary materials that might be excluded could be spent solvents that are reclaimed on-site and reused in the original process.

Inspections of HSM handling facilities will seek to verify that all new notifications have been properly submitted, that the hazardous secondary material being generated is actually HSM and not hazardous waste, that the generator controlled recycling activity being conducted is legitimate, and that any recyclers to whom the HSM is being sent are legitimate recyclers.

C. Compliance Assistance Visits (CAVS):

Compliance Assistance Visits, or CAVs, are essentially inspections to assist a facility with how to comply with the regulations rather than to assess compliance. CAVs are typically performed at facilities that have never been inspected, or that have come under new management, or that have never notified. CAVs may also be conducted when there is some significant change in operating status at a facility. DEQ may get requests for CAVs from numerous business types, but CAVs should be limited each fiscal year to groups specified in the work plan or as discussed prior to the start of the fiscal year to support the DEQ grant commitment.

The general program protocol is that DEQ will perform a CAV at the target facility, provide them with verbal and written assessments of their facility's compliance based on the inspector's evaluation, and follow-up with a regular CEI at some later date (after 90 days but during the same fiscal year). DEQ would defer any potential enforcement for minor alleged violations of the regulations discovered during the CAV until after the follow-up CEI if any areas of concern remain uncorrected. CAVs with no compliance issues should be written up as CEIs as these will not need to be re-inspected. **Please keep in mind that unless CAVs are specified in DEQ's fiscal year planning and become part of the fiscal year Work Plan, DEQ does not get inspection credit for CAVs, only for the follow-up CEI inspection.** If a DEQ HW inspector performs a CAV, a follow-up CEI must be completed during the same fiscal year to get credit for the inspection that year.

CHAPTER 6 – PREPARING FOR THE INSPECTION

A. General

A successful on-site inspection is predicated on thorough preparation. Typically, inspectors have only a relatively brief period of time on-site in which to perform an inspection; therefore, it is crucial that an inspector properly prepare off-site in order to maximize use of the inspection time.

Before conducting an inspection, the inspector needs to determine the purpose and scope of the inspection. Typically the purpose will be a routine periodic assessment of RCRA compliance. However, an inspection can also be a review of facility activities or status with respect to an enforcement action, a review of facility compliance with deadlines set forth in the facility's RCRA permit, a response to information received concerning alleged violations at the facility, or many other possible purposes. Knowledge of the purpose and scope will enable to inspector to properly prepare for the right type of inspection.

Routine compliance inspections are generally broad in scope. However, inspections performed for other purposes (e.g. response to reported alleged violations) may target more specific areas based on the intended purpose of the inspection. An inspection might be multi-media in nature which would require coordination and planning with other State/Federal agencies. The purpose of the inspection will dictate the specific types of preparation that need to be conducted before the site visit.

B. Coordination With Other DEQ Programs and Agencies

Inspectors should identify the other offices within their agency, or other local, state or federal agencies, that might be interested in the results of or participating in an inspection. This could include the permit writer assigned to a facility, Corrective Action, Federal Facilities, Air or Water staff. Other offices or agencies, such as the Department of Health or the Department of Transportation, may be interested in an inspection for several reasons.

Scheduling joint inspections with other DEQ offices or local, state or federal agencies allows inspectors to maximize the use of state resources. Offices may be able to share resources and information or conduct concurrent multi-media inspections. The inspection might be performed in part or exclusively at another office's request. Another office might share jurisdiction for RCRA enforcement at the facility, making the scheduling of a joint inspection desirable. Another office may be pursuing a planned action that might be interfered with by the inspection or enhanced through coordination. The inspection may provide incidental information or identify cross-program compliance issues that would be useful to another office in their regulatory or enforcement activities.

Coordination allows an inspector to schedule an inspection to avoid interference with planned activities of other agencies or offices. Conferring with other offices or agencies will enable the inspector to ensure that the inspection satisfies their information needs. Obtaining relevant information on the facility's administrative or enforcement status, such as pending enforcement actions under RCRA or other programs and clarifying the scope of an inspection and areas of particular interest to another office will ensure that all information needs are met. Obtaining technical information on a facility from a permit

writer (all media) and obtaining facility information from other agencies can also help to further the goals of a Memorandum of Understanding between regions and state agencies.

If an inspector is conducting an inspection to support an enforcement action (e.g. to determine if a facility has come into compliance with the terms of an enforcement order), the inspector must coordinate the inspection with the appropriate Regional enforcement case manager for that facility. If the case has been referred to Central Office enforcement staff, coordination must be with Central Office. Those individuals will be able to explain the specifics of the action and identify important areas for review at the facility.

C. Preparation

1) General

Preparing for an inspection consists of ensuring all applicable available information has been reviewed and necessary resources have been acquired prior to the inspection. Preparation for an inspection should include the following activities:

- Determine inspection objectives and identify needed preparation to achieve those objectives;
- Coordinate with other local, state and/or federal agencies, if applicable;
- Schedule the inspection at the facility if you intend to perform an announced inspection;
- Review the Facility's Website;
- Review general information about the type of business you are visiting;
- Review the current status of the facility in RCRAInfo (including compliance, permitting and corrective action history);
- Review relevant Permits (all media if time permits);
- Review Facility Developments/Correspondence in Enterprise Content Management (ECM) database;
- Review Previous/Past inspections – Written Reports;
- Check for Past Violations/Enforcement Activity – Was the facility returned to compliance?
- Review applicable regulations or guidance documents;
- Speak with Previous Inspector(s) and Enforcement staff regarding any ongoing activity;
- Review the Biennial Report for the most recent reporting Year(s);
- Identify Past Waste Streams;
- Identify Accumulation Areas ;
- Make copies of specific checklists for that facility;
- Make a copy of the inspection report/WL/NOV from the last HW inspection the facility had, if applicable, and **take this document with you to the inspection**;
- Reserve the use of a state vehicle, if needed;
- For regions with tolled roads, reserve an EZ Pass or similar payment form.
- Assemble required personal protective equipment;
- Get directions to the facility, if needed.

Prior to conducting an inspection/investigation, the Inspector should become familiar with the facility to be visited. This can be accomplished by reviewing the facility's website, checking RCRAInfo, and reviewing all pertinent files in DEQ's Electronic Content Management (ECM) database for the subject facility. **Note all DEQ and EPA data systems require authorized access which is obtained by completing and submitting a computer access request form. For additional instructions for this form, refer to Appendix 4 – DEQ Access Forms**.

RCRAInfo is EPA's electronic database to track facilities in the RCRA program. Additional information on RCRAInfo can be found in Chapter 11 of this Handbook. Current status of the facility based on the most recent Notification of Hazardous Waste Activity, as well as summaries of each Notification made by the company, can be accessed on RCRAInfo.

ECM is DEQ's electronic filing system where facility records are stored including inspection reports, NOVs, facility-submitted documentation, and other correspondence. The inspector should use ECM to access previous inspection reports and other facility records. Instructions on using ECM are located in Appendix 5 of this Handbook. More detailed discussion of the file review is discussed in the next section. It should be noted that sometimes documents exist that have not been uploaded to ECM by enforcement, compliance and permitting staff at the time of the inspector's file review. Therefore, it is important to also seek out the appropriate DEQ staff to determine their knowledge of the current status of the facility.

DEQNet is DEQ's internal website. The most updated policies and procedures governing the DEQ can be found here. Updated checklists can be found in the HW Compendium on DEQNet. Other regulatory guidance can also be found in the Compendium. Inspectors should periodically review the hazardous waste content found on DEQNet.

2) Pre-Inspection File Review

A comprehensive file review for the facility must be conducted prior to the inspection. Through the file review, the inspector should develop a thorough technical understanding of a facility, the wastes managed, waste management units, and the processes which generate and treat the waste, if applicable. The inspector should also develop an understanding of the compliance history of the facility, including past violations, facility efforts to correct compliance problems, and potential violations that may not yet have been remedied. The inspector can also determine applicable regulations for the facility in order to review those as well (discussed in the next section).

a) ECM

Inspectors should review prior enforcement documents for the facility, and talk to enforcement staff responsible for developing these enforcement documents. These enforcement documents can help to determine specific activities or issues of interest at a facility, specific non-complying conditions or potential for violations, specific activities that should have been performed to return to compliance from a previous inspection, and the compliance schedule and intermediate milestones toward completion of required activities.

Speaking with enforcement staff will ensure that the inspector has been made aware of any enforcement developments that have not yet been included in facility files.

The Inspector can also review cross-program files in ECM (as time allows) to determine if there are any possible issues that may relate to hazardous waste that have been noted by other DEQ media programs. These files include permits, permit modifications, permit applications, general correspondence, previous inspection reports and any other relevant files in the database for that facility. This step is especially crucial when visiting a site for the first time for hazardous waste compliance.

Inspectors should contact the responsible permit writer before inspecting permitted or interim status TSD facilities. If the facility's permit application is undergoing review, the permit writer and application will usually provide valuable information about the facility, or the permit writer may have information needs that the inspectors can fulfill during an inspection. If a facility has received its permit, the permit imposes site-specific requirements that are subject to enforcement and should be evaluated during the inspection. In addition, the permit writer may be able to identify suspected problem areas at the facility.

b) CEDS

Hazardous waste facilities are not currently tracked in the CEDS system at DEQ. However sometimes a facility that has hazardous waste issues may also have issues in other DEQ regulatory programs that are tracked in CEDS. The Inspector can review cross-program data in CEDS (as time allows) to determine if there are any possible issues that may relate to hazardous waste that have been noted by other DEQ media programs, and whether or not a facility has permits in other media that could possibly impact issues during the inspection. waste compliance.

c) RCRAInfo

The inspector should review the status of the facility in RCRAInfo. The inspector should review the most recent Biennial Report for the facility, if applicable. The Site ID portion of the BR for LQGs and TSDs will have the most recent information about facility contacts and wastes generated by the facility. Review the amounts of wastes and waste types generated during that previous reporting year. The types of violations from past evaluations can also be reviewed on RCRAInfo.

In the absence of any other type of files, the Inspector can review EPA guidance specific to the type of industry to be inspected (if available) on EPA's website.

Specific information that should be obtained during the Pre-Inspection File Review includes:

- The name and telephone number of the facility contact person;
- Waste codes identified on the facility's most recent RCRA Subtitle C Site Identification Form;
- Waste codes identified by the facility's Part A application, if applicable;

- Manufacturing process at the facility, including waste management activities and design capacities;
- Biennial Report information;
- Any site-specific variances;
- Outstanding, uncorrected or recurring violations;
- Status of outstanding enforcement actions;
- Any complaints made against the facility;
- Waste shipments made, received, treated, stored and/or disposed;
- Treatment, storage, and/or disposal facilities used;
- Financial assurance records, if applicable;
- Permit information and permit-specific conditions, if applicable;
- Part B application, if applicable;
- All checklists that are applicable to the facility being inspected;
- A copy of the facility's last inspection report.

To avoid photocopying, all pre-inspection information may be recorded on the Pre-Inspection Worksheet found in this Handbook in Section 6.C.8.

3) Pre-Inspection Regulatory Review

Based on information obtained from the facility file review, an inspector should have a good idea of what might be encountered at the facility being inspected. The inspector should use the pre-inspection period as an opportunity to review current, up-to-date regulations and guidance that might be applicable to the facility in question. For instance, if the facility claimed that an exclusion or an exemption applied during the last inspection, guidance on that exclusion or exemption should be reviewed during the inspection to ensure that the regulation was appropriately applied.

The inspector should especially review changes in any applicable regulations or any new regulations that may have changed how wastes must be managed at the facility.

DEQ's external website, http://www.deq.virginia.gov, can be used to access the most up-to-date regulations and guidance available.

EPA's RCRAOnline database can be used to find guidance documents and directives applicable to regulatory issues. This database can be accessed at:
https://yosemite.epa.gov/osw/rcra.nsf/How+To+Use

4) Facility-Specific Inspection Plans

For federal RCRA inspections, EPA recommends the development by the inspector of a brief inspection plan for each facility that is based upon the type and size of the facility, previous regulatory and enforcement issues, the reason for the inspection, the size of the facility, any issues regarding the facility, and the estimated time necessary to conduct the inspection. This inspection plan outlines steps that an inspector will take once on-site at the facility, and highlights any

particular questions that the inspector needs to address or answer during the inspection. The plan considers whether an inspection should be announced or unannounced, in what order the steps of the inspection will be performed, what will be discussed in the opening conference, which facility records to focus on, the route to take through the facility based upon previous maps submitted by the facility and Google Earth, best starting and stopping times for the inspection, coordination of inspection efforts, and any other pertinent issues. While DEQ does not require that an inspection plan be written, it might be helpful to a newer inspector, and might help the inspector to not overlook important issues at the facility.

5) Announced Versus Unannounced Site Visits

The option to conduct an announced versus unannounced inspection is at the discretion of the inspector and the LPM for that Regional Office. Issues that should be taken into account when determining announced versus unannounced include the purpose of the inspection and the inspection strategy, whether an inspector suspects that a facility is engaged in non-compliant activities, and the length of time the inspection is expected to require.

A company that has had complaints made against it or unlawful activity alleged by an informant should receive an unannounced inspection. A facility that is in the DEQ's Virginia Environmental Excellence Program (VEEP) should receive advance notice of any inspections. Inspections to follow up a Compliance Assistance Visit (CAV) should be unannounced. Inspectors have a right to access the facility at all reasonable times, whether announced or unannounced. However, an inspector needs to keep in mind that sometimes unannounced inspections can set a negative tone for certain facilities if the inspection disrupts some kind of meeting or other planned activity at the facility. An unannounced lengthy inspection can be even more disruptive. DEQ staff should try to courteous. But when you are conducting an announced inspection, remember that you are not asking the facility's permission to inspect. You are merely extending the courtesy of advance notice, and you will accommodate the facility to the extent that you can within reason.

For an unannounced inspection, an inspector should research the company's hours and days of operation, and any other information on the company's website or in facility files that might assist in planning the inspection. The names of key staff members or department names can be determined by reviewing a company website. An inspector needs to keep in mind, for an unannounced inspection, that the possibility exists that the appropriate contact will not be present at the facility that day, or might be tied up in meetings or important business activities. Summer and holiday seasons might not be the best times of year to attempt an unannounced inspection. Additionally, for larger companies with a corporate presence in another location, the inspector might be asked to postpone the inspection until the appropriate staff members for corporate headquarters can be in attendance as well. The inspector should mentally prepare what his/her response will be in that situation. An inspection can still be performed without all the appropriate facility staff in attendance; however, it might not be the most complete inspection, and there could be knowledge gaps that can only be filled by the missing contact person. This could result in the need to extend the inspection into a second day.

If the inspection will be an announced inspection, the Inspector should contact the facility prior to the inspection in order to establish an inspection date and time. Following the establishment of the time and date of the inspection, an confirmation e-mail can be sent to the facility to reiterate the agreed upon date and time, as well as to inform the facility of the types of records that should be available during the inspection, and what type of personal protective equipment (PPE) is required to be worn by the inspector(s). A sample confirmation e-mail can be found in Figure 1.

Figure 1 Sample Email to Facility Contact For Announced Inspection

(Facility Contact),

As we discussed today on the phone, the Department of Environmental Quality (DEQ) will conduct a hazardous waste compliance evaluation inspection at (Facility Name) on (Day of the Week), (Date), meeting at (established time).

The inspection will consist of:

- *An entrance interview---to discuss the facility's processes, history, and general layout;*
- *A walk-through inspection---to observe all production processes and waste accumulation areas/used oil storage and universal waste storage areas, including maintenance shops;*
- *A record review of the following documentation:*
  1. *Waste profiles/determination (sample analytical data if applicable);*
  2. *Waste manifests and land disposal restriction notices;*
  3. *Exception reports;*
  4. *Hazardous waste accumulation area weekly inspection logs;*
  5. *Emergency Planning and Preparedness Plan (if LQG or TSD);*
  6. *Biennial Report for (most recent reporting year);*
  7. *Training documentation;*
  8. *Documentation of arrangements with local authorities;*
  9. *Any other applicable documentation;*
- *An inspection summary/closing comments.*

The complete hazardous waste management regulations and laws may be obtained on the DEQ Hazardous Waste homepage. Should you have additional questions regarding the inspection, please contact me at (email and phone).

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6) Safety Considerations

An inspector must take health and safety considerations into account when preparing for an inspection. Inspectors will select equipment to take into the field depending on the kind of inspection they plan to perform and the type of facility that will be inspected. Inspectors must also be thoroughly familiar with the OSHA health and safety regulations found in OSHA Subpart H of 29 CFR Part 1910 at https://www.gpo.gov/fdsys/granule/CFR-2013-title29-vol5/CFR-2013-title29-vol5-

part1910 to ensure compliance with those requirements that are applicable to the inspection process. Inspectors must complete the health and safety required training identified in Chapter 3 of this Handbook.

All hazardous waste management facilities pose some degree of hazard to personnel present on site, including inspectors. This hazard increases in direct proportion to the decrease in the amount and quality of information available to these personnel on facility operations and practices. Therefore, it is extremely important that inspectors understand a facility's processes and hazardous waste management practices prior to entering a facility so that they are aware of all the potential health and safety issues, arrive prepared at the facility with the appropriate safety gear, and follow the appropriate procedures specific to the facility during an inspection. Where feasible, inspection staff is encouraged to keep a stocked field bag with commonly used gear and take it with them each time they go in the field in the event of an unexpected need. This bag might include steel-toed shoes/boots, ear protection, eye protection, hard hat, reflective safety vest, rain gear (see also the section below).

Although routine inspections generally do not involve activities in which inspectors must physically contact hazardous wastes, there is always the potential for inspectors to be exposed to hazardous waste or substances during the course of an inspection. In planning an inspection, the inspector should: Determine the nature of chemical hazards that may be encountered; Identify and obtain proper safety equipment; Become familiar with the proper use of safety equipment; Obtain and become familiar with all applicable safety guidance and practices; and Determine any facility-specific safety requirements by contacting the facility (for announced inspections) or by reviewing previous inspection reports.

The following information on Safety and Security While in the Field comes from DEQ's Emergency Action Plan, dated February 10, 2016:

- Field personnel are responsible for remaining alert to their surroundings and to report any suspicious activity or unsafe conditions immediately to their supervisor.
- Each employee will be responsible for keeping their calendars current and for sharing their schedules with their immediate supervisor.
- Should any emergency occur while any agency employee is working in the field, executive management will attempt to contact those affected employees to inform them of the current situation and offer guidance based upon the conditions and current policy.
- All agency employees should also attempt to contact their offices immediately upon learning of a natural or man-made disaster or emergency incident.

Additional information on safety gear can be found in Chapter 7.

7) Physical Preparation

a) Inspection Equipment

Table 6-2: Inspection Equipment and Safety Gear

General Equipment	
• Camera • Calculator • Tape Measure • Clipboard • Pens, pencils & markers, including waterproof • Magnifying Glass	• Flashlight and batteries • Ruler • Disposal towels, rags and/or wipes
Safety Equipment	
• Safety Glasses or Goggles • Ear Protection • Coveralls • Hardhat • Shoe Covers	• Rubber-soled Shoes • Steel-Toed Shoes or Boots, including metatarsal protection, where available • Rubber Gloves • Reflective Safety Vest
General Paperwork	
• Business Cards • DEQ Identification Card • Driver's License • Facility Map • Any relevant Guidance	• Checklists • Last Inspection Report • Field Logbook • Notebook
Sampling Equipment	
• Generally not applicable for hazardous waste inspections. Where sampling is mandated, check with your LPM for regional or Central Office options.	

In some cases inspectors will have limited information about a facility, or may be inspecting an uncontrolled site. Inspectors should be prepared to encounter the worst conditions in such cases. Inspectors should never proceed with inspections involving site conditions for which they are not prepared and do not have the proper safety equipment. **If conditions appear unsafe, do not proceed. This applies to physical, respiratory, and/or meteorological hazards.**

b) **Logistics**

Prior to embarking on an inspection, a DEQ inspector, if applicable, needs to reserve a state vehicle to use for transportation to the inspection.

Different Regional Offices and different programs have different vehicle sign-up procedures. Each inspector should check with their LPM to determine what the applicable procedure is for their region. If an inspector anticipates the need to use a toll road, check with your LPM and follow regional protocols for reserving and obtaining an EZ Pass or other payment.

Inspectors should also attempt to keep in mind DEQ's Environmental Management System (EMS) program when scheduling inspections. If an inspection is at a distant location, it might be more practical to schedule multiple potential inspections in one day to minimize the need to make a second long trip to a location near the first.

An inspector should plan the travel route(s) and may either use their personal GPS device, print directions from a web-based source, or map out prior to departure.

8) Pre-Inspection Checklist

The following checklist may be used by inspectors to assist in preparing for inspections.

Task Completed	Description of Activity
	Determine inspection objectives and identify needed preparation to achieve those objectives;
	Coordinate with/notify other local, state and/or federal agencies, if applicable;
	Schedule the inspection at the facility if you intend to perform an announced inspection;
	If inspection is announced, follow-up scheduling with an email outlining the inspection objectives; If the inspection is unannounced, inspector should be prepared to determine appropriate facility contact upon arrival. If appropriate contact is unavailable, inspector can conduct the physical portion of the inspection with an alternate contact, or can re-schedule the inspection for a date in the future.
	Review the status of the facility in RCRAInfo;
	Review Facility Notifications/Developments/Correspondence in ECM database;
	Review the Biennial Report for the most recent reporting Year in ECM (if applicable);
	Identify Past Waste Streams;
	Review Previous/Past inspections – Written Reports in ECM;

	Identify Accumulation Areas ; Look for Accumulation Area Notification (if LQG)
	Make a copy of the inspection report/WL/NOV from the last HW inspection the facility had, if applicable, and **take this document with you to the inspection**;
	Check for Past Violations/Enforcement Activity – Was the facility returned to compliance?
	Speak with Previous Inspector(s) and Enforcement staff regarding any ongoing activity;
	Review relevant Permits (all media if time permits);
	Review the Facility's Website;
	Review general information about the type of business you are visiting;
	Review applicable regulations or guidance documents;
	Make copies of specific checklists for that facility;
	Secure the use of a state vehicle, and tolled road payment, if needed;
	Assemble required personal protective equipment;
	Map travel route(s) to the facility, if needed.

CHAPTER 7 - CONDUCTING THE ON-SITE INSPECTION

As described previously, the major elements of most hazardous waste inspections are as follows:

1. Setting Up the Inspection – Announced vs. Unannounced
2. Pre-Inspection File Review
3. Gearing Up for the Inspection
4. **On-site: Entrance Interview**
5. **On-site: The Walk-Through**
6. **On-site: The Paperwork Review**
7. **On-site: The Closing Interview/Summation**
8. Inspection Write-Up
9. Inspection Follow-Up

This chapter will address the four parts of the inspection process that actually take place at the facility, indicated in bold above, and will detail some specific procedural differences that will occur during different types of inspections.

A. Legislative Authorities for Conducting Inspections

Inspectors are authorized under RCRA to: Enter any establishment or location where hazardous wastes are, or have been, generated, transported, stored, treated, or disposed; Obtain samples for the inspection of any such wastes as well as inspection of any containers or labeling for such wastes; and Access and copy all records relating to such wastes. Please note that DEQ HW inspectors do not typically sample wastes; however, inspectors may request that the facility sample waste for any unknown and/or uncharacterized wastes and provide results to DEQ.

The portion of RCRA dealing with inspector access can be found in RCRA Section 3007, and is included in Appendix 3.

Code § 10.1-1402 authorizes the Virginia Waste Management Board ("Board") to collect data necessary to conduct the state waste programs, including data on resource recovery and the identification of and amounts of waste generated, transported, stored, treated or disposed. The Board is also authorized to require any person who generates, collects, transports, stores or provides treatment or disposal of a hazardous waste to maintain records, manifests, and reporting systems required pursuant to federal statutes or regulation.

Code § 10.1-1455 of the Waste Management Act provides for an injunction for any violation of the Act, any Waste Management Board regulation, any condition of a permit or certification, or order. The same statute provides for a judicially imposed civil penalty up to $25,000 per day of such violation. Code § 10.1-1455 also authorizes the Board to issue orders to address such violations and impose penalties up to $25,000 per violation. In addition, Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Act and regulations and to impose a civil penalty of not more than $10,000.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

Code § 10.1-1455 provides that any person who knowingly makes any false statements or representation in any application, disclosure statement, label, manifest record, report, permit, or other document filed, maintained, or used for purposes of hazardous waste program compliance shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than five years and a fine of not more than $25,000 for each violation, either or both.

Section 3007 of the Solid Waste Disposal Act (42 USC § 6927) provides that, for the purposes of enforcing the provisions of that chapter, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handles hazardous waste shall, upon request of any duly designated officer, employee, or representative of a State having an authorized hazardous waste program, furnish information relating to such wastes and permit such person at all reasonable times to have access to, and to copy all records relating to such wastes. Virginia has an authorized state hazardous waste program.

B. Safety Equipment

The DEQ HW Inspector should ensure that he/she is wearing the appropriate safety gear for whatever type of facility is being inspected in order to meet with all applicable OSHA requirements, facility requirements, as well as to be protected. At a minimum, safety gear typically includes safety glasses, hearing protection, and steel-toed shoes.

If the facility is a manufacturing facility, or any facility with overhead work taking place, a hard hat would also be appropriate. If the facility has moving machinery, a safety vest could be required. If an inspector does not know what safety gear will be needed at a facility, the facility representative should be asked ahead of time for an announced inspection. For an unannounced inspection, the inspector should be prepared for all types of safety requirements. However, as noted in Section C, extensive or unusual safety gear requirements at a facility might be viewed by DEQ as a denial of facility access.

Typically, larger facilities that require more extensive safety gear, such as booties or coveralls such as flame retardant clothing (FRC), will have gear available to be borrowed by site visitors. DEQ **employees should never enter into any site situation which makes them feel unsafe.**

Additional Information on Safety Gear can be found in the DEQ Safety Policy Manual dated February 2016 and in Chapter 6 of this Handbook.

C. Arrival and Facility Entry

Prior to arriving at a facility, an inspector should, to the extent possible, observe the facility from outside the facility property line, using adjacent properties (if possible) or other accessible public surrounding areas. Do not trespass on private property without the owner’s permission. Any anomalies noted on the aerial map of the area obtained during the file review should be noted from outside the facility property line, if possible. Any observations made during this time should be written in the field notes. Any issues that appear to exist should be noted and reviewed further once on facility property.

Arrival at the facility should occur during normal working hours, unless mitigating circumstances, such as an emergency, require immediate response during off-hours. The facility should be entered through the main gate, except where a facility has designated another entrance.

1) Guest Registers and Waivers

Upon arrival at the facility, the inspector will present DEQ identification to the reception personnel, state the purpose of the visit, and ask for the appropriate facility contact. The facility owner or agent-in-charge should be located as soon as the inspector or inspection team arrives on the premises to obtain consent for the inspection. If the inspection is an unannounced inspection and the facility contact is not known or is unavailable, the inspector should ask to see any of the following: Plant Manager, Environmental Manager, Shop Foreman, General Manager, or any other person in charge. When the inspector explains the purpose of the visit to the reception staff of the facility, the inspector will usually be informed who the appropriate contact is for the purpose of an inspection.

Occasionally, to gain access to a facility, an inspector is asked to sign a Guest Register in order to be able to enter the facility. It is acceptable to sign a sign-in sheet provided there is no restrictive language associated with it. Sometimes an inspector will be asked to sign a form which includes some type of waiver of liability for the company being inspected. This waiver might be on the form, in the Guest Register, or on a badge. An inspector should not sign any waiver of rights prior to entering a facility. A facility that will not allow the inspection to take place unless the inspector signs the waiver is denying access, discussed in Section 4 below. Some facilities will have an alternate sign-in form available for government employees who are not permitted to waive their rights. However, refusal to sign a waiver form does not preclude an inspector from accessing a facility. Please see DEQ Guidance dated February 18, 1992, and September 6, 2001, in Appendix 6.

2) Safety Briefing

Sometimes inspectors will be required to read safety information or observe a safety video prior to being able to enter a facility. If the inspection is announced, the inspector should inquire when setting up the inspection what safety requirements need to be met in order to enter the facility. The inspector should plan accordingly. The viewing of a safety video should not be regarded as denial of access, unless passing a test following the safety briefing is a condition of site entry. The inspector should comply with routine company procedures to the extent possible provided they do not include a waiver of the inspector's rights, or an inordinate delay in or denial of access.

3) Consent

Despite the statutory authority to enter a regulated facility, a DEQ HW inspector should not enter a facility, other than into the main entrance area, without the consent of authorities at the facility in order to ensure that such inspections, investigations or responses would be legally defensible in court. Consent means the intentional foregoing of right to privacy that has not resulted from fear, ignorance, or trickery. In other words, consent to enter must be given knowingly and freely. While

absence of express denial constitutes consent in EPA guidance, it is DEQ policy (see "DEQ's Enforcement Guidance Memorandum No. 1-2011: Access to Private Property for Inspections and Investigations, Denial of Access, and Obtaining Administrative Inspection Warrants" in Appendix 6 of this Handbook) that staff must obtain consent from the property owner or an authorized representative of the property owner prior to or at the time of conducting an inspection or investigation on private property, unless urgent circumstances require otherwise. Consent must be given by the owner/operator of the premises authorized by the company to give consent, or some other person with authority to give consent at the time of the inspection. In the absence of a possessor, the inspector must make a good faith effort to determine who is in charge of the establishment or is otherwise in a position to consent to entry.

Riding around the perimeter of a facility and observing the facility from adjacent public roads is allowed and does not require consent. However, accessing a property via a remote road or gate, or from a contiguous private property without the knowing consent of the facility is not allowed.

DEQ staff may enter upon property, even property that is marked with "No Trespassing" only to determine if the property owner or authorized representative is on-site and to obtain consent.

If, upon arrival at a facility, DEQ staff cannot locate the property owner or an authorized representative and prior permission has not been given to enter the site, staff cannot continue to conduct an inspection and must exit the property. Following exit, the staff should contact their supervisor to determine what the next steps will be for the facility in question.

4) <u>Access Denial</u>

Denial of inspector access can take different forms, including the following:

- Express denial of access to the property;
- Limiting the scope of the inspection to exclude certain areas without acceptable explanation, such as US government secured areas requiring top security clearance;
- Requiring staff to sign waivers of liability;
- Requiring staff to sign confidentiality agreements;
- Denial of ability to take or request photographs of items that are reasonably related to the inspection or are evidence of non-compliance;
- Refusing or limiting staff's use of equipment necessary to conduct the inspection;
- Refusing or limiting staff's ability to take samples or conduct monitoring;
- Refusing or limiting staff's ability to view documents necessary to conduct the inspection;
- Unreasonably delaying staff conducting the inspection;
- Making threats, intimidating, harassing, or coercing staff;
- Requiring provision of unusual safety equipment to gain access without offering facility-owned equipment for use
- Other unreasonable actions or conditions placed upon the staff.

DEQ Guidance Memorandum No. 1-2011 (see Appendix 6) specifically details actions to be taken should access in some way be denied. Essentially, the inspector should kindly thank the facility representative(s), leave the site, and then contact his/her supervisor to determine how the supervisor would like the inspector to proceed.

Under no circumstances should the inspector discuss potential penalties or do anything that might be construed as coercive or threatening. If the inspector were allowed to enter a facility in response to a threat of enforcement liability, it is likely that any information or evidence obtained through such an inspection would be challenged as inadmissible should apparent violations lead to any type of legal action. An inspector may, however, inform the facility representative that he intends to seek a warrant to compel inspection. If entry is still denied after attempting to resolve obstacles, the inspector should withdraw from the premises.

A facility that asks an inspector to return at a later time and date because the appropriate facility contacts are not present should be accommodated to the extent possible if the inspection is unannounced. This is not necessarily denial of access. If the nature of the circumstances surrounding the inspection, such as a complaint or anonymous tip, warrant immediate follow up, the inspector can offer to reschedule the paperwork part of the inspection; however, the HW inspector can request any responsible facility employee to accompany the inspector on a site tour if immediate problems or violations are suspected and the inspector may decline the facility's request to return at a later date. If the facility insists on rescheduling, access has been denied.

Occasionally a facility may consent to an inspection and later withdraw the consent while the inspection is in progress. Withdrawal of consent may be a refusal to permit entry. However, the circumstances around the withdrawal of consent should be evaluated. If the inspection has taken long, and the facility contact has a previously scheduled meeting or appointment, other arrangements can be made to return to the facility. An inspector needs to objectively review the facts surrounding the withdrawal of consent. If the facility contact seems to withdrawal consent to avoid showing the inspector certain documents or a certain area of the facility, the inspector should proceed as if access has been denied. The inspector will have to use their best judgment to determine what is really taking place with regard to withdrawal of consent.

Please note, even if a facility withdraws consent, all activities conducted and information obtained prior to the withdrawal of consent remain valid for the inspection. The person, time, and point during the on-site inspection of withdrawal of consent should be noted in the field log.

5) <u>Access By Warrant</u>

A warrant is a judicial authorization for an appropriate official to enter a specifically described location and perform specifically described inspection functions. An administrative inspection warrant is a warrant issued to conduct a regulatory inspection or investigation, and is not the same as a criminal warrant to search a property or seize evidence. An administrative warrant can be obtained: in advance of the inspection; when facility officials have denied entry to an inspector; or when consent to inspect has been withdrawn during an inspection.

An inspection warrant may generally be obtained under two circumstances. First, an inspection warrant may be granted by a court where the inspection or investigation and actions to be undertaken during the inspection are being conducted pursuant to reasonable legislative or administrative standards. Second, an inspection warrant may be granted where probable cause exists to believe that a non-compliant activity is occurring. In addition to either of these two circumstances, staff must have either been refused admission to the property or demonstrate to the court that facts or circumstances warrant the court issuing the inspection warrant without DEQ staff having consent to enter the property.

The first step in obtaining an inspection warrant is for the inspector to discuss the need with the Regional Land Protection Manager. If the Regional LPM believes an inspection warrant should be obtained, the inspector and the Regional LPM should further discuss the issue with regional management. Upon agreement by regional management, the regional office should contact the Director of Enforcement (DE) in Central Office to discuss the basis and appropriateness for the inspection warrant, and next steps to be taken. Upon agreement that an inspection warrant should be obtained, the DE will contact and coordinate with the Office of the Attorney General.

Legal citations for obtaining warrants, and additional descriptions of legal activities that take place prior to the issuance of the warrant, can be found in DEQ Guidance Memorandum 1, located in Appendix 6.

6) Dealing With Threats

Rarely, an inspector may feel threatened, intimidated, or harassed by the actions of a facility contact during or after the inspection. Any of these actions constitute a denial of access. The threat can be openly made, or implied. If an inspector feels threatened during an inspection, the inspector should leave the facility immediately and report the threat to his/her supervisor as soon as possible. The inspector should take note of what was said or done, by whom it was said or done, and under what circumstances it was said or done. If an inspector feels immediately threatened and in danger, the inspector should call 9-1-1, and follow up with the supervisor as soon as possible.

DEQ's Agency Emergency Action Plan (link found in Appendix 7) states that Field personnel are responsible for remaining alert to their surroundings and to report any suspicious activity or unsafe conditions immediately to their supervisor.

7) Apparent Violations or Situations Requiring Immediate Action

If an obvious or immediate damage to human health or the environment has occurred or is about to occur, such as a fish kill or a release of hazardous or toxic substances, and an immediate investigation or other action to determine the source and/or mitigate its effects may be warranted, the DEQ HW inspector should immediately notify their Regional Director or designee. After notifying the RD, DEQ staff should notify the property owner or authorized representative and seek immediate access to the site. If the property owner or an authorized representative cannot be reached and the apparent violations or circumstances involve waste media, staff should consult with

the Central Office Division of Enforcement prior to entering the site. DEQ staff may enter the property to conduct a limited investigation to determine immediate risks to human health and the environment if the suspected violations or circumstances involve apparent environmental violations. However staff should continue to attempt to contact the property owner or an authorized representative, even after exiting the property.

DEQ STAFF SHOULD NOT ENTER THE PROPERTY IF A RISK TO THE EMPLOYEE'S HEALTH AND SAFETY IS PRESENT. If the DEQ inspector is concerned about the level of risk at a site, the inspector's supervisor should be contacted immediately for further instructions. If you suspect a fire or hazardous materials incident is imminent, call 911.

D. General Inspection Procedures

This section describes basic inspection procedures common to most types of inspections. Further details will be provided later in this chapter for specific types of inspections.

Depending on what is observed during the pre-inspection drive around (from public access) or based upon past compliance history of the company (open containers or delays in entry) or any reports of alleged non-compliance, the inspector may elect to go straight to the storage area(s) first, and then obtain the information referenced in this section.

1) Opening Interview

Prior to beginning any inspection, the inspector should meet with the facility representative(s) to clearly state the purpose of the inspection, any background information regarding why the facility is being inspected, and should establish how the rest of the inspection will progress. During this interview, the inspector should question the facility representatives about the function of the business, a description of any processes conducted, a brief overview of wastes generated and how they are managed, and anything else that might be pertinent to completion of the survey sheet. It is important to remember that the inspector should be the one determining how the inspection will progress. An inspector should not allow himself/herself to be steered toward certain topics and away from others, or away from certain areas of the facility during the walk-through inspection. The DEQ inspector **leads** the inspection.

Regardless of the facility type, all inspections begin with completion of the Survey Sheet (see Chapter 8 on Inspection Checklists for completion instructions). The Survey Sheet is used in order to determine which generator standards a facility must comply with (if this information is not already known). Generators are required to identify each waste stream that they generate, both solid and hazardous wastes, and determine all applicable listings and characteristics. After determining which wastes are hazardous, each month the generator must total or count the weight of all hazardous wastes generated in that month in order to determine if they will be regulated as an LQG, an SQG, or a CESQG for that particular month. The Survey Sheet can be used to take notes on monthly generation rates, and waste accumulation amounts, to ensure that the generator has properly determined his generation level for each month of the inspected period. Information that should be noted on the Survey Sheet, either in response to a specific question or in the comments section, are

found below. The inspector should collect specific information about the facility **EACH TIME THE FACILITY IS INSPECTED**, including:

- Owner of the facility.
- Number of years at the current site.
- Number of employees and shifts worked.
- Number of employees involved in handling hazardous waste.
- Size of the facility and property boundaries.
- Adjacent properties and their uses (if pertinent).
- A facility map, if available.
- A description of the facility's operations, including a description of all processes at the facility (especially those processes and units generating and storing hazardous waste).
- Process flow diagrams, if available.
- Raw materials used in the operations.
- Products that are manufactured.
- Hazardous wastes generated from each process.
- Written waste profiles if available.
- Waste codes and description of each waste stream.
- Generation rate of each waste stream.
- Destination for each waste stream (including recycling facilities and disposal facilities).
- Description of the number and location of all satellite accumulation areas, and the type and volume of each satellite container.
- How the waste from satellite areas is transferred to the storage area.
- How and where the hazardous waste is stored on-site.
- Type and size of containers used to store the waste.
- How often waste is shipped off-site and who transports it?.
- Name and location of off-site destination facilities.
- Description of any used oil generated from the facility, and the generation rate, if applicable.
- Name and location of the used oil transporter and receiving facility.
- Description of universal waste generated from the facility and the generation rate, if applicable;
- How the universal waste is managed and the receiving facility.
- Any resource recovery operations at the facility.
- Information pertaining to the facility's waste minimization plan, if applicable.
- Information on any wastewater pretreatment operations, if applicable.

After all the information concerning the facility's operations and hazardous waste management activities has been collected, the inspector can begin the visual inspection of the facility, followed by the review of pertinent records.

During this entrance-interview, the inspector should let the facility know how their generator status is currently identified in RCRAInfo, and inquire as to whether the facility is still generating

consistently in that generator category. If applicable, the inspector should obtain a map of the facility. Also, on the survey sheet the inspector may elect to include flow diagrams of facility processes that generate waste. If the facility already has flow diagrams available, the inspector should ask for a copy to append to the inspection report.

Each inspection of a facility represents a facility's compliance during a specific period of time, and is independent of any previous inspections conducted at that location. Each time an inspector performs a CEI, facility processes and waste determinations should be carefully reviewed as if the inspector had not been there before to determine whether proper waste characterizations have been made. Waste analysis data should be reviewed each time an inspection is performed. Manifests, waste generation rates, storage times and amounts, and contingency plans/emergency arrangements should all be carefully reviewed. **INSPECTORS SHOULD NOT RELY ON INFORMATION THEY RECEIVED DURING PREVIOUS INSPECTIONS.** All checklist questions should be asked, information reviewed, processes examined, changes in waste streams determined EACH TIME AN INSPECTOR INSPECTS.

Information obtained from the entrance interview, as well as from the previous inspection report or other files reviewed during the pre-inspection file review, will assist the inspector in determining which checklists will need to be completed for each specific facility that is inspected. These checklists are described more fully in Chapter 8 and included in Appendix 1.

2) Physical Site Inspection

After the objectives of the inspection have been identified, and the inspector is satisfied that all relevant facility information has been gathered and all applicable pre-inspection documents have been reviewed, the inspector may ask the facility representative for a tour of the facility. During this tour, the inspector will make a visual inspection of manufacturing processes, hazardous waste generation, and waste management locations. The inspection should also conduct a visual inspection of the grounds surrounding the manufacturing building(s) and/or waste management areas. The purpose of the "walk through" is to verify:

- Physical compliance with waste management requirements;
- Proper/accurate identification of all hazardous waste generated and/or handled;
- Volume of wastes generated and/or handled;
- Any changes in operating and/or waste management practices since prior inspections;
- Waste minimization/pollution prevention opportunities.

Please note, the visual inspection may be conducted prior to the opening interview at the inspector's discretion. If the inspector performs the walk through prior to the document review, the inspector has a better evaluation of the facility's normal practice of managing and storing hazardous waste on-site.

When conducting the visual inspection**,** the inspector should make every effort to start at the beginning of each process and walk through the entire process, noting the materials used and all waste streams generated from the process. The inspector should take careful note of all trashcans,

bins, floor drains, sumps, drums, or any other type of container where waste is being placed. The inspector should never handle any waste or container. If such handling is necessary, the inspector should make every attempt to request the facility staff handle the container or waste, as it is their waste and they should be trained to better handle it. The inspector should ask the facility representative if a hazardous waste determination has been made on each waste stream that is observed. The inspector should also inquire about any inline filters or absorbents that might be generated during the process and how the filters and absorbents are managed.

The Survey Sheet and Checklists are used during facility inspections as a tool for organizing, conducting, and recording the results of the inspection. All checklists should be printed prior to the inspection/ investigations, and should be filled out completely and comprehensively while **on site**. Ideally, there should be no blank areas of the checklists remaining at the end of the inspection. Inspectors should ensure that they have a copy of each type of inspection checklist available to them, as needed, during each inspection that they conduct.

Virginia DEQ does not typically take samples or split samples during hazardous waste inspections. If a waste container of unknown contents is discovered at the facility, or it is determined that the facility has an uncharacterized waste stream, the DEQ inspector can ask the facility to obtain a sample and have the sample analyzed to determine its proper waste characterization. This can be accomplished by simply requesting the facility to characterize the waste, sending the facility a formal Request for Information after the inspection (discussed further in Chapter 9 Post-Inspection Procedures), or citing the facility for the apparent failure to determine the regulatory status of the unknown waste.

While performing the Walk Through portion of the inspection, the inspector should be taking notes, in both field notes and on checklists, of any observations of possible non-compliance that are observed, or any issues that might be of concern for further discussion. The inspector should, where applicable, show the facility representative the non-compliant observation. If the facility corrects the non-compliance at the time of the inspection, the inspector should make note of the correction that was made in the logbook as well. If the facility representative indicates that the non-compliance has been noted and will be corrected after the inspection, make sure the representative is aware of the type of documentation that must be sent to DEQ to support return to compliance for that alleged violation.

When the inspector observes any hazardous waste satellite accumulation area, the area and satellite containers should be evaluated to ensure compliance with SAA requirements. The inspector should ensure that no more than 55-gallons of non-acute hazardous waste total, or one quart of acute waste total, is in a single satellite accumulation area, and that the area is at or near the point of generation, within the sight line and under the control of the operator. When possible, the inspector should talk to facility employees who are directly managing the satellite containers, taking note of each employee's name and title. The inspector should ask the employee or facility representative about the waste being placed in the container, the generation rate and how the waste is transferred from the satellite accumulation area to the hazardous waste storage area or

otherwise handled, as applicable. Make sure that satellite accumulation area containers are properly marked with the words “Hazardous Waste” or words that describe the contents, and kept closed except as necessary to add or remove waste from the container.

Common satellite accumulation area violations include: Not labeling/marking containers; Not keeping containers closed; Accumulating more than a total of 55-gallons and not dating and/or removing the excess within three days; Having evidence of releases on or around the containers; Having containers that are in poor condition; Not performing waste determinations; and Placing containers in areas that are not at or near the point of generation and/or not under the control of the operator.

If any apparent violations are observed, the inspector should point out the apparent noncompliance to the facility representative and the corresponding requirements on the inspection checklist. The inspector should be considerate and not interrupt the other employees or prevent the facility staff from working with their clients or customers. The inspector should note details regarding the nature and location of any possible violations in the comment section of the checklist. The inspector should obtain photographic documentation of any apparent violation if it is practical and does not pose a physical hazard. The inspector should make note if the apparent violation is immediately corrected and how.

If a facility does not allow the use of a camera, request the facility representative to take a picture of the noted apparent violation and forward it to you via email. Take note of which pictures were requested during the inspection.

It is important for the inspector, when noting possible violations, to fully document the conditions related to the observation and all relevant details. For example, the inspector should note:

- The type of waste (e.g., liquid, solid, ignitable, corrosive).
- The estimated volume of waste and number of containers.
- Situations that may pose additional hazards (e.g., close to an ignition source, in an area accessible to the public).
- The length of time the apparent violation has been occurring, if known.
- Any other situation or condition that may exacerbate the actual or potential danger, or threat to human health and the environment.

After the inspector is finished observing each process and satellite accumulation point at the facility, the inspector should ask to see the hazardous waste accumulation area(s). The inspector should note the type, size and number of the containers located in the storage area(s) and what they contain. If the inspector questions whether the waste inside the container is what is marked on the outside of the container, he or she may request the appropriately trained facility representative open the container to observe the contents. Also observe access, containment structures as applicable, and fire and spill control equipment in the areas.

Common noncompliance at hazardous waste accumulation areas include improper labeling and dating on containers, open containers, evidence of releases or leaks, containers in poor condition, dates on containers older than 90 or 180 days, and inadequate aisle space/labels not visible for inspection.

The inspector should not let the facility representative lead them through the inspection. Instead, the inspector should lead the inspection, and ensure that all areas of the facility have been inspected, including any product storage areas, maintenance areas, quality assurance/quality control laboratories, detached storage buildings, trailers or other exterior storage containers. The inspector should conduct a complete inspection of the grounds outside of the facility looking for stains on the ground, recently disturbed areas and signs of distressed vegetation. All dumpsters and other trash receptacles should be visually inspected. The inspector should ask enough questions to gain a full understanding of the facility's operations and waste management and disposal practices. Any areas where access is denied should be carefully noted by the inspector.

Some general problems often noted at facilities include failure to make waste determinations, failure to recognize and act on compliance responsibilities, failure to perform self-assessments of programs and establish standard operating procedures, and failure to quickly correct problems that are noted.

When the inspector is satisfied that all areas of the facility have been evaluated, the inspector should request to conduct the record review while at the facility.

3) <u>Records Review</u>

After the completion of the walk through/visual portion of the inspection, the record review portion of the inspection can commence. The DEQ inspector will review all applicable records related to hazardous waste management activities at the facility, including but not limited to:

- Waste analysis plans or sample results used for waste identification.
- Safety Data Sheets for materials used resulting in waste generation.
- Hazardous waste manifests for waste shipments made during the past three years (or since the last inspection if less than three years) along with any "Bills of Lading" or other shipping documents that indicate hazardous waste shipments. **Note: SQGs should be generating at a rate low enough and shipping infrequently enough that the inspector can easily review all the manifests from the past three years. However, at LQGs, for very large amounts or very frequent inspections, it might be difficult for the inspector to review every manifest from the past three years because of the large number of manifests. This will be discussed under LQG inspections.**
- The corresponding Land Disposal Restriction notifications. **[Note:** Notifications should be reviewed at a minimum back to the date of the last inspection. If the facility has never been inspected, all notifications for the last three years should be reviewed.]
- Tolling agreements.

- Emergency coordinator contact information, if applicable.
- Documentation of arrangements with local emergency authorities.
- Written inspection plan.
- Documentation of waste determinations.
- Personnel training plan.
- Documentation of training completed by personnel.
- Contingency plan.
- Tank integrity testing results, if applicable.
- Biennial Hazardous Waste Reports.
- Documentation on the location of fire extinguishers and spill control equipment.
- Inspection records for emergency equipment.
- Weekly inspection records for container storage areas and/or daily inspection records for tank storage areas if maintained.
- Daily inspection records for areas subject to spills, if maintained.
- Any permits for discharge to a Publicly Owned Treatment Works.
- Documentation of any other waste disposal, including Used Oil and Universal Wastes.

The inspector should review the hazardous waste manifests, Land Disposal Restriction notices and generator summary reports to ensure the facility is in compliance with all applicable requirements of Section E – "Manifests" of the Large Quantity Generator Inspection Checklist. The review of these records is also important in order to verify the waste streams generated, waste generation rates, waste stream descriptions, EPA waste codes, and to ensure the waste is being shipped to an authorized facility.

The inspector should also verify the facility has all the documentation required under Section G – "Personnel Training" and Section H – "Contingency Plan" of the Large Quantity Generator Inspection Checklist.

If an inspector feels that a more detailed review is warranted than can fit into the time frame of a regular inspection, the inspector can ask for copies of documents for which further review is intended in order to review the documents once the inspector is back at DEQ. The inspector should also obtain copies of any documents that reflect apparent violations of the VHWMR, such as incomplete or incorrectly completed manifests or LDR notifications. If the facility will not provide copies of documents during the inspection, if the inspector needs the documents, notes should be carefully taken on the documents that are needed. These documents can then be requested via a formal Request for Information following the inspection. The inspector should keep in mind, however, to only request copies of essential documents for waste minimization and data storage reasons.

For generators that store hazardous waste in tanks, additional documentation is required as outlined in the Tank Checklist found in Appendix 1. Certain other equipment may be associated with hazardous waste management at large quantity generators and may also be subject to the RCRA air

emission standards under 40 CFR Part 264/265, Subpart BB. If the facility has equipment (such as valves, pumps, compressors, pressure relief devices, sampling connection systems, flanges and open-ended valves or lines) that contact hazardous waste greater than 10 percent organics and the equipment is used more than 300 hours per year, the facility may be subject to Subpart BB. The inspector should ask the facility representative if they have made a determination as to whether they are subject to Subpart BB. If the facility is regulated under Subpart BB then the inspector should also use the Subpart BB Checklist to evaluate the facility's compliance with Subpart BB standards.

Large quantity generators that store hazardous waste in tanks and containers may also be subject to the RCRA air emission standards under 40 CFR Part 264/265, Subpart CC. The inspector should ask the facility representative if they have made a determination as to whether they are subject to Subpart CC and complete the appropriate section of the Container Checklist or a stand-alone Subpart CC checklist..

In addition to the records above, some generators operate units or perform other types of hazardous waste management requiring additional documentation. Examples are resource recovery, universal waste generation, and used oil generation. Procedures related to record reviews and visual inspections of facilities with the above-mentioned operations are discussed later in this chapter.

E. Specific Inspection Procedures

1) Small Quantity Generator Inspections

Small quantity generator (SQG) inspections are conducted at facilities that generate more than 100 kilograms (220 pounds) of non-acute hazardous waste in any calendar month, but less than 1,000 kilograms (2,200 pounds) of non-acute hazardous waste and/or less than one kilogram (2.2 pounds) of acutely hazardous waste per month at their facility, and do not accumulate greater than 6,000 kilograms (approximately 13,200 pounds or 30 drums) at any time. The SQG requirements include:

- Identifying and counting waste;
- Obtaining an EPA Identification Number;
- Complying with accumulation and storage requirements, including requirements for training, contingency planning, and emergency arrangements;
- Preparing the waste for transportation;
- Tracking the shipment and receipt of waste; and
- Meeting Recordkeeping and Reporting Requirements.

Checklists to be completed during a SQG inspection are, at a minimum, the survey sheet and the SQG checklists. If the facility accumulated hazardous waste in containers, the container checklist should be completed. If the SQG accumulates hazardous waste in tanks, the SQG tank checklist should be completed. If the facility generates Used Oil or Universal Waste, those checklists should be completed. The inspector should familiarize himself/herself with the list of possible checklists (see Appendix 1) and bring the appropriate checklists to the inspection.

2) Large Quantity Generator Inspections

Large quantity generator inspections are conducted at facilities that generate more than 1,000 kilograms (2,200 pounds) of non-acute hazardous waste, or more than one kilogram (2.2 pounds) of acutely hazardous waste in any calendar month.

Most of the procedures for conducting large quantity generator inspections are the same as those for small quantity generator inspections. However, large quantity generators have some additional requirements with which they must comply. This section will describe the additional procedures the inspector must follow when conducting an inspection at a large quantity generator facility.

The procedures for conducting the visual inspection at a large quantity generator are the same as the procedures for small quantity generators.

The type of information the inspector needs to collect for a large quantity generator is the same as for a small quantity generator. After the initial discussion, and all the information concerning the facility's operations and hazardous waste management activities has been collected, the inspector can begin to review the pertinent records or begin the visual inspection of the facility.

The inspector should verify three years of manifests are being retained. The inspector should ensure that every manifest from this time period should be reviewed. If there are time constraints that will not allow the review of each manifest, the inspector should review at least the manifests from the last twelve months and a random sampling of manifests from each of the two preceding years. Alternately, the inspector can ask for copies of manifests so that they might be reviewed once the inspector has returned to DEQ. This is easy to accomplish if the manifests are already in electronic format.

3) Conditionally Exempt Small Quantity Generators (CESQGs)

CESQGs generator inspections are conducted at facilities that generate less than 100 kilograms (about 220 pounds, or roughly ½ of a 55-gallon drum) of non-acute hazardous waste, or more than one kilogram (2.2 pounds) of acutely hazardous waste in any calendar month.

CESQGs do not have to submit a Notification of Hazardous Waste Activity or obtain an EPA identification number for their hazardous waste generation activities. They are not required to use a uniform hazardous waste manifest when shipping hazardous waste off-site. CESQGs do not have any container, labeling or dating requirements. CESQGs **ARE** required to make a hazardous waste determination on any solid waste streams that they generate. If a CESQG determines that a solid waste stream is hazardous, the CESQG must ensure that the waste is delivered to a facility that is authorized or permitted to manage that hazardous waste. This would include permitted hazardous waste treatment, storage, and/or disposal facilities, or recycling facilities. Some states allow CESQG hazardous waste to go to in-state municipal landfills; however, Virginia does not allow solid waste landfills to accept hazardous waste. The inspector should complete a Survey Sheet and a CESQG checklist.

If a CESQG also generates and manages Used Oil and/or Universal Waste, the applicable checklists for these inspections should also be completed. All the UO and UW requirements apply to CESQGs that apply to SQGs or LQGs.

F. Documentation of Inspection

1) Field Notes

Each inspector should record all information collected during an inspection/investigation in a field logbook or notebook. The inspector may also choose to use blank checklists in the field as a reference tool or to complete. Checklists can be found in Appendix 1, and will be updated periodically and placed in the HW Compendium on DEQNet. The field notes are the basis for fully completing checklists and writing inspection reports, and must contain only facts and observations. The notations must be objective, factual, and free of personal feelings or conjecture. The notes should be of sufficient detail to recreate the events at the facility during the report writing. The field logbook or notebook should also be used to document any photographs taken during the inspection. The logbook should remain in the possession of the inspector or in a secure location at all times. Inspection logbooks or notebooks should include all observations, facts, interviews, sketches, photographs, and other relevant inspection information recorded on paper by inspectors. The field notes should also document the exit briefing that is conducted prior to leaving the inspection. The documentation should include any issues that were discussed, or comments/rebuttal made by the facility.

Virginia DEQ does not currently have a policy on field note retention.

2) Photographs

a) General

EPA has determined that it is acceptable to use digital cameras/photographs for documenting civil inspections and investigations provided certain requirements are met. Please refer to EPA's Digital Camera Guidance for EPA Civil Inspections and Investigations, July 2006. A link to this guidance can be found in Appendix 3.

Photographs provide the most accurate documentation of inspectors' observations during an inspection. Photographs can also be used to review past site conditions prior to future inspections, at informal meetings, and at hearings. Each Regional Office should provide a digital camera(s) for use by HW Inspectors.

Documentation of a photograph's origin is crucial to its validity as a representation of an existing situation. It is helpful to maintain a photographic log in the inspector's logbook or notebook of any photographs taken while on site. The log should contain any observations pertinent to the scene. The photographic log should include information on the subject of the photograph, time of the photograph, and any other relevant details about the photo. Be sure to photograph

evidence of non-compliance or return to compliance, if applicable. These photographs may be used as documentation to support a Notice of Violation or Warning Letter issued as a result of the inspection. Due to electronic storage limitations, avoid taking photos of compliance.

Occasionally a facility will request that the facility representative be the one to take the photos, and will then provide DEQ with copies. Sometimes the inspector will be asked to provide the facility with copies of photographs that the inspector takes. Regardless, the inspector should still make note of each photograph taken or requested, and should not rely strictly on photographs to explain any apparent violations that are noted. Careful notes must be kept in case the photographs are not accessible following the inspection.

If a facility does not allow the use of a camera, request the facility representative to take a picture of the noted apparent violation and forward it to you via email. Take note of which pictures were requested during the inspection.

Inspectors should note, in a field notebook, photo log, or on a facility map, the following information about each photograph that is taken:

- Date
- Time
- Photographer
- General direction faced while taking photograph
- General description of photo
- Location of photographed area at the site
- Other comments (e.g., weather conditions)

When taking photos, inspectors should include in the photograph a ruler or other item, as appropriate, for showing the scale of the object being photographed. If inspectors have cameras available to them that have video capability, videos are also an excellent means of documentation; however, videos cannot be attached to a Notice of Violation.

For both digital and video cameras, prior to an inspection, the inspector should make sure the date and time on the camera are correct.

To be effective, the image taken by the camera should be of sufficient clarity and detail to support the observations, and should represent what the inspector saw with the appropriate level of detail. According to EPA guidance, it is acceptable to make changes to digital images, such as cropping, enlarging, or changing the brightness to improve contrast, provided the inspector does the following:

- Records how and when the picture was taken;
- Logs the steps used to process the image;
- Complies with the Recommended Procedures found in this Handbook section; and

- Ensures the preservation of the original digital image.

b) Recommended Photography Procedures

Inspectors should ensure that they meet the following minimum requirements when using digital photographs to document DEQ inspections and investigations:

- The integrity of the digital image should be preserved.
- The quality of the photograph should be good enough to show details, objects and relevant information.
- Inspectors should have equipment which will allow the secure use and storage of the digital images.
- The inspector should follow the recommended steps for handling the digital image.
- The inspector should not delete any digital images during the inspection regardless of the quality.
- A record of any copies of digital images given to a facility should be kept in the inspector's notes or photo log.
- Protect confidential business information.

c) Photographic Inclusion in Inspection Reports

If a facility is inspected by a HW inspector and found to have apparent violations, noncompliance should be documented (for other than apparent paperwork violations) with photographs using the above procedures.

Once the inspector is preparing the inspection report, if the Inspection Letter type is a Warning Letter or Notice of Violation, there should be an attachment to the letter showing photographs of the noncompliance. This attachment will be retained in the files as part of the inspection report. The attachment should clearly show each photographable potential violation, and be captioned with a description of the location and the observed condition shown in the photograph.

Once photographs have been incorporated into the WL or NOV as an attachment, the attachment must be uploaded to ECM as part of the WL or NOV. The original digital files for the photo included with the WL or NOV do not need to be uploaded separately to ECM; however, the inspector should maintain these original photographs until any enforcement action has been completed.

A sample attachment format for the photograph attachment to a WL or NOV can be found in Appendix 7.

3) Copies of Records

Copies of facility records can be used to determine compliance with regulations. Ideally, an inspector will review all applicable and necessary paperwork while on site. However, the inspector

should ask for copies of any paperwork that document non-compliance. These copies should be saved and included with the inspection reports as attachments. Some records may already exist in DEQ files/ECM and may be reviewed in the office after the site visit. For example contingency plans may be part of a larger integrated contingency plan submitted to the DEQ above ground tanks program, and biennial data may be available in ECM and RCRAInfo.

Copies of facility records that do not reflect non-compliance do not need to be included with an inspection report. However, if a facility submits documents in support of inspection findings, those documents must be uploaded to ECM and maintained with the facility file.

Effective July 1, 2013, the Virginia Waste Management Act provides explicit authority for the Department to request information from people who generate, store, transport, treat, or dispose of waste. This provision also provides for trade secret protection of information submitted by the Department in response to a request. Requirements for DEQ staff to recognize and properly manage potentially restricted documents can be found in Appendix 6 in "Land Protection & Revitalization Guidance Memo No. LPR-SW-2013-03, Waste Information Request and Trade Secret Protection."

G. Exit Interview

Once an inspector has completed the walk-through portion of the inspection, reviewed all applicable facility records, obtained copies and photographs as necessary, and reviewed all applicable inspection checklist items, the closing interview can be conducted with facility representatives. The purpose of the closing interview is to inform the facility of the findings of the inspection. The participants of the exit briefing and the topics of discussion should be documented in the field logbook or notebook.

During the closing interview, the inspector will discuss observations noted during the facility, issues that do not appear to be in compliance with the regulations, and any data gaps the facility still needs to fill or action items that the facility or inspector must complete. The inspector should stress that any discussion of findings are only preliminary, and that a thorough review of the information gathered during the inspection will be conducted and the results documented and transmitted to the facility in writing at a later date. The inspector should document in his field notes any issues discussed during the exit briefing, and any comments/rebuttals made by the facility.

While at the facility, the inspector should not commit to the facility about writing a certain type of inspection report (e.g. Warning Letter vs. Notice of Violation), as this might be subject to change after discussion with DEQ personnel back in the office. The inspector should also not instruct the facility what actions must be taken. The inspector should just present factual observations, and can indicate to a facility what the regulatory requirement is for each item inspected.

Prior to leaving the facility, the inspector should ensure that he has written down the names and contact information (including email addresses, if applicable) for all the representatives of the facility that participated in the inspection. The inspector can also give the facility an indication of the time frame in which they might expect to receive an inspection report.

H. Conducting Compliance Assistance Visits (CAVs)

Typically, DEQ does not perform CAVs unless a CAV initiative has been incorporated into the fiscal year work plan prior to the start of the fiscal year. The general protocol for CAVs is that DEQ will perform a CAV at the target facility, provide them with verbal and written assessments of our evaluation, and follow-up with a regular CEI at some later date within the fiscal year. We would defer any potential enforcement for minor violations of the regulations until the follow-up CEI if any areas of concern remain uncorrected. DEQ **does not** get credit for a CAV unless it is part of the fiscal year work plan. DEQ would only get credit for the CEI that followed up the CAV.

CAVs can take place at facilities that have never been inspected, or have had a change in management or operating status. These visits are designed to help a facility determine its compliance requirements, and to help a facility find waste minimization and pollution prevention opportunities. When choosing candidate facilities, inspectors should explain to them the background and 'ground rules' (especially about the follow-up CEI and 'worst case scenario' described below) when they set up the visit. Although it may be possible to conduct an effective CAV unannounced, the intent of this program is to offer it at the facility's request or by their voluntary choice when it is proposed to them.

Please bear in mind that the CAV approach is generally applicable to non-compliance areas of a minor nature (ERP2003 "secondary violations" [SV] https://www.epa.gov/enforcement/hazardous-waste-civil-enforcement-response-policy).

*** **IF AT ANY TIME DURING ANY CAV YOU ENCOUNTER A SITUATION WHICH IS A SERIOUS VIOLATION OF RCRA REGULATIONS, THE CAV SHOULD BE TERMINATED AND THE INSPECTION CONTINUED AS A REGULAR CEI**. *** For example, illegal hazardous waste treatment, storage, or disposal which causes harm to human health or release to the environment will trigger a significant non-compliance violation (SNC). However, waste characterization irregularities should be considered as a proper element of the CAV without penalty unless the inspector has reason to believe that a facility's intentional failure to characterize has resulted in an improper treatment or disposal.

*If serious violations are observed, please inform facility personnel at once and **be certain to get their consent** to continue the inspection as a regular CEI, just as you would for normal inspections. Otherwise, it could jeopardize their rights under due process and pose serious consequences for any potential enforcement actions we may pursue. For serious violations, be aware that the Department may only "consider" enforcement discretion for voluntary disclosure immunity from criminal penalties (case-by-case depending on the particular circumstances leading to the discovery; Virginia's disclosure law has been ruled not applicable to federal programs by the Virginia AGO), and that final compliance resolution may require remediation or potential RCRA closure under a consent order. If a facility declines to continue as a CEI, we should schedule a regular inspection as soon as practical*.

Target facilities are to be inspected for compliance with the regulations while also evaluating them for waste minimization/pollution prevention (WM/P2) opportunities. Inspectors are encouraged to take WM/P2 staff with them unless they feel competent to assess opportunities and make recommendations to the facility in those areas. While most of our staff is eminently qualified in waste management areas, there may be other WM/P2 opportunities for water or air media and any collaborative assistance available from respective media personnel is encouraged.

For the Compliance Assistance review, inspectors should use the inspection procedures described below, the CAV checklist, regular inspection checklists, and issue the follow-up with a letter using the conventional inspection report format. However, the language used will differ slightly from an inspection letter (warning letter) in that these inspections are being undertaken as an advisory/ consulting role, wherein we indicate to the facility how to achieve compliance with the regulations, suggest best management practices, and/or recommend alternatives to their procedures to better ensure conformity with regulations if this were an actual inspection. Please also see the document titled "**Compliance Assistance, Regulations Applications Advice and Case Decisions" located** at:

http://deqnet/docs/waste/Hazardous_Waste_Compliance/HW_Assistance_Papers/Case_Decisions_and_Compliance_Assistance.doc

The elements of a **CAV** are as follows:

- Verify physical address for the facility.
- Meet with the owner or manager and explain your intention to perform a walk-through inspection with the purpose of helping the business to understand the hazardous waste management laws and regulations. Inform them they will receive a report of your inspection findings and a request to correct any potential violations noted. Explain that unless you see SNC–type High Priority Violations (see descriptions in Chapter 9), your inspection will remain a CAV, and you will not issue a letter of warning or notice of violation for potential violations noted.
- Answer questions and provide guidance regarding the management of hazardous waste. Discuss appropriate regulatory requirements, explain how to access the regulations, and guide the facility to the fact sheets on the internet or on the DEQ website.
- Conduct a walk-through inspection of the facility using the appropriate checklists to evaluate the generator's hazardous waste management practices and note any potential violations.
- If you discover a high priority potential violation (see Chapter 9) during the compliance assistance visit, inform the facility that you are discontinuing the CAV and proceeding with the inspection in accordance with standard hazardous waste facility inspection procedures as described herein. If a hazardous substance release is observed or suspected at the facility, inform the facility contact of their reporting requirements and call the DEQ Pollution Response and Prevention Program (PreP) at 800-592-5482, and then proceed with the inspection.

- In the event of discovery of non-SNC potential violations (see descriptions below), explain the potential violation and provide assistance regarding possible remedies. Note the potential violation in the Compliance Assistance Visit form as an area of concern.
- Meet with the owner or manager at the end of the Compliance Assistance Visit. Discuss findings and provide general guidance to the facility representative on what is needed to achieve compliance. Note any status (or other) changes that need to be made to the facility's Notification of Hazardous Waste Activity Form 8700-12. Inform the generator of the need to submit a revised Notification of Regulated Waste Activity for any changes. Provide the generator with a copy of the inspection checklist, the corrected Notification of Regulated Waste Activity and any written guidance as needed. Direct the facility to the Notification of Regulated Waste Activity form on the Virginia DEQ website.
- If the Compliance Assistance Visit was conducted at a facility that has never notified of hazardous waste activity, the inspector may advise the facility to request a Provisional EPA Identification number to manage wastes accumulated on-site at the time of the inspection, and if necessary, a permanent EPA identification number for SQGs and LQGs that continue to generate hazardous wastes.

When completing the CAV report the inspector should describe the outcomes of the CAV including: changes in the facility's understanding of environmental requirements as a result of assistance activities, behavior changes or changes in facility management practices as a result of assistance activities; and pollutants and/or pounds of pollutants reduced as result of assistance activities (as specified in State Review Framework "**SUGGESTED DISCUSSION GUIDES FOR COMPLIANCE ASSISTANCE",** Table 1:
http://deqnet/docs/enforce/StateReviewFramework/Tab11/e13-caguide.pdf).

* If facility personnel have a question regarding other media program areas, inspectors should note them in the follow-up report and forward them to appropriate regional staff or conduct their own follow-up which can help us to become more cross-media proficient. *
https://www.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance

CHAPTER 8 – INSPECTION SURVEY AND CHECKLISTS

Checklists should be used during an inspection as a tool for preparing, organizing, conducting, recording the results of an inspection, and evaluating compliance with regulations, a permit and/or consent agreement/order. Links to all checklists can be found in Appendix 1. Applicable checklists should be selected prior to the inspection and filled out completely on site, to the extent possible. This may consist of printing paper copies prior to the site visit and completing by hand or by completing forms with an electronic device, if available (e.g., laptop or tablet). Checklists will be finalized as an electronic document upon return to the DEQ and enclosed with a cover letter as components of the inspection report sent to the facility.

A. HAZARDOUS WASTE SURVEY SHEET

The most important "checklist" that a DEQ Hazardous Waste inspector will complete is the Hazardous Waste Survey Sheet ("the Survey"). **A Survey must be completed for every inspection.** The Survey is designed to provide a general overview of the facility, its processes that generate waste, the hazardous and non-hazardous waste generated, the amount generated, and how the waste is managed. DEQ staff should provide notations within any section of the Survey that does not apply to the facility or was not evaluated. **There should be no blank areas on the form when final.** When an inspector is done completing the Survey, the inspector should know the handler status of the facility being inspected and which other checklists should be completed for the inspection. Guidance for completing each section of the Survey follows.

General facility, contact and inspection information: Enter all information in the upper boxes of the Survey, including a facility telephone number and the facility contact's email address. Ask the facility contact who the inspection report should be sent to, and ensure that you have the correct mailing address. Make sure all facility representatives who attended any part of the inspection, any local, state or federal agency representatives, and all DEQ staff in attendance are identified. Any facility information in this section that differs from current RCRAInfo data should be discussed in Section 13 General Comments.

Section 1

Business Description: Describe the primary, and where applicable, secondary business activities of the facility. Be sure to provide sufficient details about operations to support or correlate the appropriate industrial classification code(s), as discussed next.

SIC [Standard Industrial Classification] Code(s)/NAICS [North American Industry Classification System] Code(s): Include both code types if the facility knows both. The NAICS codes are included on a facility's notification form and/or biennial Hazardous Waste Report. If not available, request the facility identify the appropriate code(s) and provide to DEQ staff after the site visit, if necessary. While these codes are used by federal statistical agencies to classify business establishments for collection, analysis, and publication of statistical data, we also know that certain listed waste codes are tied to SIC/NAICS codes. Therefore this information is very important.

Description of Process(es): Provide a description of all the processes at the facility including processes that generate wastes. It is important to identify and include intermediate by-products and/or wastes, waste management units, recycling and reclamation units, wastewater treatment units, and any other types of activities that may be regulated under RCRA or excluded or conditionally exempted under RCRA. By providing thorough process descriptions, DEQ staff will be able to determine if the facility has overlooked any regulated activities at the facility.

In addition to the narrative description of the processes, DEQ staff should include a flow diagram for each process from the point of generation to off-site management. Flow diagrams are not required for simple processes, such as used oil management or solvent rags. However, flow diagrams are strongly encouraged for complicated and/or multi-step processes. In many cases, it is easier to ask the facility to provide flow diagrams of their processes which may be attached to the Survey. DEQ staff should double check a facility-provided flow diagram with observations made during the site visit for accuracy. The instruction to this section of the Survey includes a hyperlink to an online flow charting tool.

Section 2 Wastestream(s): Provide a brief description of EVERY waste stream generated by the facility, including non-hazardous (solid) waste streams and/or excluded and conditionally exempted wastes. If any of the waste streams is already known to be hazardous, identify the applicable hazardous waste code(s). Provide as much information as possible about the chemical makeup of a waste stream. For example, if the facility generates sludge, the description might read as “hazardous waste sludge (F006)” or “wastewater treatment sludge (K044)”. Chemical names and DOT proper shipping names, as found on manifests or other shipping documents, should also be included.

Section 3 Generation Rate(s): List the greatest amounts of hazardous waste generated in any month for each hazardous waste stream, as identified in section 2 above. Determining this information will require looking at manifests, inspection logs, processes, the amount of waste on hand at the time of the inspection, and any other information or calculations that the facility has to support their generator category. DEQ staff should review the last three years of records or since the last DEQ inspection if the last inspection was conducted less than three years ago. Unless the inspector has knowledge that a process has a continuous and consistent waste generation rate, manifest volumes should not be averaged over the time between shipments. While information in a facility’s biennial Hazardous Waste Reports may identify waste streams generated, the report is not an accurate determination of monthly generation but of a total annual amount, and as above, should not be averaged unless supported by process knowledge.

With regard to the greatest amounts ever accumulated, DEQ staff should look at manifests, inspection logs, and amount of waste on site at the time of the inspection. One way to determine if a facility is storing in excess of its volume or time limitation is to note the volumes of hazardous waste shipped on each manifest and time period between shipments. However, reviewing the time between manifests can be misleading if waste is not generated continuously. Use manifest dates in conjunction with other documents and process knowledge.

It should be noted that monthly generation amounts and maximum accumulation on site are separate determinations for compliance with the generator category. DEQ staff should consider processes for generation amounts, as well as frequency and quantities reported on manifests. For example, by regulatory definition, a SQG may generate up to 1,000 kilograms (or 2,200 pounds) per month, but may not accumulate more than 6,000 kilograms (or 13,200 pounds) on site. If the SQG ships waste greater than 200 miles, the facility may accumulate for up to 270 days. However, if the SQG generates near to 1,000 kilograms per month, the facility will reach the maximum accumulation threshold well before it reaches the allowable time limit of 270 days. In addition, some waste streams, such as spent solvent from a continuous-use parts washing unit, has a single point in time for generation (once removed from the unit) and possibly no accumulation (shipped same day as generated).

Section 4 Acute Hazardous Waste: DEQ inspection staff is likely to encounter P-listed or other listed acute hazardous wastes at chemical distribution facilities, research laboratories, and hospitals, to name a few. DEQ staff should review packing lists associated with lab packs to ensure all hazardous waste codes have been appropriately identified. Management of acute hazardous waste presents unique challenges, including determining generator category due to more stringent maximum monthly generation and accumulation value (1 kilogram or 2.2 pounds) and managing empty containers. If the facility manages P-listed commercial chemical products and does not triple rinse containers, the empty container can be P-listed, as is the rinsate.

Section 5 Exclusions: Provide the basis, including the regulatory citation, for any excluded or conditionally exempted waste stream, process or unit at the facility. The excluded waste should also have been detailed in Section 1. Determine whether the exclusion is legitimately being applied to the waste, process or unit or whether it should be regulated. Common examples of excluded waste streams or processes are listed in the instruction to this section. Additional common examples are wastes discharged to a publicly-owned treatment works under a Clean Water Act pre-treatment permit, on-site wastewater treatment units, elementary neutralization, and hazardous secondary material determinations.

Section 6 Precious Metals Recycling: Describe any processes that recover precious metals, as listed in the instruction to this section. This section is less common with the use of digital photography and x-rays, however, DEQ staff should ask about any processes that involve one or more of the precious metals listed. Review manifests for shipment of these metals. If the facility stores the precious metal to encourage recycling, review inventory records for speculative accumulation. See Part 266, Subpart F of RCRA for more information.

Section 7 Spent Lead-Acid Batteries: Lead-acid batteries not being managed as universal waste must be managed as either hazardous waste in accordance with all applicable RCRA requirements, or as hazardous waste exempt from most requirements under RCRA Part 266 Subpart G. This section of the Survey is used to determine which of the non-universal waste management methods a facility is using for its lead-acid batteries, if any. DEQ staff should review the table in Part 266, Subpart G of RCRA for requirements depending upon who manages the batteries and how reclaimed. Often overlooked by

facilities is the potential requirement for a one-time land disposal restriction notification from the generator to the reclamation facility.

Section 8 Accumulation Time and Quantity: DEQ staff should attempt to verify and/or determine generator category by reviewing the information contained in the previous sections. This section evaluates generator category, as well as episodic events. Part (a) addresses compliance with accumulation and time and part (b) with monthly generation.

Section 9 Off-Site Shipment: List all transporters and destination (e.g., treatment, storage or disposal [TSD]) facilities and their respective EPA identification numbers, as applicable. List the city and state location of the destination facilities. This information can be found on manifests or other shipping documents. DEQ staff should review the required documents for the three years prior to the inspection, or the biennial Hazardous Waste Reports for the facility. Be sure to review the return copies of manifests to obtain names and EPA identification numbers of secondary transporters.

The third column on the table in Section 9 is for any on-site treatment of waste at the facility. Ideally, this treatment was already detailed in a flow diagram or in narrative in section 1 and/or discussed in section 5 if an excluded waste or process. DEQ staff should identify the waste or process here and refer the reader to the appropriate section(s) for more detail.

Section 10 Facility Universe: DEQ staff will evaluate all of the information obtained from the facility to identify the facility's generator status and universe **at the time of the inspection.** DEQ staff may choose to identify the handler status for the facility listed in RCRAInfo prior to the site visit or leave this section blank. In most cases this section will not be completed until conclusion of the inspection and therefore need not be completed in the field.

Section 11 Virginia-Specific Requirements for Notification and Fees: This section reviews compliance with Virginia-specific requirements for generator notification and annual fees, as applicable to the facility. Review facility manifests, inspection logs or other records for identification of possible previous episodic LQG events for which the facility did not provide notice to DEQ. Notification for a previous episodic generation event should be available in RCRAInfo, regional hazardous waste tracking sheets, and ECM file records.

For facilities that identify as a LQG or Permitted Facility, ask the facility contact if fee invoices have been paid. Most facilities will have copies of payments available for review during the inspection. As with Section 10, since this section is based on determination of the generator status of the facility, DEQ staff may not be able to complete this section in the field. Copies of annual fee invoices and payments information is posted on DEQNet under Documents/Waste/Waste_Tech_Support/FEE Implementation/HW Billing Information.

Section 12 Virginia Environmental Excellence Program (VEEP): DEQ staff may find information for this section prior to the site visit. VEEP participants can be found at:

http://www.deq.virginia.gov/Programs/PollutionPrevention/VirginiaEnvironmentalExcellenceProgram/Members.aspx.

For a facility that is not a VEEP participant, DEQ staff should ask the facility whether it has or is developing an Environmental Management System (EMS), or has completed any audits, such as ISO14000 series. DEQ staff should encourage any proactive environmental management facility to consider VEEP membership and include the web page hyperlink for the DEQ VEEP or provide DEQ VEEP staff contact information in this report.

Section 13 General Comments: The General Comments section of the Survey is available for DEQ staff to provide additional details for sections above or information not covered in the sections above or in enclosed checklists. Examples of additional information that DEQ staff might include are:

- The purpose for the inspection if beyond a routinely scheduled inspection (neutral risk). Examples include inspections in response to: a complaint; a referral from another DEQ media program or other agency (local, state, or federal); as a follow-up to an earlier DEQ evaluation such as a compliance assistance visit, initial compliance evaluation inspection (if this is a case development inspection), or facility self-disclosure; required by a consent order compliance schedule or significant non-complier designation; or DEQ regional initiative.

- Facility information differs from data in RCRAInfo and the facility is being asked to submit a subsequent RCRA Subtitle C Site Identification Form (EPA Form 8700-12). A link to the form, or a hard copy of the form, should be included or attached.

- Information on the number of employees and working shifts, the length of time at the current location, and a description of the physical size and layout of the operation and its buildings, if pertinent to describing waste streams or processes.

- Management of hazardous secondary materials' management and accompanying recordkeeping. DEQ staff should discuss how the facility is legitimately recycling the hazardous secondary material as per the four criteria listed in RCRA at 260.43.

- The status of closure or corrective action activities if applicable and not discussed elsewhere.

- Suggestions for better management practices or pollution prevention/waste minimization opportunities. Provide hyperlinks to DEQ program web pages and/or guidance.

- WellAny information that DEQ staff feels is pertinent to describing a facility's processes, waste streams, waste management, or overall operations that is not covered in sections above or in enclosed checklists.

B. CHECKLISTS

The following checklists are most often used for inspections conducted by DEQ Hazardous Waste staff:

- Hazardous Waste Large Quantity Generator
- Hazardous Waste Small Quantity Generator
- Hazardous Waste Conditionally Exempt Small Quantity Generator
- Container Management
- Tanks (*short and long versions*)
- Health & Safety
- Used Oil
- Universal Waste Management
- Permitted Facility (*checklist and/or narrative summary*)

Other process-, unit-, and waste-specific checklists are available as applicable to the facility. (*This list may change with development of new regulations or guidance.*)

- Hazardous Waste Transporter
- Used Oil Transporter
- SQG Tank Systems
- Solvent-Contaminated Wipes
- Universal Waste Lamp Crushing
- Air Emissions (*Subparts AA, BB, CC*)
- Hazardous Waste Wood Preserver
- Thermal treatment
- Boiler/Process Heater
- Carbon Adsorbers (*Regenerative and Non-regenerative*)
- Catalytic Vapor Incinerator
- Condenser
- Flares
- Incinerator (*unit and health & safety*)
- Thermal Vapor Incinerator
- Comparison of Permit and Operating Conditions (*for thermal units*)
- Land Treatment
- Landfills
- Surface Impoundments
- Waste Piles
- Land Disposal Restriction Requirements (*TSD and Transporter*)
- Groundwater Monitoring
- Hazardous Waste Closure/Post-Closure (*general and for landfills*)
- Waste minimization
- Virginia-Specific Requirements
- Non-notifier Checklist

As part of the preparation for an inspection, DEQ staff should attempt to pre-determine the checklists that will be needed. It is also helpful to have extra copies of common checklists available, such as other generator types or common waste management units (e.g., containers and tanks).

The most current versions of the Survey and checklists are available on DEQNet at:
http://deqnet/documents/index.asp?path=/docs/waste/Hazardous_Waste_Compliance/HW_Checklists
The Survey and checklists are also included in this Inspector Handbook as Appendix 1.

1) Generator Category Checklists

An inspector must evaluate a facility's compliance for the rate of generation at the time of the inspection, not necessarily at what category the facility has notified. Based upon what DEQ staff has observed as the facility's current generation rate, the appropriate level of generator checklist should then be completed. In some instances a facility may generate episodically during the calendar year, such as an SQG who is episodically LQG each year, and therefore chooses to notify and comply, at all times, at a higher generator category and the more stringent level of standards. For this type of facility, the more stringent checklist should be used.

The checklists reflect the different requirements for different categories of generators, as well as waste management types and units. Typically, for a CESQG, an inspector would complete a Survey and a CESQG checklist. For an SQG, an inspector would complete a Survey, an SQG checklist, and a Container Management and/or Tanks checklist for hazardous wastes accumulated on site.

For an LQG, an inspector would complete a Survey, an LQG checklist, a Health & Safety Checklist, and a Container Management and/or Tanks checklist. If the LQG with Tanks generates wastes with volatile organic compounds, the air emissions checklists (Subparts AA, BB, and/or CC) would need to be completed. Most LQGs with container management only choose to comply with Level One controls under Subpart CC and do not need to have a separate air emissions checklist completed, as this is included on the container management checklist. However, if an LQG uses containers in a hazardous waste accumulation area that are greater than 119 gallons in volume or non-DOT approved, be prepared to complete an air emissions checklist.

2) Permitted Treatment, Storage or Disposal Facilities ("Permitted facilities")

Permitted facilities have additional general and unit-specific checklists and/or narratives which should be completed in addition to the Survey. The applicable checklists completed are dependent upon what type of unit(s) is permitted at that facility. A Permitted facility will typically also be a generator of hazardous waste, with hazardous waste accumulation areas and satellite accumulation areas in addition to the permitted unit(s) (see Facilities with Multiple Handler Types below). Facility-specific conditions based on the permit should be reviewed prior to the inspection, and the inspector may choose to develop a facility-specific checklist or narrative summary for that facility based upon the pre-inspection file review. This facility-specific checklist or narrative summary would be completed in addition to any other applicable checklists for inclusion in the inspection report provided to the facility.

3) Facilities with Multiple Handler Types

Sometimes an inspector will encounter a facility that can be identified by multiple types of regulated handler categories, such as an LQG who also transports hazardous waste or who has a closed land disposal unit on site. The type(s) of inspection(s) (and checklists) that need to be completed at that facility should be discussed with your Regional Land Protection Manager and the Hazardous Waste Compliance Coordinator in Central Office prior to completing the inspection. DEQ is credited with only one handler inspection category for grant commitments, even if three types of inspections were completed and three different types of handler checklists were completed at the facility. However, in order for the inspection to count as a full CEI, EPA requires that all applicable RCRA aspects of a facility be inspected.

4) Other Handler and Unit/Waste Checklists

The above discussion represents the minimum required checklists for each category of generator and permitted facility inspection. Additional checklists should be added and completed during the inspection based on activities conducted at the facility, such as management of used oil, universal waste, or solvent-contaminated wipes.

During a full compliance evaluation inspection ("CEI"), ALL of the checklists applicable to a facility must be completed. DEQ hazardous waste inspectors are encouraged to keep extra blank copies of commonly-used inspection checklists with their other inspector tools in case a facility that had not previously been conducting certain activities is observed performing those types of activities, such as universal waste lamp crushing or management of solvent-contaminated wipes.

5) Inspector Comments on Checklists

Checklists typically have spaces to indicate Yes, No, Not Applicable (NA), or Non-Compliant (NC).

Each section or line item on a checklist corresponds to a specific regulatory citation. For those items that apply to the facility being evaluated, simple comments of how the facility does or does not comply with the citation may be inserted into the line item itself. For more detailed discussion or comments, the inspector may refer to the General Comments at the conclusion of the checklist and provide additional comments there. Any entry under General Comments should identify the applicable line item(s) on the checklist as cross reference. If details were previously provided in the Survey, a simple statement may still be entered into the applicable line item of the checklist but detailed comments need not be duplicated in the General Comments.

For facilities that appear to be non-compliant for any regulatory requirement, an explanation of the apparent violation(s) should be provided on the line item or in the General Comments section of the checklist(s). Comments should detail the specifics of the observation as it relates to the regulatory requirement and any corrective actions already completed by the facility. If no further corrective action is requested by DEQ staff from the facility, the inspector is encouraged to include that statement in the observation.

A list of the checklists completed for an inspection should be identified as enclosures at the conclusion of the cover letter that accompanies the report. Any attachments included should also be listed on the cover letter. This provides a cross reference in the event portions of the full report become separated. An inspection report is considered to be a cover letter with enclosures consisting of the Survey and completed checklists, and any attachments, as applicable.

CHAPTER 9: POST-INSPECTION PROCEDURES

A. Post-Inspection Supervisory/Enforcement Concurrence

Upon returning from an inspection, the Inspector should brief the Land Protection Manager (LPM) for the appropriate Regional DEQ office on the preliminary findings of the inspection. The inspector should discuss with the regional LPM and/or Central Office Hazardous Waste Compliance Coordinator any difficult issues requiring a compliance determination. The inspector should compare the information gathered during the site visit with the information gathered during the pre-inspection review. If necessary, the inspector should re-review any specific documents in order to properly classify apparent violations discovered.

Occasionally an inspector might have to make a follow-up visit to a facility to review additional paperwork that was not available during the inspection, or to speak with a facility contact that was not available during the inspection. In the event of the need for another site visit, the visit should be made as soon as possible after the initial inspection so that the preparation of the inspection report is not delayed.

Inspectors should keep in mind that if multiple facilities are inspected prior to writing inspection reports for these facilities (such as inspections on back-to-back days, or multiple inspections in one day), it becomes more difficult to keep mental track of observations made at each facility. Field notebooks or logbooks are essential in the preparation of good Inspection Reports. Procrastination in writing Inspection Reports should be avoided if at all possible.

B. Written Follow-ups to an Inspection

1) Request For Information

If an inspector conducts an inspection and determines that there are data gaps in the information obtained during the inspection, or that additional information is needed in order to make a compliance determination, a HW Inspector can do any of the following:

- Send the facility an Informal Email Request for Information (can be followed by additional informal requests, a Formal Written Request, or an Inspection Report with Informal Correction Letter, WL or NOV);
- Conduct an Informal Telephone call to the facility requesting information (followed by an email to document the verbal request); or
- Send the facility a formal, written Request for Information [RFI] (which will be followed by an Inspection Report with an Informal Correction Letter, a WL or an NOV).

If the apparent violations are of a low-priority nature and not recurrent, an Informal email request or follow-up phone call to the facility for information is appropriate. Where possible, the inspector should establish a deadline for receipt from the facility of additional documentation or return-to-compliance documentation. Any phone calls should be followed by an email reiterating what was discussed during the phone conversation, and putting any agreed upon deadlines in writing.

If no response is received to the informal email request in a timely manner, or if the potential violations requiring additional information are high-priority, the request for information can take the form of a formal written Request for Information to the facility. A copy of a sample RFI can be found in Appendix 2.

If no response to the formal Request for Information is received, the HW inspector should proceed with drafting the Inspection Report including a Warning Letter or Notice of Violation (as appropriate) based on the inspection findings and lack of response from the facility.

2) Inspection Letter/Inspection Report

Once an inspector has determined that all requested information has been provided by the facility, all data gaps have been filled, and all preliminary compliance discussions/determinations have been completed, the next step will be the drafting of the Inspection Letter and Inspection Report by the inspector.

The inspection report is an extremely important part of the compliance and enforcement process. It can be the instrument by which compliance with the regulations is conveyed to a facility, or it can be the instrument by which apparent non-compliance is conveyed. Therefore, the facts, observations, and statements documented in the inspection report should be regarded as potential evidence. Every inspection report should be written with detail and clarity. Almost any case initiated by an inspection could result in legal action against a facility. The successful resolution of the case depends greatly on the quality of the inspection, the report details regarding the potential violations, and on the supporting evidence.

The inspection letter that accompanies the inspection report can consist of any of the following, as appropriate:

a) Deactivation Memo (with or without Deactivation Letter to facility/Request for revised EPA Form 8700-12);
b) No Violation Letter;
c) Informal Correction Letter - Minor (non-SNC) Violations but resolved prior to drafting of inspection letter and report;
d) Warning Letter; or
e) Notice of Alleged Violation [NOV]

DEQ staff uses the three types of written correspondence in iii., iv. and v. above to notify facilities of apparent violations following an inspection. The type of letter that is written is based on the apparent violations that were noted. This is discussed in the next section of this handbook. Letters found in i. and ii. above are for cases where a facility is no longer operating, or cases where no violations were noted.

Deactivation Memos, No Violation Letters, Informal Corrections and Warning Letters are issued by DEQ compliance staff. NOVs mark the transition from compliance to enforcement. Compliance,

enforcement, and (as needed) permitting and program staff should consult on the NOV before issuance. NOVs are drafted by compliance staff, and finalized with input from enforcement staff.

Boilerplates of each type of inspection letter can be found in Appendix 2.

a) Deactivation Memo/Deactivation Letter

A deactivation memo follows up attempted inspections of CESQGs, SQGs and LQGs that are found to be permanently closed, or where a new company has replaced the former company, and the new company is not a generator of hazardous waste or an "Other RCRA Handler" of wastes (Used Oil, Universal Waste, Transporter, or Excluded Solvent-Contaminated Wipes). Inspectors submit this memo to the RCRAInfo RCRA Data Administrator in Central Office, and upload the memo to ECM. A completed copy of the RCRAInfo form (See Chapter 11) should accompany the submission. The suggested format for this memo is provided in Appendix 2. The memo should note that the facility was closed at the time of inspection, along with the circumstances, observations and any information obtained about current site ownership. If possible, include a photograph or photographs of the site.

If the company at the location indicated during the inspection that they no longer generate hazardous waste, are not an Other RCRA Handler, and want their number deactivated, the new company should be sent a deactivation letter with a request for them to complete a new Notification of Hazardous Waste Activity (EPA Form 8700-12) updating their current status to non-generator. The sample Deactivation Letter appears in Appendix 2.

b) No Violations Letter

A facility with no apparent violations observed during the inspection will get a No Violation Letter (see Appendix 2 for example letter formats), accompanied by the Survey Sheet and completed Inspection Checklists. A No Violation letter can include a section titled "Areas of Concern" that outlines potential future violations, areas where safety issues exist, areas where better hazardous waste management is possible, or issues/possible violations that were discussed during the inspection but that were not observed by the inspector during the inspection. No Violations Letters should not require a response from the facility.

c) Informal Correction Letter

Informal Corrections are used when all of the following conditions are met:

- Issues can be corrected within 30 days or prior to the issuance of the inspection letter/report;
- Issues do not present a substantial or significant threat to human health or the environment and do not result in actual harm;
- Issues are not substantial or significant deviations from fundamental components of the regulatory program (i.e. non-SNC violations [defined later in this chapter]); and
- The facility is not a frequent violator.

Informal Corrections are used to notify facilities concerning environmental requirements and apparent violations when the HW inspector expects that a problem can be corrected in 30 days or less, unless a higher level response is required by law, regulation, or guidance. If the facility completes and documents a satisfactory and durable return-to-compliance within the time allowed, the matter can be closed without further action. Informal Corrections letters can also be used to itemize low-priority, non-SNC, non-recurring violations that were returned to compliance either during the inspection, or during the time between the inspection and the finalizing of the inspection report, are Informal Corrections letters. This letter should be sent to the facility along with the completed Survey Sheet and completed Checklists from the inspection.

Staff must not make a case decision when issuing an Informal Correction or other notification. Under the Administrative Process Act (APA), Va. Code § 2.2-4001:

> *"Case" or "case decision" means **any agency proceeding or determination that**, under laws or regulations at the time, **a named party** as a matter of past or present fact, or of threatened or contemplated private action, **either is, is not, or may or may not be (i) in violation of such law or regulation** or (ii) in compliance with any existing requirement for obtaining or retaining a license or other right or benefit (emphasis added).*

In particular, an Informal Correction should not state that an RP "has violated" or "is in violation of" an environmental requirement, because that might imply incorrectly that DEQ has made a case decision. The RP is entitled to notice and a process to dispute alleged violations before a case decision is made or a corrective action imposed.

DEQ compliance staff convey the Informal Correction to the RP promptly after discovering an issue or concern using informal means (onsite conversation, facsimile, email, multi-part form, or letter). DEQ staff may contact the RP by telephone to discuss the issue or hold an informal meeting at the RO or onsite. Usually, the RP informs DEQ staff what steps it is undertaking and when they will be complete. DEQ Staff documents all contacts, requests to the facility, and RP actions in the DEQ file and the relevant database and may send an acknowledgement (Sample in Appendix 2). If the RP does not return to compliance within 30 days (or longer time as prescribed in program guidance) and if the issue or concern describes an alleged violation, staff should issue a Warning Letter.

Sample format is included in Appendix 2.

d) Formal Correction Letter

Formal Corrections include Warning Letters (WLs) and Notices of Alleged Violations (NOVs).

i. **Warning Letter**

Inspections at any type of facility where non-SNC, non-recurring apparent violations are found that were not corrected during or immediately after the inspection should be issued a Warning Letter. Typically WLs would be issued when the HW inspector expects that the apparent violation(s) can be corrected within 30 to 90 days.

The elements of a Warning Letter are as follows:

- A named responsible party verified through the State Corporation Commission (SCC), land records, and other appropriate means. This may or may not match the name on the permit;
- The facility name and its EPA Identification Number;
- A statement that DEQ has reason to believe that the responsible party may be in violation of applicable laws, regulations, or permit requirements at the facility;
- Disclaimer that the Warning Letter is not a case decision under the Administrative Process Act (APA);
- A description of each alleged violation (the observations) – what was seen by DEQ staff, stated by facility representatives, or reported by the facility or source. The observations should correlate with the legal requirements that follow. Observations are not speculations, opinions, or conclusions. In particular, Warning Letter should not conclude that the observed or reported condition "has violated" or "is in violation of" an environmental requirement;
- The specific provision of law, regulation, permit condition order or enforceable certification that has been allegedly violated (the legal requirements). This includes a citation to the requirement and a concise quotation of the applicable portion of the requirement (not paraphrased) both in **bold font**. Legal requirements are set out adjacent to the related observations;
- The enforcement authority and options available to DEQ;
- Statement of future actions and a request that the RP respond within 20 days of a Warning Letter detailing the corrective action it has or will take;
- Request that the responsible party advise DEQ staff of any disputed observations or other pertinent information;
- The process for obtaining a case decision or fact-finding on whether or not a violation has occurred, include the Process for Early Dispute Resolution; and
- DEQ Contact information.

The completed Survey Sheet and Checklists, transmitted to the facility with the Warning Letter, constitutes the inspection report. Sample format for a Warning Letter is provided in Appendix 2.

DEQ compliance staff can issue additional Warning Letters for alleged violations found during subsequent inspections, site visits and/or record reviews, unless the alleged violations demonstrate conditions to support a Notice of Alleged Violation (NOV).

If the RP agrees to, completes, and documents a satisfactory and durable return to compliance, staff should send an acknowledgement (see Appendix 2) and close the matter. If the RP **fails to adequately respond to the Warning Letter within 20 days or fails to return to compliance within 90 days,** staff should promptly issue an NOV and refer the case for enforcement action, or take other action as specified in program guidance.

If an RP cannot meet a date in its plan to return to compliance, the RP should notify DEQ immediately and provide documentation why it is unable to do so. DEQ may extend the date for RP action for good cause if the RP has notified the DEQ as soon as those circumstances became apparent. Extensions must be documented to the file and may require a Letter of Agreement (LOA) or consent order. The extension should clearly state that it does not relieve the RP from its obligation to comply with applicable environmental requirements. If an RP misses a deadline without good cause or fails to notify DEQ, staff should promptly issue an NOV and refer the case for enforcement action, unless program guidance requires a different action.

ii. Notice of Alleged Violation (NOV)

DEQ staff use NOVs to notify the RP of alleged violation(s) and to signify that the alleged noncompliance is ongoing, persistent, severe, or of such significance that the case is appropriate for further enforcement action and may warrant a civil charge or civil penalty. NOVs mark the transition from compliance to enforcement. If the alleged violations are confirmed, DEQ usually resolves NOVs by Consent Order, or other formal enforcement tool. NOVs request the RP to contact DEQ **within 10 days** to discuss the alleged violations, the steps necessary to return to compliance, a prompt meeting date, and possible future enforcement actions.

NOVs are generally drafted by compliance staff with the input of enforcement staff. Compliance, enforcement, and (as needed) permitting and program staff should collaborate before initiating formal compliance.

Typical circumstances warranting NOVs include but are not limited to:

- Alleged violations that present an imminent and substantial hazard to human health or the environment;
- Alleged violations that have demonstrated substantial adverse impacts to human health or the environment, or have substantial potential for such impacts;
- Alleged violations of Consent Orders;
- SNC Violations, described later in this chapter;
- Alleged violations that staff expect to take more than 90 days to return to compliance;
- Ongoing or persistent noncompliance, including repeated or continuing alleged violations by the Responsible Party (RP) despite previous compliance activity or informal actions;
- Seasonal violations that need quick elevation when consistent with program guidance;

- Failure to report significant noncompliance where such reporting is required;
- Failure to pay civil charges and required fees or costs, where collection procedures have been unsuccessful;
- Failure to take timely and appropriate required action in response to a spill or other release to the environment;
- Alleged falsification of certifications, reports, or other documents submitted to DEQ, and alleged violations that appear to include gross negligence and/or that appear to be knowing or willful; or
- Other noncompliance as identified in program guidance.

Notices of Alleged Violation (NOVs) are written communication by the DEQ that must include:

- A named responsible party verified through the State Corporation Commission, land records, or other appropriate means. The name may or may not match the name on the permit;
- The facility or source name and its permit, registration, or pollution complaint/ incident response number;
- A statement that DEQ has reason to believe that the responsible party may be in violation of applicable laws, regulations, or permit requirements at the facility or source;
- Disclaimer that the Notice of Violation is not a case decision under the Administrative Process Act;
- A description of each alleged violation (the observations) – what was seen by DEQ staff, stated by facility representatives, or reported by the facility or source. The observations should correlate with the legal requirements that follow. Observations are not speculations, opinions or conclusions. In particular, Notices of Alleged Violation should not conclude that the observed or reported condition "has violated" or "is in violation of" an environmental requirement;
- The specific provision of law, regulation, permit condition, order or enforceable certification that has been allegedly violated (the legal requirements). This includes a citation for the requirement and a concise quotation of the applicable portion of the requirement (not paraphrased), both in **bolded font**. Legal requirements are set out adjacent to the related observations;
- Statement of the enforcement authority and options available to DEQ;
- Statement of future actions and a request that the responsible party respond within a specified time period, detailing the corrective action it has or will take;
- Request that the responsible party advise DEQ staff of any disputed observations or other pertinent information;
- The process for obtaining a case decision or fact finding on whether or not a violation has occurred, including the Process for Early Dispute Resolution (PEDR); and
- DEQ contact information. The contact for an NOV is the DEQ staff member who will be responsible for the enforcement case.

An NOV should not state that a responsible party "has violated" or "is in violation of" an environmental requirement because that might imply incorrectly that DEQ has made a case decision. The responsible party is entitled to notice and a process to dispute alleged violations before a case decision is made or a corrective action imposed.

NOVs are not case decisions. NOVs merely capture DEQ staff's observations at a facility and notify a Responsible Party of any alleged noncompliance. Because compliance status may be reported to EPA and the public, in the highly unusual case that an NOV is completely in error, then a letter rescinding the NOV should be sent. NOVs are specifically not exempt from production under the Virginia Freedom of Information Act as a DEQ enforcement strategy document. If DEQ staff and the responsible party disagree about observations or legal requirements, the responsible party can avail themselves of the Process for Early Dispute Resolution.

A NOV should be issued following any inspection where apparent SNC-violations or recurring violations are found. A Notice of Alleged Violation must be accompanied by the survey sheet and completed checklists. A sample Notice of Alleged Violation is included in Appendix 2.

A NOV must include the observations made by the inspector, as well as a list of the regulatory or statutory provisions the facility violated during the inspection. Specific information about each alleged violation should be reported as follows:

- State the apparent violation with the corresponding regulatory and/or statutory citation as completely and specifically as possible. Be complete, accurate and clear. Include additional wording from the statute or regulation if appropriate to guide compliance.
- Cite alleged violations individually (do not combine alleged violations).
- Include descriptions of your direct observations and quotes or brief statements made by facility personnel and the name of the person with the quote (e.g. Mr. Jones told me that the five drums had been stored since July 1, 2010). Quotes or statements may be paraphrased for purposes of this description as long as they are accurate and presented in the proper context.
- Describe evidence collected during the inspection, along with the facts it supports. This constitutes proof of the alleged violation and its severity.
- Make clear reference in the narrative description of each potential violation linking it to the supporting evidence. Evidence should be included in the ATTACHMENTS section of the report (see ATTACHMENTS, below).
- Make additional comments, if necessary, if you want to document any information that is important but does not relate to the violations, if you want to request information from the facility on environmental issues that do not constitute alleged violations, if you want to make additional general recommendations to correct problems that do not constitute violations, or if you want to report other observations that do not support any violation. These may include observations that may constitute violations upon

further development of information or during subsequent inspections. These may also include observations pertinent to other environmental programs.

- Table 9-2 is a synopsis of RCRA regulatory citations. This can be used to help find the appropriate regulatory citations for inclusion in WLs and NOVs.
- It is important that details regarding the facility operations and violations are described in detail on the checklists to substantiate the alleged violations noted in the inspection report. It will be the responsibility of the HW Inspector to ensure that all violations are corrected following the inspection when a Warning Letter is issued. In the event that the facility does not respond to the WL with a schedule, or does not correct the violations in a timely manner, a re-inspection can be conducted or a Notice of Violation can be issued as described below. If there are any concerns regarding the appropriate action to take, the inspector should contact the regional Land Protection Manager or the Hazardous Waste Compliance Coordinator to discuss.
- DEQ staff may issue additional Warning Letters for alleged violations found during subsequent inspections, site visits and/or record reviews, unless the alleged violations demonstrate conditions to support a Notice of Violation, or program policy requires otherwise.

The completed Survey Sheet and Checklists, transmitted to the facility with the NOV, constitutes the inspection report. Sample format for a Notice of Violation is provided in Appendix 2.

NOVs, once drafted, are reviewed by the LPM in the Regional Office and forwarded to the Regional enforcement case manager for assignment to an enforcement staff member for review. This enforcement staff member will be included as the contact on the Notice of Violation.

Where available, staff may attach materials that support the NOV and help the RP understand the alleged violations. These materials can include inspection reports, photographs, maps, and copies of relevant regulations or laws. If the RP has already returned to compliance and the order is for penalties only, a consent order can be prepared and sent with the NOV. In such cases, the RP should be notified in advance.

Successful delivery of NOVs is critical to ensuring that RP decision-makers are aware of the nature and significance of the alleged violations. Copies of an NOV can be sent concurrently to several persons in addition to the RP contact (*e.g.,* registered agent, Board of Supervisors) to ensure that the NOV has reached RP decision makers. DEQ staff should strategically employ delivery confirmation or delivery receipt methods when receipt of ordinary mail is uncertain. For the majority of correspondence, staff will know that first class mail has sufficed when the RP contacts them as directed in the instructions in the NOV. If **no response has been received within 30 days (or sooner as appropriate) from the date of the NOV**, or if the RP indicates it is unwilling to resolve the matter by consent, a follow-up letter

enclosing a copy of the NOV should be sent with delivery confirmation or delivery receipt (Appendix 2). If an RP refuses delivery, other means, such as service of process or hand-delivery, may be employed.

Additional NOVs usually document continued or additional alleged violations based on subsequent inspections, reports, or other information. Such NOVs may also be issued to reinforce the alleged violation's severity or the importance of a return to compliance. While the Process for Early Dispute Resolution (PEDR) is being utilized, DEQ continues to perform all necessary inspections and record potential violations but does not, except in cases of emergency, issue NOVs to the RP for the same or related alleged violation that is the subject of the PEDR. Since two NOVs for the same or substantially related violations at the same site are required for a formal hearing for civil penalties the DEQ Adjudications Manager must be consulted when drafting subsequent NOVs in anticipation of a formal hearing. Additional NOVs, however, are not issued where the RP has signed a proposed consent order for the same issues that is pending approval by a Board.

e) Signature

The issue of who can sign different types of Inspection Letters varies from Region to Region. Typically the HW inspector will sign Deactivation Letters, No Violations Letters, and Informal Correction Letters. Warning Letters and Notices of Violation can be signed by any DEQ staff with written authorization from his or her Regional Director or Division Director (including as a job duty in an approved Employee Work Profile). Typically this might include the Land Protection Manager, the Deputy Regional Director, or the Regional Director.

A Flow Chart of the Inspection Decision Process can be found in Appendix 7.

C. Violations

The type and nature of inspection letter that is sent to a facility following an inspection is based on the type, nature, and recurrence of potential violations noted on the inspection checklists during the inspection.

1) Violation Classification

Because Virginia has been granted EPA authorization, DEQ uses EPA's Hazardous Waste Civil Enforcement Response Policy [ERP] (2003) to classify suspected hazardous waste violations for the purpose of determining a timely and appropriate enforcement response. The 2003 ERP Policy classifies alleged non-compliance based upon an analysis of the facility's overall compliance with Subtitle C of RCRA – not on an individual violation basis – which includes prior recalcitrant behavior and history of non-compliance.

The Policy establishes two classifications of violators: Significant Non-compliers and Secondary Violators. Significant Non-compliers (SNCs) are those facilities where high priority alleged violations

are taking place. Secondary Violators (SVs) are those facilities where lower priority alleged violations are taking place.

a) Significant Non-compliers

SNCs are those facilities that: have caused actual exposure or substantial likelihood of exposure to hazardous waste or hazardous waste constituents; are chronic or recalcitrant violators; have deviated substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements. In evaluating whether there has been actual or likely exposure to hazardous waste or hazardous waste constituents, DEQ should consider both environmental and human health concerns. Environmental impact or a substantial likelihood of impact alone is sufficient to cause a violator to be a SNC, particularly when the environmental media affected requires special protection (e.g., wetlands or underground sources of drinking water). Additionally, when deciding whether a violator meets this criterion, DEQ should consider the potential exposure of workers to hazardous waste or hazardous waste constituents. Many of RCRA's hazardous waste requirements are designed to protect the individuals who work with or near hazardous waste. Therefore, the protection of these workers should be valued as highly as the protection of the general public.

Under this criterion, DEQ need not identify significant damage to the environment or human health to justify a SNC classification. Rather, the mere fact of exposure or a substantial likelihood of exposure is sufficient to satisfy this criterion. Additionally, even in situations involving a minor release, the type of hazardous waste involved (e.g., mobility, exposure to air) or the location of the release (e.g., located in a populated area or in a building to which the public has access) may lead DEQ to conclude that this criterion has been met.

EPA suggests that DEQ look beyond actual releases to threatened releases. A threatened release is sufficient to meet this criterion if there is a substantial likelihood that the release would result in exposure to hazardous waste or hazardous waste constituents. Also, releases that might otherwise be considered insignificant should be examined in the larger context of the overall management of the hazardous waste. If a minor release, taken together with other factors, suggests an ongoing threat of future releases, DEQ should determine that SNC criterion has been met.

The following are several examples of suspected violations that would **generally** cause either an actual exposure or a substantial likelihood of exposure to hazardous waste and would warrant the potential violator being classified a SNC: a potential violator that did not determine that the waste it generates is a hazardous waste and the waste is not managed properly; a potential violator that disposed of hazardous waste in violation of the Land Disposal Restrictions; a facility that did not have an adequate ground water monitoring system; or a possible violator that failed to comply with the requirements for storing ignitable, reactive or incompatible wastes. **These few examples are provided for illustration only and are not meant to comprise anything approaching a complete list.** In situations where a regional office has general or site-specific

questions regarding the appropriate classification(s), it should consult with the CO HWCC, CO Waste Program Manager, or CO HW Enforcement Coordinator.

With respect to chronic or recalcitrant potential violators, DEQ should to obtain and consider multi-media information. In many cases, the evaluation will provide insight into the overall environmental management practices and may indicate whether a violator will be responsive to an informal enforcement action. To the extent practicable, DEQ should also consider previous potential violations by the same individual or entity at other locations.

In weighing the apparent violations that make up a regulated entity's compliance history, DEQ should give the heaviest weight to similar potential violations and to multiple potential violations at the same process or unit. In addition, while there is no set time period for evaluating the alleged violator's past conduct, misconduct occurring less than three years ago should be weighted more than misconduct occurring beyond a three year period. DEQ should consider but give less weight to apparent violations of other media requirements. Similarly, DEQ should consider but give less weight to possible violations by the same regulated individual or entity at other locations. The exception to this last principle is where the previous alleged violation was identical to the one currently identified by DEQ. In such cases, the previous alleged violation should be given considerable weight.

With respect to substantial deviation from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements, this criterion involves a judgment call based on the totality of circumstances associated with the violator. DEQ should keep in mind the following principles when making this determination.

First, DEQ should not consider the size or financial viability of a business when determining whether the violator is a SNC. After DEQ discovers a potential violation, the size and viability of the business should be factors in deciding the appropriate relief sought in any formal enforcement action that ensues, not in determining the level of potential violation.

Second, DEQ should focus on the importance of the particular requirement potentially violated and how substantially the alleged violator failed to comply with it. For instance, apparent violations that enable an alleged violator subject to Subtitle C to remain outside the scope of the regulatory program are, by their very nature, substantial deviations from the regulatory program. When applying this principle, DEQ does not necessarily need to evaluate the percentage of the total applicable requirements that were potentially violated.

The more important the requirement in terms of furthering RCRA's statutory or regulatory purposes or procedures, the less DEQ should tolerate deviation from the requirement without formal enforcement. In determining the importance of the requirement, DEQ should consider the direct contribution that the provision offers to protect human health or the environment. Additionally, DEQ should remember that a particular requirement may be important because

the information it requires to be maintained or provided to another individual is essential to the integrity of the RCRA regulatory program.

The following are examples of possible violations that **generally** constitute substantial deviations from the terms of a permit, order, agreement or other RCRA statutory or regulatory requirements and warrant the possible violator being designated a SNC: the possible violator did not have adequate financial assurance; a potential violator is operating as a treatment, storage or disposal facility without a permit or interim status; a facility failed to manifest its waste; or a possible violator offered waste to a transporter without an EPA ID number. Once again, **these examples are not meant to comprise anything approaching a complete list.** Other alleged violations should be considered and discussed as part of a case-by-case analysis/discussion with the Regional office.

Finally, in marginal situations, DEQ should consider any steps the potential violator has taken to expeditiously come into compliance prior to discovery by the government and to mitigate any risks resulting from its apparent violation. In some circumstances, the deviation from the requirements may not be considered substantial if the potential violator, on its own initiative, identifies the apparent violation soon after it begins, takes steps to resolve the apparent violation as expeditiously as possible, and mitigates any potential harm to the environment or the regulatory program.

In summary, SNC violations are imminently or immediately harmful to human health or the environment. SNC violations cause actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous constituents. SNC violations are major deviations from the regulations and would typically warrant issuance of a Notice of Violation to the SNC facility.

b) Secondary Violations (SVs)

SVs, which are not High Priority cases, are suspected potential violators that do not meet the criteria listed above for SNCs. SVs are typically first time potential violators and/or potential violators that pose no actual threat or low potential for threat of exposure to hazardous waste or constituents. A facility classified as an SV should not have a history of recalcitrant or non-compliant conduct. Suspected violations associated with an SV should be of a nature to permit prompt return to compliance with all applicable rules and regulations.

SV violations are deviations from statutes, regulations, permit conditions, administrative orders, consent agreements, or court decrees that could result in the hazardous waste generator being out of compliance without a substantial of harm to human health or the environment. SV violations would typically result in issuance of a Warning Letter or an Informal Corrections letter to the facility.

c) SNC and SV Examples

The items listed below are some examples from the March 1996 (revised December 1, 1999) version of EPA's Civil Enforcement Response Policy. The 1999 CERP was replaced by the 2003

CERP version which supersedes all previous versions, and the 2003 version does not break out SNCs in as much detail as the 1999 version. However, the determination of SNC versus SV lies with Regional and Central Office Compliance and Enforcement staff based on the criteria established above.

Possible examples of SNC violations may include:

- Visible evidence that hazardous waste has been released onto the ground (**SNC**).
- Hazardous waste released into waters of the state (**SNC**).
- Hazardous waste burned on-site in an unauthorized unit (**SNC**).
- An ignition source in area that stores ignitable characteristic hazardous waste, or other failure to properly handle ignitable, reactive, or incompatible wastes including incompatible hazardous wastes stored in the same container, tank or secondary containment structure (**SNC**).
- Hazardous wastes not compatible with the containers that hold them (**SNC**).
- Failure to carry out waste analysis for a waste stream (**SNC**). If, however, subsequent analysis indicates that the stream is not a hazardous waste, the appropriate classification would be **SV**.
- Failure to comply with the 90-day storage limit by a generator is an **SV**, unless there is significant deviation from the requirement, or failure to rectify the apparent violation upon notice which elevates the apparent violation to **SNC**.
- Commencing construction prior to permit approval at a new facility or modifications to an existing facility requiring a permit before such construction is commenced (**SNC**).
- Systematic failure of a generator or transporter to comply with the manifest system or substantial deviation from manifest requirements (**SNC**). Routine manifest violations of a limited nature may only warrant an **SV** designation.
- Failure to satisfy manifest discrepancy reporting requirements (**SNC**).
- Failure to prevent the unknowing entry or prevent the unauthorized entry of person or livestock into the waste management area is such failure substantially increases the potential for harm to the health of humans or livestock (**SNC**).
- Disposal of hazardous waste by a waste handler in a regulated quantity at a non-regulated treatment, storage, and/or disposal facility (**SNC**).
- Improper or unpermitted disposal of waste in violation of the Land Disposal Restrictions [LDRs] (**SNC**).
- Mixing, solidifying or otherwise diluting waste to circumvent LDRs (**SNC**).
- Incorrectly certifying a waste for disposal/treatment in violation of the LDRs (**SNC**).
- Failure to submit notification/certifications as required by LDRs (**SNC**).
- Failure of an owner/operator of a TSD facility to have a closure or post closure plan or cost estimates, or failure to establish or maintain financial assurance for closure and/or post-closure care (**SNC**).
- Failure to conduct required inspections (**SNC**).

- Failure to correct hazardous conditions detected during a generator inspection (**SNC**). Failure to correct conditions noted during an inspection that are less hazardous could be considered an **SV** violation.
- Failure to follow emergency procedures or a Contingency Plan during an emergency that could result in serious harm (**SNC**).
- Storage of hazardous waste in containers or tanks that are in poor condition (**SNC**).
- Failure to label hazardous waste drums, or a lack of knowledge of the contents of waste drums (SNC).
- Violation of any agreement condition or required compliance schedule (e.g., consent order or other enforcement compliance schedule) (**SNC**).
- Treatment, storage or disposal of hazardous waste without a permit or interim status.
- Violation of the "substantial" conditions of a permit or certification (e.g., facility capacity, unauthorized waste streams, unauthorized treatment or disposal methods or capacities, management in unauthorized areas).
- Any situation where actual "imminent hazard" of fire, explosion or release concerning hazardous waste or hazardous constituents can be documented in a hazardous waste management area (e.g., unsafe condition or operation of storage tank or impoundment, open flames or sparks around ignitable waste).
- "High Priority" violations of requirements, such as the complete absence of a containment system, contingency plan or personnel training plan (**SNC**). If the item is present, but deficient in some way, an **SV** designation would be appropriate.

Examples of SV violations include:

- Failure to assure early detection of releases (**SV**).
- Failure to notify DEQ of implementation of Contingency Plan (**SV**).
- Failure to maintain appropriate training records (**SV**).
- Failure to fulfill proper recordkeeping requirements (**SV**).
- Failure to submit a biennial report (**SV**). However, repeated failure may be considered recalcitrant behavior and warrant elevation of the violation to **SNC** status.
- Failure to perform clean-up operations or other corrective actions for non-emergency situations (**SV**).
- Improper labeling of drums (**SV**).
- Failure to date containers/tanks with an accumulation date if records otherwise document the accumulation date and for first occurrence (**SV**). Where an accumulation date is unknown and undocumented, or for recalcitrant or repeat offenses, a **SNC** designation would be appropriate.
- Violation of any schedule or condition of any written agreement, permit, license or certification entered between the inspected party and the state of Missouri (e.g., consent decree, consent agreement, permit, enforcement compliance schedule).
- Violation of "non-substantial" requirements. If items are present but have deficiencies or need updating (e.g., such as contingency plans, personnel training plans and documentation, closure plans and closure cost estimates) (**SV**).

- Similar partial violations such as failure to provide all the correct information when filling out a manifest or to affix all the proper marks and labels to hazardous waste containers being stored (**SV**).
- Anything else not serious enough to be considered a High Priority SNC violation should be considered an **SV** violation.

Note: One of the examples identified in the list of acute violations is also identified in the non-acute significant violations list (hazardous waste not compatible with the containers holding them). The reason for this is the possibility that an inspector will be unable to determine whether or not a container is truly being adversely affected by its contents. For example: In one instance an inspector observes a container has extensive staining along the entire extent of its bottom accompanied by bulging and loss of contents. In this situation the inspector would make the determination this is an Acute Violation, "Hazardous waste is not compatible with the containers that hold them", as the container integrity has been compromised and loss of content has occurred. Further, the inspector could site the facility was not operated and maintained to minimize the possibility of an emergency. In another example the inspector observes a Gaylord container has light staining at one corner of the container. Closer inspection does not reveal any bulging, deterioration or loss of contents. In this instance the inspector may elect to note this as a Non-Acute Significant Violation and proceed to explain the violation, why it is significant and provide assistance regarding possible remedies.

2) Possible RCRA Violation Citations

The following table of regulatory citations can assist the inspector in identifying the appropriate citations for violations noted during an inspection. A more complete list is referenced in Appendix 6. These citations will appear in Formal Corrections Letters, as well as on the RCRAInfo form, detailed in Chapter 10 of this Handbook. Please note, these citations are based on the pre-May 30, 2017 effective date for the Generator Improvements Rule. Citations will change after DEQ's adoption of the changes implemented as a result of the GIR.

Table 9-2: RCRA Citations

CODE	DESCRIPTION
Part 260	**Hazardous Waste Management System: General**
260.A	General
260.B	Definitions
260.C	Rulemaking Petitions
Part 261	**Identification & Listing of Hazardous Waste**
261.A	General
261.B	Criteria for Identifying the Characteristics of Hazardous Waste & For Listing Hazardous Wastes
261.C	Characteristics of Hazardous Waste

261.D	Lists of Hazardous Waste
261.E	Exclusions/Exemptions
261.H	Financial Requirements for Management of Excluded Hazardous Secondary Materials
Part 262	**Standards Applicable to Generators of Hazardous Waste**
262.A	General
262.B	The Manifest
262.C	Pre-Transport Requirements
262.D	Recordkeeping and Reporting
262.E	Exports of Hazardous Waste
262.F	Imports of Hazardous Waste
262.G	Farmers
262.H	Transboundary Movements of Hazardous Waste for Recovery Within the OECD
Part 263	**Standards Applicable to Transporters of Hazardous Waste**
263.A	General
263.B	Compliance With the Manifest System and Recordkeeping
263.C	Hazardous Waste Discharges
Part 264	**Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities**
264.A	General
264.B	General Facility Standards
264.C	Preparedness and Prevention
264.D	Contingency Plan and Emergency Procedures
264.E	Manifest System, Recordkeeping, and Reporting
264.F	Releases from Solid Waste Management Units
264.G	Closure and Post-Closure
264.H	Financial Requirements
264.I	Use and Management of Containers
264.J	Tank Systems
264.K	Surface Impoundments
264.L	Waste Piles
264.M	Land Treatment
264.N	Landfills
264.O	Incinerators
264.S	Special Provisions for Cleanup
264.W	Drip Pads
264.X	Miscellaneous Units
264.AA	Air Emission Standards for Process Vents
264.BB	Air Emission Standards for Equipment Leaks
264.CC	Air Emission Standards for Tanks, Surface Impoundments, and Containers
264.DD	Containment Buildings

264.EE	Hazardous Waste Munitions and Explosives Storage
Part 265	**Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities**
265.A	General
265.B	General Facility Standards
265.C	Preparedness and Prevention
265.D	Contingency Plan and Emergency Procedures
265.E	Manifest System, Recordkeeping, and Reporting
265.F	Groundwater Monitoring
265.G	Closure and Post-closure
265.H	Financial Requirements
265.I	Use and Management of Containers
265.J	Tanks Systems
265.K	Surface Impoundments
265.L	Waste Piles
265.M	Land Treatment
265.N	Landfills
265.O	Incinerators
265.P	Thermal Treatment
265.Q	Chemical, Physical and Biological Treatment
265.R	Underground Injection
265.W	Drip Pads
265.AA	Air Emission Standards for Process Vents
265.BB	Air Emission Standards for Equipment Leaks
265.CC	Air Emission Standards for Tanks, Surface Impoundments, and Containers
265.DD	Containment Buildings
265.EE	Hazardous Waste Munitions and Explosives Storage
Part 266	**Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities**
266.C	Recyclable Materials Used in a Manner Constituting Disposal
266.F	Recyclable Materials Utilized for Precious Metal Recovery
266.G	Spent Lead-Acid Batteries Being Reclaimed
266.H	Hazardous Waste Burned in Boilers and Industrial Furnaces
266.M	Military Munitions
266.N	Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation, and Disposal
Part 267	**Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit**
267.A	General
267.B	General Facility Standards
267.C	Preparedness and Prevention

267.D	Contingency Plan and Emergency Procedures
267.E	Recordkeeping, Reporting & Notifying
267.F	Releases from Solid Waste Management Units
267.G	Closure
267.H	Financial Requirements
267.I	Use and Management of Containers
267.J	Tank Systems
267.DD	Containment Buildings
Part 268	**Land Disposal Restrictions**
268.A	General
268.B	Schedule for Land Disposal Prohibition and Establishment of Treatment Standards
268.C	Prohibitions on Land Disposal
268.D	Treatment Standards
268.E	Prohibitions on Storage
Part 270	**EPA Administered Permit Programs: The Hazardous Waste Permit Program**
Part 271	**Requirements for Authorization of State Hazardous Waste Programs**
Part 272	**Approved State Hazardous Waste Management Programs**
Part 273	**Standards for Universal Waste Management**
273.A	General
273.B	Standards for Small Quantity Handlers of Universal Waste
273.C	Standards for Large Quantity Handlers of Universal Waste
273.D	Standards for Universal Waste Transporters
273.E	Standards for Destination Facilities
273.F	Import Requirements
273.G	Petitions to Include Other Wastes Under 40 CFR Part 273
Part 279	**Standards for the Management of Used Oil**
279.A	Definitions
279.B	Applicability
279.C	Standards for Used Oil Generators
279.D	Standards for Used Oil Collection Centers and Aggregation Points
279.E	Standards for Used Oil Transporter and Transfer Facilities
279.F	Standards for Used Oil Processors and Re-Refiners
279.G	Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery
279.H	Standards for Used Oil Fuel Marketers
279.I	Standards for Use as a Dust Suppressant and Disposal of Used Oil
Part 280	**Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks**
Part 148	**Hazardous Waste Injection Restrictions**
Chapter 60	**Virginia Hazardous Waste Management Regulations**

Section 12	Definitions derived from the Code of Virginia
Section 14	Definitions derived from incorporation of reference texts
Section 17	Definitions created by these regulations
Section 18	Applicability of incorporated references based on the dates on which they became effective
Section 20	Authority for Chapter
Section 30	Purpose of Chapter
Section 40	Administration of Chapter
Section 50	Application of Chapter
Section 70	Public Participation
Section 80	Enforcement and appeal procedures; offenses and penalties
Sections 124, 260, 261, 262, 263, 264, 265, 266, 268, 270, 273, 279	Adoption of 40 CFR by reference
Section 305	General (Generator)
Section 315	Notification
Section 325	Prohibition
Section 328	EPA identification number
Section 420	General (Transporter)
Section 430	Recordkeeping and reporting requirements
Section 440	Identification number
Section 480	Acceptance, shipment and delivery of hazardous waste
Section 490	Discharges
Section 500	Transfer facilities
Section 1260	Purpose, scope, and applicability
Section 1270	Determination of application fee amount
Section 1280	Payment of application fees
Section 1283	Determination of annual fee amount
Section 1284	Payment of annual fees
Section 1285	Permit application fee and annual fee schedules
Section 1286	Discounted annual fees for Environmental Excellence program participants
Section 1370	General
Section 1380	Changes to identification and listing of hazardous wastes
Section 1390	Changes in classifications as a solid waste
Section 1400	Changes in process classification
Section 1410	Changes in the required management procedures
Section 1420	Administrative procedures
Section 1430	Petitions to include additional hazardous wastes
Section 1435	Petitions for site-specific variance from the applicable treatment standard

	under the land disposal restrictions
Section 1495	General provisions
Section 1505	Additional universal wastes

D. Inspection Report

A complete inspection report consists of the signed inspection letter and inspection report consisting of the survey sheet, checklists, photos, and all relevant attachments and supporting documentation. Inspection reports should be written so that a person unfamiliar with the facility can understand how the plant is organized; against what standards it was inspected; and what waste streams were identified, how they were determined, and how those streams are handled by the facility. Inspection reports should document that all required procedures have been followed. All persons present during the inspection should be identified, to the extent possible. Reports should also contain references to any attachments used to substantiate the report's findings. A "Model" RCRA Inspection Report Outline (based on EPA guidance) can be found in Appendix 6.

1) General Report Writing Tips

- Write the report to meet the needs of the regulated community, the public, DEQ, EPA, and an administrative or judicial law judge.
- State the apparent violations, observations and legal requirements accurately. Provide detail to support the alleged violations and other problems, so that the facility can easily understand how to correct the problems.
- Make factual statements and provide any supporting evidence.
- Provide details to completely describe the facility processes, products, waste management practices, inspection procedures and the potential violations noted, regardless of facility complexity.
- Write your personal observations in first person.
- Use your field notes, checklists and evidentiary documentation collected to prepare the report.
- Prepare the report shortly after the inspection while the details are still fresh.
- Avoid any personal comments, especially those of a prejudicial or derogatory nature when taking notes.
- Destroy notes after the report is completed, except for any part(s) considered necessary report attachments.
- Complete a survey sheet and inspection checklists for every inspection, even if the facility has no apparent violations or is conditionally exempt from regulation. The survey sheet and inspection checklists are an integral part of the inspection report. Make sure all applicable boxes are checked and nothing is left blank. Provide explanatory comments for any apparent violations.

2) Attachments

Include as an attachment to the inspection report any document that is relevant to the inspection or narrative. Examples:

- Electronic copies of Inspection checklists created from handwritten checklists completed during the inspection.
- Process diagrams provided by the facility.
- Clear reproductions of digital photographs taken during an inspection. Label digital photographs with the number of the photograph, the name of the facility, location, date of inspection, the name and affiliation of the photographer and a description of what the image shows. Use digital photographs to document apparent physical violations and reference at the appropriate places in the narrative inspection report. A sample log sheet for use in organizing photographs to attach to the inspection report can be found in Appendix 6.
- Copies of sampling and analysis reports provided by the facility if sampling was conducted in conjunction with the inspection and if such a report is available.
- Copies of written and signed statements taken by the inspector from facility personnel, if applicable.
- Copies of documents supporting and illustrating statements made during the inspection. This might include drawings made by the inspector, process flow diagrams, copies of analytical data, other information on hazardous waste determinations, pages from facility plans, Material Safety Data Sheets, etc. Include copies of documents demonstrating noncompliance, such as manifests and pages from facility plans.

3) On-Line Checklists

A critical part of the Inspection Report is the completed inspection checklists. As part of drafting the inspection, the HW inspector should enter all the information that was handwritten on the paper copies of inspection checklists during the inspection, and any other applicable handwritten notes from the inspection, onto the electronic Survey Sheet and applicable electronic checklists. Each checklist should be fully completed, with comments regarding the inspection included as appropriate. Any pertinent comments or observations from the inspector's notes should be included on the electronic inspection checklists.

The current electronic versions of all the checklists are found on DEQNet, as well as in Appendix 2 of this handbook.

4) Photographic Inclusion

Photos taken during the inspection that document any instances of possible non-compliance should be included with the inspection report. Detailed information on taking and logging photographs can be found in Chapter 7. A sample photo log sheet that can be used to include photographs in an inspection report can be found in Appendix 6.

E. Peer Review

Once the report is prepared by the inspector it is submitted through the appropriate chain of command for comment/concurrence. Each regional office may establish its own chain of required review. Typically, the review process would consist of the team leader/technical reviewer, LPM, and

enforcement staff for any Notices of Violation. The following information should be submitted as part of the draft package to be reviewed:

- Inspection Letter, Warning Letter, or Notice of Violation
- Completed Checklists
- Attachments pertinent to the review process
- Inspection photographs, if applicable
- Completed RCRAInfo form

The inspector should make any necessary changes after internal reviews have been completed. Inspectors are responsible to ensure that inspection reports are complete and accurate.

F. Finalizing and Issuing the Inspection Report

The finalized, signed Inspection Letter should be saved in PDF format. **NEVER SEND DOCUMENTS THAT HAVE BEEN SAVED IN WORD AS THEY CAN BE ALTERED**. All inspection checklists and attachments should also be saved in PDF.

The inspector will have to compile and merge the different pieces that make up the Inspection Report prior to sending to the facility as a complete document. The preferred order of documents in the inspection report (if they are present) is as follows:

1. Inspection Letter
2. Photo Attachments
3. Survey Sheet
4. Facility checklist (TSD/LDF)
5. LQG, SQG or CESQG Generator Checklist
6. Transporter checklist
7. Container Checklist
8. Tank Checklist
9. Other Storage/Treatment Area Checklist (Drip Pad, Waste Pile, Surface Impoundment, Landfill)
10. Health & Safety Checklist
11. Universal Waste Checklist
12. Used Oil Checklist
13. Any other applicable checklists

Depending on Regional Office preference, the finalized Inspection Report can be sent via email or by hard copy through the U.S. Mail. In either case, the document should be sent Return Receipt Requested. If the document is sent via email, the inspector should merge the inspection letter, the survey sheet, and the inspection reports prior to emailing. The attachments can be included separately with the email. The email used to forward the Inspection Report to the facility should also become a part of the inspection record. Sample wording for a forwarding email can be found in Appendix 7.

G. Copies

Necessary copies of Inspection Reports are determined by the type of Inspection Letter/Inspection Report that is issued. Internally, all Inspection Reports including checklists and forwarding emails should be entered into the appropriate facility file in ECM. The HW inspector who conducted the inspection should keep a copy of the email and inspection report. Any other DEQ staff member with an interest in the inspection report can be copied. Send a copy of the inspection report to other DEQ programs or divisions if you suspect violations in other media or if they are involved in any way. Externally, the facility contact with whom the inspection was conducted should be the primary recipient of an Informal Correction Letter. The Environmental Manager or Company Manager/President should be the recipient of a Warning Letter or Notice of Violation. Send copies of the cover letter and inspection report to other company personnel as requested during the inspection or if appropriate.

Copies of all correspondence received from facilities in response to any request for information or in response to any type of inspection should be uploaded to the facility file in ECM.

H. Enforcement Referrals

The DEQ's issuance of a NOV implies that further enforcement action will follow. Through review of a draft NOV by enforcement staff, and reference of the DEQ enforcement staff as the contact person in the NOV, the NOV acts to refer the matter for formal enforcement action. After referral, enforcement staff has the responsibility for resolving the case. Enforcement staff will evaluate the facts and appropriate legal authority, and apprise compliance staff of the case status. In collaboration, compliance staff support the enforcement staff, attend any enforcement meetings with the facility at enforcement's request, review any responses or return-to-compliance documents at enforcements request, continue compliance activities (unless otherwise agreed), and communicate effectively to ensure a case is appropriately resolved. The NOV should be entered into ECM using the enforcement retention schedule (ECM 123-1).

As stated previously in this Handbook, DEQ uses EPA's Hazardous Waste Civil Enforcement Response Policy (March 15, 1996) to classify suspected hazardous waste violations for the purpose of determining a timely and appropriate enforcement response. The March 1996 Policy classifies alleged non-compliance based upon an analysis of the facility's overall compliance with Subtitle C of RCRA – not on an individual violation basis – which includes prior recalcitrant behavior and history of non-compliance.

The Policy establishes two classifications of potential violators: Significant Non-compliers (SNC) and Secondary Violators (SV). SNCs are those facilities where suspected high priority violations are taking place. SVs are those facilities where apparent lower priority violations are taking place. High Priority SNC violations are imminently or immediately harmful to human health or the environment. High priority violations cause actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous constituents. SV violations are deviations from statutes, regulations, permit conditions, administrative orders, consent agreements, or court decrees that could result in the hazardous waste generator being out of compliance without a substantial of harm to human health or the environment. Appropriate enforcement actions are tied to the two levels of violations. Examples of violations that would fall under each of these categories can be found in Chapter 8 of this Handbook.

When a possible violation is detected, an enforcement action may be initiated to compel the violator to return to compliance and/or possibly make compensation. EPA/states may use the evidence collected through inspections to determine which enforcement option to pursue. Options include Informal enforcement (Informal Corrections Letter or Warning Letter), Formal enforcement (Notice of Violation), Administrative Action, Civil Court Action, and Criminal Court Action. A decision to pursue one or more of these options should be based on the nature and severity of the apparent violation and the strength of the available evidence. Remember, however, that it is not the HW Inspector's responsibility to make case decisions. A HW Inspector can make observations, take notes, and photograph potential areas of non-compliance during an inspection. The HW Inspector should then return to his/her regional DEQ office and discuss the potential violations and potential outcomes with the regional LPM and regional enforcement staff.

Informal Corrections and Warning Letters are issued by DEQ compliance staff. NOVs should be issued by whoever has been delegated authority in that Regional Office, with the assigned enforcement staff member shown as the contact on the NOV. NOVs mark the transition from compliance to enforcement. Compliance, enforcement, and (as needed) permitting program staff should consult on the NOV before issuance.

Based upon EPA guidance, Informal enforcement response is necessary for all Secondary Violators. An informal enforcement response typically consists of a Warning Letter containing a recitation of the observations and corresponding legal requirement, and a request for the facility to propose a schedule for returning the facility to compliance within 20 days of the date on the Warning Letter. The Warning Letter format is provided in Appendix 7 of this Handbook. Warning Letters are drafted by the inspector and approved by the LPM for that Regional Office. Warning Letters can be signed by the inspector, or by the LPM, whichever is appropriate for the region in question. A facility that fails to submit a schedule as requested by a Warning Letter, or fails to return to compliance in accordance with the schedule they have proposed, should be reclassified as a SNC and a formal enforcement action taken (see below).

If the facility with apparent SV violations corrected the suspected violations during the inspection, or immediately thereafter, and provided DEQ with adequate documentation of the corrections, DEQ can issue a "Informal Corrections" letter in lieu of a Warning Letter to the facility.

Formal enforcement actions are the minimally appropriate enforcement response for all Significant Non-Compliers. A formal enforcement response must mandate compliance and initiate a civil, criminal, or administrative process that results in an enforceable agreement or order. The formal enforcement response should seek injunctive relief that ensures the non-compliant facility expeditiously returns to full physical compliance. High Priority SNC violations are major deviations from the regulations and would typically warrant issuance of a Notice of Violation to the SNC facility.

I. Timeline

All inspection reports are to be written in draft for review by the appropriate regional Land Protection Manager, regional technical reviewer (region-specific), and/or regional enforcement staff in a timely manner. Inspectors should have the goal of issuing the inspection report, including Warning Letters or Notices of Violation, and submitting the completed RCRAInfo form (See Chapter 11) **in 45 days or less from the date of the inspection**. While this is not always possible, inspection reports should be finalized

as quickly as possible. If activities during inspection report writing necessitate additional time to complete the inspection report beyond the 45 allotted days, the inspector must complete a memo justifying the need for additional time. This memo should then be signed by the LPM and uploaded to the facility file in ECM (see ECM in Appendix 3). The blank form for this memo can be found in Appendix 2, Checklists.

To help facilitate the upcoming draft/review process, inspectors should notify their Land Protection Manager as soon as possible after an inspection by telephone, email or in person when the inspector believes High Priority Violations or other complicated compliance issues were observed during the inspection.

Send the inspection report, including inspection letter or NOV or WL, checklists, and any attachments to the hazardous waste generator within 45 days of the inspection. Send the WL or NOV by priority email with Acknowledgement of Receipt requested, if available. If Regional protocol requires, follow up with a signed hard copy sent in the mail.

Resolution of informal and formal enforcement actions must occur within the restraints of the following timeline from EPA's Civil Enforcement Response Policy. For actions that take longer than the timeline, the inspector should place a memo in the facility file indicating the need for extended time.

Day 0 – Evaluation/Inspection Date

The evaluation/inspection date is defined as the first day of any inspection or record review during which a possible violation is identified, regardless of the duration of the inspection or the stage in the inspection at which the possible violation is identified. For apparent violations detected through some other method than record reviews or inspection (such as facility self-disclosure), the evaluation date will be the date upon which the information became available to DEQ.

If a facility is reclassified from an SV to a SNC as a result of failure to follow the schedule to return to compliance that came as a result of a Warning Letter, the new evaluation date will be considered the first day of discovery of non-compliance with the compliance schedule established through the informal enforcement response.

Day 45 – Informal Enforcement Response

Under the policy, the inspector goal is to issue Inspection Reports with informal enforcement responses (Warning letters or Violations Corrected Letters) within 30 days of the Evaluation/Inspection Date. However, EPA Region III has extended this deadline to 45 days for Virginia. If an inspector cannot achieve this goal, a memo must be placed in the facility file justifying the failure to achieve a 45-day response goal.

The inspector goal for issuance of formal enforcement responses (Notices of Violation) is also 45 days. However, it is acknowledged that it is far less likely to accomplish this task in 45 days than it would be for an informal response. A justification memo must still be placed in the facility file.

Day 90 – Informal/Formal Enforcement Response Deadline

Typically, informal enforcement responses will be issued much sooner than 90 days after the Evaluation/Inspection Date. Under the policy, in **ALL** cases, however, the determination must be made and the informal response issued within 90 days of the evaluation date.

Formal enforcement responses must be initiated by the issuance of an NOV by no later than 90 days after the evaluation date.

While inspectors do not have control over the speed of draft NOV reviews by enforcement staff, the inspectors have the responsibility to track the status of draft documents, and to keep enforcement staff and their LPM aware of approaching deadlines for issuance.

Day 180 – Informal Return to Compliance, Formal Consent Order

Informal enforcement response must result in a return to compliance by day 180. If a return to compliance has not been achieved by day 180, the facility will be reclassified as a SNC, and a new evaluation date established. This second evaluation date will be considered the first day of discovery of noncompliance with the compliance schedule established by the informal enforcement response, but in no case shall the new evaluation date be established later than 180 days following the initial evaluation date.

It is the inspector's responsibility to do the following:

- Know the EPA March 16, 1996 Civil Enforcement Response Policy;
- Know the schedule requirements for completing inspections and issuing informal and formal enforcement responses;
- Initiate activities as necessary to meet the schedule;
- Ensure that the appropriate LPM is kept informed of potential schedule problems; and
- If, at any time during the process, it becomes apparent that the alleged violation will not be resolved administratively (e.g., through a consent order), this information must be conveyed to the appropriate LPM as soon as possible.

CHAPTER 10 – INSPECTION FOLLOW-UP

A. Hazardous Waste Tracking Workbook

Through cooperative efforts, the EPA and DEQ implement the RCRA compliance and enforcement program. EPA delegated authority to DEQ to administer the program; however, the two agencies collaborate on overall program management strategies and implementation mechanisms. This Federal-State partnership is known as the National Environmental Performance Partnership System. One component of the NEPPS is the performance partnership grant (PPG) in which EPA allocates Federal financial resources to the DEQ for the administration of the hazardous waste (and other environmental) programs. Consistent with NEPPS and PPG policy, DEQ implements comprehensive and thorough tracking of the PPG work plan goals which are reported to EPA. Inspection tracking is necessary to ensure that the financial resources are utilized efficiently and assists with future inspection planning and Agency staffing.

Each DEQ HW Inspector is responsible for tracking the hazardous waste inspections he/she has been assigned in a fiscal year. Tracking spreadsheets have been developed for each Regional Office, and can be found on the RCRA drive of each inspector's computer. If the inspector has not already obtained access to the RCRA drive, forms to complete and submit to DEQ's Office of Information Services (OIS) to obtain this access can be found in Appendix 1 of this Handbook.

To access the tracking spreadsheets (also known as Inspector Workbooks), an inspector needs to open the RCRA drive (rcrainfo$//deqfile1). In addition to the tracking spreadsheets, there is a lot of valuable information located in the directory for this drive, and the inspector should find an opportunity, at some time, to explore the guidelines and information that can be accessed here. However, the most important folder on this drive for hazardous waste inspectors is the folder called "Haz Waste Tracking Worksheets". The inspector should open the drive and then open the Haz. Waste Tracking Worksheet folder.

Once the inspector opens the folder, he will see historic tracking information from past fiscal years for different aspects of the RCRA program. The subfolders entitled FFY08, FFY09, FFY10, etc., contain the tracking spreadsheets for previous federal fiscal years (FFYs). The inspector will need to open the subfolder for the current FFY to find the appropriate Region's current hazardous waste tracking spreadsheet. Other subfolders that are helpful in this folder are those entitled "FY__ Inspection Planning". The contents of this subfolder will help the inspector determine exactly what his/her inspection commitments are for the current fiscal year. However, this information will also be distributed to the inspectors by the HWCC prior to the beginning of the Federal Fiscal Year (which runs October 1 through September 30).

The next step is to open the hazardous waste tracking sheet subfolder for the current fiscal year. When that folder is opened, a separate spreadsheet for each regional office is found. All inspectors have access to all the regional spreadsheets. This can be helpful if an inspector wants to compare how he is entering data compared to other inspectors; however, an inspector will only be entering data into the spreadsheet for his/her regional office. An inspector can also look at the spreadsheet for his/her region

from a previous year to see what type of inspections have been done in the past by inspectors in that region.

1) Tracking Tabs

Once the inspector opens the tracking sheet for the correct region, he will be able to view any page from the tracking spread sheet. The spreadsheets have numerous pages that are accessed by tabs at the bottom of the page. The following tabs will be present in each regional tracking workbook:

Summary – The summary page provides an overview of the number and types of inspections that are due to be completed by the region that fiscal year.

Due FF__ - Large Quantity Generator inspections, Land Disposal facility inspections, and Federal TSD facility inspections due that fiscal year are identified on these pages.

Inspector 1, 2, 3, etc. - Each inspector in the same region will have their own Inspector tab in the tracking spreadsheet. These pages will be used by the inspectors to input their inspected facilities. The page can also be used to track the due date of the inspection report, and the remaining number of each type of facility to be inspected that fiscal year to meet the regional grant commitment for that inspector. The remaining tabs in the spreadsheet for that region are for use by all the inspectors. More information on completing the inspector tracking sheet is found later in this chapter.

CEG Numbers – Since conditionally exempt small quantity generators are not required to obtain an EPA Identification number, not every CESQG has a number. If an inspector inspects a CESQG that does not have a number, a state number can be assigned from this tab in the tracking worksheet.

Non-Generator IDs – If an inspector inspects a non-notifier who is subsequently found to be a non-generator, the inspector will use this page to assign a Non-Generator ID# to the facility. These numbers will help DEQ track non-notifier visits and non-generator facilities.

Provisionals and Episodics – Provisional ID numbers are issued by regional inspectors to facilities who do not normally generate hazardous waste but have a one-time generation, or other extenuating circumstances. Episodics are facilities that notify DEQ that they have temporarily become LQGs. More information on these is found in Chapter 12.

Links for Issues - Information on deactivating EPA Identification numbers is linked under this table.

LQG and SQG GIS Data – The information under this tab includes any requested information for grouped inspections, such as all on the same road, or all in the same city or county.

RCRA Data Pull – This tab contains a listing of all the facilities in that region. The list can be filtered by the inspector as needed to show only one type of facility or only never-inspected facilities or to group by location.

2) Inspector Tab

As soon as possible after the completion of an inspection (within five workdays), the inspector must enter the inspection information onto the appropriate inspector tab of the appropriate regional inspection tracking sheet. The following headings appear on the table on the Inspector sheets of Hazardous Waste Tracking Worksheet. Items noted in red are required to be entered by the inspector. All items are further described on the following pages. In some cases not all information can be filled in by the inspector right after the inspection. At a minimum, the inspector needs to complete those items indicated by an *. If at any time the information about an inspection changes, such as a regional office decides to issue a Warning Letter when the inspector thought it would be an NOV, the inspector should change the information entered into the table. If a RCRAInfo form has already been submitted for the inspection, a new RCRAInfo form may need to be submitted to correct the information entered into RCRAInfo.

- RCRAInfo
- Facility Name *
- EPA ID Number *
- Universe Category *
- Evaluation Type *
- SNY
- Inspection Category *
- Grant Category *
- Inspection Date *
- FCI Type *
- Report or Status
- Report Due Date
- Report Date
- Number of Days
- Response Due
- Response Received
- Return to Compliance Date
- 8700-12?

RCRAInfo – Entered by OFRWP Data staff. Indicates whether the RCRAInfo form has been received in OFRWP from the inspector;

Facility Name – The name of the facility as it appeared in RCRAInfo prior to the inspection;

EPA ID Number – The EPA ID number assigned to the location inspected. If the inspector assigned a CEG or VAN number, these would go in as the EPA ID Number;

Universe Category – The generator status of the facility in RCRAInfo prior to the inspection, not what it was determined to be during or after the inspection;

Evaluation Type – See Chapter 4. Most HW inspections are some type of Comprehensive Monitoring Evaluation (CME). In most cases, HW inspections fall under the category CEI as Evaluation Type;

SNY – Stands for Significant Non-Complier. This designation is appropriate for facilities with more severe or repeat violations. Where SNY is indicated as YES, the Report Status should be 120 for Notice of Violation;

Inspection Category – Applicable only to Small Quantity Generator Inspections. SQGNI is for SQGs that have never been inspected. RS is for SQGs that have previously been inspected, or non-notifiers found to be SQGs. Leave blank if the pre-inspection RCRAInfo status was not SQG. Leave this column blank if inspection was anything other than SQG;

Grant Category – For grant category purposes, an inspection "counts" as the highest generator level it was either in RCRAInfo prior to the inspection or during the inspection. For a facility in RCRAInfo as a SQG, if the facility is determined to be an LQG during the inspection, the grant category is LQG. Similarly, a SQG in RCRAInfo prior to the inspection that is found to be a CESQG during the inspection will have the grant category SQG. CAVs and other types of inspections that don't count would be grant category "MISC";

Inspection Date – The first day of the inspection at the facility. If the inspection took multiple days, this should still indicate the first day;

FCI Type – These are described in Chapter 4. For a facility that is found to no longer be at a location, the inspection is a FCI, with type ISI for Inactive Site Inspection. This is the FCI most frequently used by inspectors;

Report or Status – These are the RCRAInfo codes for the type of inspection report that will be written based on the findings of the inspection. OK means no violations. 110 means Informal Correction, referring to facilities with possible violations that were corrected either during the inspection or immediately thereafter. 119 refers to a Warning Letter. 120 refers to a Notice of Violation;

Report Due Date – The due date for the inspection report is automatically calculated as 45 days after the inspection date;

Report Date – Actual date of the inspection report. The inspector needs to fill this date in when the inspection report is finalized and sent to the facility;

Number of Days – Automatically calculates the actual number of days the inspection report took to be finalized. If this number is greater than 45 days, the inspector must put a 45 Day Exceedance Memo into the facility file. The blank form for this Exceedance Memo can be found on DEQNet with the inspection checklists. The link can be found in Appendix 2;

Response Due – If the inspection letter required the facility to respond in some way by a certain date, this date should be indicated in this column of the table;

Response Received – The date the response was actually received.

Return to Compliance Date – The date the facility was returned to compliance. This is applicable for 110 Informal Correction Letters and 119 Warning Letters. NOVs are returned to compliance by enforcement staff;

8700-12? – If the facility submitted a revised 8700-12 form as a result of the inspection, it should be indicated in this column.

Some important points related to HW inspection tracking are as follows:

- No double dipping. If you went to an inspection with EPA that is EPA-lead, DEQ does not get credit for the CEI. The inspection can only be entered into the tracking sheet as a DEQ FCI if the inspector inspected state-specific requirements, or other RCRA-regulated waste management, such as UW and Used Oil aspects of the facility. If the inspector did inspect these aspects, however, and FCI inspection report must be written. But these FCI inspections will not count toward the DEQ grant commitment.
- The code NRR (non-Financial Record Review) can be used on the tracking sheet to show that reports or data packages submitted by a facility were reviewed in order to evaluate a facility's possible return to compliance. Performing a file or permit review prior to performing an inspection is not an NRR, it is part of the pre-inspection file review and is a necessary component of a CEI, not an independent NRR.
- If a DEQ HW inspector does not finalize a HW inspection within 45 days of the inspection date, a memo to file justifying the delay is required. This is for DEQ internal and EPA audit purposes.
- If a VAP number winds up on the SQG-NI list for a region, it should not be there. HW inspectors should not inspect VAPs unless there is some kind of question about what is currently taking place at that location. Typically, there will be no ongoing activities at a provisional ID number location, and it would therefore not count as a completed HW CEI inspection.

B. Entering Inspection Reports and other information submitted by facilities into ECM

See Appendix 3 for complete ECM information.

C. RCRAInfo Form

The RCRAInfo form must completed by the inspector after the Inspection Report is finalized. Completed RCRAInfo forms are sent to the Data staff (currently Kim Hughes) in the Division of Waste Planning, Data and Reporting in the OFRWP, who uploads the information to the RCRAInfo database. Directions on completing the RCRAInfo form are found in Chapter 11. It is important that HW inspectors complete a revised RCRAInfo form if any information about the inspection changes after the initial RCRAInfo form has been submitted, such as additional potential violations determined during follow-up inspections, or return-to-compliance of previously noted inspections.

D. Inspection Report Response

A No Violation inspection report does not require a response.

When, during an inspection, a facility is found to have alleged violations of RCRA and the VHWMR, there are three types of inspection reports that can result from the Compliance Evaluation Inspection: An Informal Correction Letter, a Warning Letter or a Notice of Violation. These were described previously in this Handbook.

An Informal Correction Letter inspection report will identify potential violations of the VHWMR noted during the inspection that were either corrected during the inspection or corrected in the period of time between the inspection and the writing of the inspection report. These letters establish in the inspection letters that violations have already been corrected, what the corrective actions were, and that no further action is necessary to bring the facility back into compliance. Usually, these letters can be written as a result of interaction between the inspector and the facility both during and immediately following the inspection. Non-significant violations that can be corrected within thirty days are contained in the Informal Correction letter. Facilities will submit documentation after, or make observable corrections during the inspection in response to comments about potential non-compliance with the regulations noted during the inspection.

A Warning Letter will identify apparent violations noted during the inspection, and ask the facility to respond to the WL within 20 days with a proposed schedule to make corrections and return the facility to compliance.

A Notice of Violation requests the facility contact DEQ within ten days to set up a meeting to discuss areas of potential non-compliance. Usually at that meeting, the facility will discuss the alleged violations, any corrections that have been made since the inspection, and future intended actions. DEQ will usually negotiate a Consent Order with the facility to ensure that these actions are taken, and to assess a civil penalty, if applicable.

E. Return to Compliance (RTC)

Documentation submitted by facilities to support RTC where possible violations were noted is typically evaluated by HW inspection staff. There are different procedures to follow depending upon whether the RTC is full or partial, and whether the documentation was submitted in response to a Warning Letter or Notice of Deficiency, or documentation submitted during or after an inspection to document RTC from Informal Corrections observations made during the inspection or immediately thereafter.

For alleged violations that a facility has successfully returned to compliance:

1) Informal Corrections Letters – If an Informal Correction Letter is issued with an inspection report, a facility has already RTC'd for all potential violations noted, either during the inspection, or after the inspection but prior to the issuance of the inspection report. In these cases, the corrections that have been made by the facility are noted along with the apparent violations in the Informal Correction Letter. The RCRAInfo form (see Chapter 11) that is completed following the issuance of the Informal Correction Letter/Inspection Report shows both the alleged violations and the dates that corrections were observed, or the date that documentation of corrections was received.

2) Warning Letters – If a Warning Letter is issued with an inspection report, a facility is given twenty days in the WL in which to respond to DEQ with a schedule for correcting the noted apparent violations. As information is received from the facility to document the corrections, the inspector will have to review it and determine if the facility has made the appropriate corrections to rectify the alleged violations noted during the inspection. Usually the facility will submit a response to the inspection letter that will detail everything the facility has done up until that point to make corrections. In some cases, however, corrections may have begun but have not been completed as of the writing of the response. In this case, an inspector cannot return every potential violation to compliance; the inspector can only partially return the facility to compliance. The inspector will have to write a response to the inspection report response from the facility acknowledging steps the facility has already taken, identifying which of the potential violations noted in the original inspection report were corrected, how the potential violations were corrected, what the outstanding potential violations are, and what the facility must do to return to compliance from the outstanding potential violations. A facility cannot be fully RTC'd until all alleged violations have been adequately addressed.

   If a Warning Letter was issued with the inspection report, and the facility has adequately responded to every noted apparent violation within the appropriate time period, the facility can be fully RTC'd. The inspector will have to write a response to the inspection report response from the facility. A sample format for this RTC letter can be found in Appendix 7. Essentially, the inspector will itemize each observation and legal requirement as written in the original WL. After each legal requirement, the inspector will note the resolution or correction made for each apparent violation. At the end of the letter, the facility should be informed that no further action is necessary at this time. Following issuance of the RTC letter, the inspector should complete a RCRAInfo form for the RTC of apparent violations noted during the inspection.

3) Notices of Violation – If a Notice of Violation is issued with an inspection report, the case has been turned over to DEQ Enforcement Staff. HW Inspectors will be asked to attend the first meeting with the facility at which the Notice of Violation will be reviewed. The inspector may also be asked to review documentation and/or data submitted by the facility to support RTC for the potential violations during the enforcement process. However, typically when an NOV is issued, DEQ enters into a Consent Order with the facility that will detail a schedule by which the facility must take corrective measures. A facility cannot be RTC'd until the terms of the Consent Order have been met. The DEQ Enforcement staff assigned to the facility will acknowledge the completion of the terms of the Consent Order, and submit a RCRAInfo form returning the facility to compliance at the appropriate time.

F. Inspection/Inspector Assessments/Audits

Annually, after the end of the inspection year, an assessment will conducted of the hazardous waste compliance inspection reports, hazardous waste tracking sheets, and ECM uploads. These audits will be performed by the Central Office Hazardous Waste Compliance Coordinator in an effort to ensure consistency between regions, to promote the production of high quality inspection reports, and to achieve optimal use of current and new resources by embracing continuous improvement in program

development by incorporating LEAN elements (reduce waste and inefficiencies, increase process speed, identify non-value added steps and causes of delay) into the hazardous waste inspection process. Typical items that will be audited during an inspection include inspection documentation including inspection report quality and accuracy, checklist completion, ECM uploads, inspection report turn-around time, and submission of RCRAInfo forms state-wide (i.e., in CO, NRO, TRO, SWRO, BRRO, PRO and VRO).

The overall objective of this program audit is to ensure regulation and guidance implementation consistency, consistency in technical application and operational issues, and identification of potential training needs in the hazardous waste compliance program, while eliminating waste, inefficiency, and redundancy. Specific objectives are as follows:

- Verify that environmental laws, regulations and DEQ guidance are applied consistently;
- Identify innovative and efficiency techniques to promote statewide improvements;
- Identify areas for improvement and potential enhancements within the program operational process;
- Identify agency wide environmental and operational program impacts for quality measures found to be deficient; and
- Identify future training needs

The scope of the DEQ Hazardous Waste Compliance audit program will include a file review for the period of time being audited, ideally in one year increments, as well as interviews with inspectors, as necessary, to answer any questions regarding inspections reports and files.

The audit report that will be created following the audit will include generic observations and recommendations on Regional Office HW inspection programs, and is intended to stimulate cooperation and consistency between Regional and Central Office staff. Any issues noted during the audit will be included in a Regional Office Summary, as well as in the overall review of the HW Compliance Program as a whole.

The intent of the audit is finding any deficiencies in the program and present them to inspectors for future reference and application during future inspections. The audit will also identify inspection reports to inspectors that cannot be located in ECM at the time of the audit.

G. State Review Framework

The State Review Framework (SRF) consistently assesses EPA and state enforcement of the Clean Water Act, Clean Air Act and RCRA. The program was designed collaboratively by EPA and the Environmental Council of the States (ECOS). EPA works in partnership with each state to create a final SRF report. These SRF reports allow EPA to identify recommendations for improvement to ensure fair and consistent enforcement and compliance programs across the states.

As part of its oversight of state programs, EPA conducts regional and state reviews on a five year cycle using national and state data, enforcement file reviews, commitments made in annual agreements and discussions with senior management. Once EPA completes its review, EPA creates a final report. If the

report identifies issues for resolution, EPA and the state will address them collaboratively. EPA will capture any resulting measures in future grant agreements.

The next SRF review of DEQ by EPA Region 3 will take place in 2019 from FY18 inspection data. Any applicable issues identified by EPA during its review process that appear in the SRF report will be shared with regional DEQ compliance staff.

CHAPTER 11 - RCRAInfo

RCRAInfo is the latest in a series of EPA data management systems developed to record and manage the massive amount of information related to hazardous waste activities performed by the regulated community, and to document the monitoring activities performed by various State and US EPA regulators, i.e., the hazardous waste facility database used by both EPA and the States. RCRAInfo is used to report to Congress and various state legislatures, communicate the success and viability of the RCRA Program, and track progress and program performance on State and US EPA Regional RCRA grant activities. RCRAInfo contains general facility information as well as facility compliance history including specific regulatory citations for previously documented alleged violations. RCRAInfo also generates reports such as biennial report and user-defined queries, and provides access to Learning Zen, a training function.

DEQ Central Office has a RCRA data administrator in the Office of Waste Planning, Data & Reporting. Technical issues and specific questions regarding RCRAInfo should be brought to the attention of CO RCRA data staff.

A. Commonly Used Terms

The following terms are used in RCRAInfo:

Universe Category: The generator level of a facility, or its status as a TSD, transporter, UW handler, Used Oil generator or Used Oil transporter. It is important that the inspector confirm the facility universe prior to the on-site inspection (if possible) so that the proper checklists can be brought to the facility, and the proper type of inspection performed. Facilities are now able to use myRCRAid, an electronic submission alternative for subsequent notification. [Formerly, the only alternative to update status was by submitting a paper copy of EPA Form 8700-12 to DEQ.] Therefore, a facility's universe status may change at any time without notification to DEQ/the inspector, so it is important for inspectors to check a facility's status on RCRAInfo prior to inspecting.

At DEQ, inspection planning begins for an upcoming fiscal year at the end of the previous fiscal year. Performance Partnership Grant (PPG) inspection Work plan commitments for LQG facilities are determined based on the universe of LQGs at the time of inspection planning. DEQ commits to inspecting 20% of its LQG universe annually; therefore, all LQGs are inspected once every five years.

It is not uncommon for the universe status of a generator to change. If at the time of the inspection an LQG facility that was included in the Inspection Work plan at the onset of the fiscal year is determined to be an SQG (not an LQG), the inspection will count as an LQG toward the PPG commitment – an inspection counts as the higher level of status during planning versus status at the time of the inspection. If however, the facility has re-notified prior to Work plan negotiation and the facility is an SQG at the time of negotiation but is erroneously included in the Work plan as an LQG, that inspection will only count as an SQG inspection (unless the facility has become an LQG again prior to or at the time of the inspection). In this case it would then be necessary for the inspector to perform an alternate LQG at a different facility to make up for the error in counting LQGs with the assistance of the CO HWCC to identify a different LQG that is due for an inspection.

Site Detail Report (SDR): The SDR is a report that can be obtained from RCRAInfo that provides general information about the facility including site location and contact information; generator status; and hazardous waste codes generated by the facility. The SDR also includes a summary of facility Notifications (8700-12 or Biennial Report Site Identifications) over time. This SDR report should be reviewed and saved and/or printed prior to the inspection. At the time of the inspection, the inspector should ask the facility to review the information on the SDR and confirm accuracy or advise the facility to submit a subsequent Notification of Hazardous Waste Activity (EPA Form 8700-12 – See Appendix 6) to update information. Businesses are frequently changing ownership, organizational structure, personnel, and sometimes hazardous wastes generated. It is necessary for the information in RCRAInfo to be as current and accurate as possible. Inspections are an opportune time for DEQ to obtain updated information.

Compliance History: The inspection and compliance history recorded in RCRAInfo should be reviewed prior to the inspection as part of the file review conducted for a facility. EPA sometimes conducts compliance evaluation inspections of LQG and TSD facilities on behalf of Virginia; however, these inspection reports have not always been made available to DEQ and are not always available in ECM. The inspector should take note of any alleged violations cited during the EPA inspection.

It is also important for the inspector to review the RCRAInfo inspection history to determine if EPA has conducted an inspection within the past five years at an LQG facility being inspected. If the LQG facility on the Work plan was inspected by EPA within the most recent five years, the inspector should report this to the CO Hazardous Waste Compliance Coordinator and the LPM. After discussion with CO hazardous waste program management and the LPM, an alternate LQG facility should be chosen for inspection.

Biennial Reports (BR): The BR data may be obtained in RCRAInfo. The inspector should run a report of applicable BR reporting years prior to conducting an on-site inspection to ensure the facility is compliant with this regulation, and to also review the facility's expected approximate rate of generation.

Handler Evaluation Logs: In order to convey information determined during the inspection to the RCRAInfo database, the inspector is required to complete a Handler Evaluation Log (see Appendix 6) to translate inspection and enforcement information into computer data. The information from the Handler Evaluation Log form is entered into the RCRAInfo national database by DEQ's RCRAInfo Data support staff. EPA Region 3, EPA Headquarters and Congress use RCRAInfo as their primary source for information on hazardous waste activity, facility status, and compliance in the state. EPA also uses RCRAInfo when evaluating DEQ's inspection and enforcement performance. DEQ's Office of Waste Planning, Data and Reporting personnel use the information contained in the RCRAInfo database to determine BR reporting amounts and annual hazardous waste LQG and TSD fees, as well as tracking inspections and enforcement actions.

A Handler Evaluation Log form must be completed and include all potential hazardous waste violations and any enforcement activities related to that inspection each time an inspection is performed at a facility.

Handler Evaluation Log forms are required to be completed for:

- Compliance Assistance Visits.
- Compliance Evaluation Inspections.
- Case Development Inspections.
- Focused Compliance Inspections.
    - Closure/Post Closure Inspections.
    - E-Scrap Recycler Inspections.
    - Used Oil Inspections.
    - Universal Waste Rule Inspections.
- Non-financial record reviews.
- Follow-up inspections.
- Financial record reviews.
- Documenting various enforcement actions such as:
    - Assignment to enforcement.
    - Letters of warning.
    - Notices of violation.
    - Penalty negotiation letters.
    - Referrals to the Attorney General's Office.
    - Civil actions (settlements and orders).
    - Final consent decrees.
    - Judicial orders.
    - Referrals to EPA.

Anytime a facility returns to compliance after being notified of noncompliance, a new Handler Evaluation Log must be completed that places a return to compliance date in the right column on a copy of the original Handler Evaluation Log. The return to compliance date should be the date the department verified compliance by visual assessment or date stamped on the return to compliance letter if compliance is verified by correspondence/documentation from the facility.

Following the issuance of a DEQ inspection report or any other event that requires update to a facility's inspection status/history, a Handler Evaluation Log form should be completed and sent to the RCRAInfo Database Administrator in the Office of Waste Planning, Data & Reporting. Also provide a Handler Evaluation Log form with a copy of the return to compliance letter when compliance has been achieved to close out any letter of warning submitted for those apparent violations. If compliance was verified by correspondence from the facility, submit the facility's correspondence as well. Please note, Return to Compliance following issuance of a Notice of Violation will be performed by Enforcement staff, not by inspection staff.

B. <u>Instructions on completing a RCRAInfo Handler Evaluation Log</u>

Remember to always provide accurate and complete information.

A Handler Evaluation Log, known by inspectors as a RCRAInfo form, has multiple sections found on multiple tabs within an Excel Form. On the Handler Tab (Tab 1) is general facility information, and the data entry instructions for the whole form. Tab 2 is the Compliance Tab for information related to a

specific inspection, including information on apparent violations and the type of Enforcement Action taken by compliance staff. Tab 3 is the Enforcement Tab for data to be entered by Enforcement staff for facilities that have been issued a Notice of Violation and referred to Enforcement. Tab 4 is the Additional Data tab for any additional potential violations that won't fit on the compliance tab, additional technical requirement milestones in returning to compliance, and any information on a supplemental environmental project performed by a facility in lieu of paying a penalty under a consent order. The Reference and RCRA Codes tabs list Enforcement Codes, Enforcement Types, Evaluation Types, Media Types, Grant Plan Universe, Generator Universe, Inspection Categories, Focus Areas, and Violation Types.

Complete a Handler Evaluation Log form each time you complete a compliance evaluation inspection, focused compliance inspection, follow-up inspection or compliance assistance visit. All inspections need to be recorded for PPG reporting.

For all inspections, include actual compliance dates for those apparent violations corrected during the inspection. If potential violations are corrected without the need for Hazardous Waste Program Enforcement action, complete a follow-up Handler Evaluation Log as described. The Hazardous Waste Program will complete follow-up Handler Evaluation Log forms for potential violations corrected after referral to Hazardous Waste Program Compliance and Enforcement Unit. **All boxes on a Handler Evaluation Log form must be completed prior to submitting it for data entry**.

DEQ staff also document enforcement actions such as Notices of Violation, Consent Orders, and Appeals. In each of these cases, Enforcement staff will complete a Handler Evaluation Log form to document the action that has been taken. However, HW Inspectors will have to review any submissions by the facility, and return the facility to compliance at the appropriate time. For returns to compliance, the potential violations which led to the enforcement action are also included on the Handler Evaluation Log form.

When completing a Handler Evaluation Log to show a handler has returned to compliance, please use the same type code as was used on the original Handler Evaluation Log for the inspection. This will ensure the return to compliance is tied to the proper inspection.

Handlers that have at least one suspected high priority violation and are recalcitrant or negligent in returning to compliance are designated in RCRAInfo as Significant Non-compliers (SNY in RCRAInfo, SNC for discussion purposes). Consequently, in addition to completing Handler Evaluation Logs for Notices of Violation and Handler Evaluation Logs for Warning Letters, the Hazardous Waste Inspector will need to complete the Handler and Evaluation sections on the Handler Evaluation Log to indicate a handler is a Significant Non-Complier, when appropriate and with supervisor approval. As with other entries in RCRAInfo, when the handler is no longer a significant non-complier, the Hazardous Waste inspector responsible for the facility must complete the Handler and Evaluation sections on a separate Handler Evaluation Log and enter SNN (e.g., not a significant non-complier) to indicate this change.

Complete Handler Evaluation Log forms for subsequent enforcement actions using the Microsoft Excel version of the form. Directions follow.

Handler Section:

- **EPA Identification Number** - Enter the 12-digit EPA identification number (three digits per box). If there is no number assigned, verify this fact by checking the facility's address in RCRAInfo. If no number exists, for CESQGs, you can assign a VACESQG number on the tracking sheet. For non-generators, you can assign a VAN number on the tracking sheet. For any other temporary or permanent numbers, contact the RCRA Data Administrator in the Office of Waste Planning, Data & Reporting.
- **RCRA Non-notifier -** If no EPA ID number was found, indicate that the facility is a RCRA Non-Notifier by pulling down a "yes". If there was a number, pull down a "no".
- **Handler's Name (Current/Old RCRAInfo Name) –** Indicate the facility name as it appears in RCRAInfo for that location. If the facility is new to RCRAInfo, put N/A on this line.
- **Handler's Name (New Facility Name) –** If the name at the time of the inspection was not the same as the name in RCRAInfo, indicate the new name in this blank. If the name is the same, put N/A on this line.
- **Physical Address –** Indicate the physical address as it appears in RCRAInfo. Include all parts of the address, and do not omit the zip code.
- **Physical Address (new) –** If the address is anything other than as listed in RCRAInfo, indicate the new facility address here. Include all parts of the address and do not omit the zip code. If the address is not different, write N/A.
- **County or City** – Find the county or city the location is in on the pull down responses.
- **Address Confirmed** – If you inspected the facility and it was at the address indicated in RCRAInfo, choose "Yes". Otherwise, choose "No".
- **Contact/Title** – Indicate the contact name and contact title of the person at the facility with whom the inspection was performed.
- **Mailing Address** – If mailing address is different from the physical address, indicate the mailing address here. Otherwise write N/A.
- **Universe Change Required** – If you inspected the facility and found them to be generating at a level different from their last notification form, a universe change is required. Pull down "Yes". Otherwise pull down "No".
- **Indicate the RCRA Generator Universe Status of a RCRA Non-notifier** – If a non-notifier was found to be generating hazardous waste, indicate the generator status in this block from the pull down choices. These include:
    - **CESQG** - Conditionally exempt small quantity generator
    - **SQG** - Small quantity generator.
    - **LQG** - Large quantity generator.
    - **LDF –** Land Disposal Facility
    - **Federal TSD** – Federally-owned Treatment, Storage and/or Disposal Facility
    - **State/Local TSD** – Any other publicly owned TSD
    - **Private TSD** – Privately owned TSD
    - **HW Transporter**– Transporters.

- **Facility's Current/Old Generator Universe in RCRAInfo** – Generator status of the facility in RCRAInfo prior to the inspection.
- **Facility's New Generator Universe** – Generator status of the facility at the time of the inspection.
- **New Generator Universe Effective Date –** Date that facility changed status, or date that the inspector determined that the facility changed status.
- **If New Generator Universe is Non-Generator, Deactivate?** If the business at the address that corresponds to an EPA identification number is not a hazardous waste generator, ask the facility if they want to deactivate their EPA ID#.
- **Grant Category for the RCRA Grant Work Plan –**The higher of status between what the facility was identified in RCRAInfo and what the facility was at the time of the inspection.
- **Inspection Category (for SQG/CESQG) –** If the facility has never been inspected, indicate NI. Otherwise, choose RS for regional selection
- **Comments –** Any comments related to the inspection and/or its outcome.

Evaluation Section

- **Type –** Enter the appropriate type code by clicking on the down arrow and choosing the appropriate type.

Compliance Assistance Visit

A compliance assistance visit does not include evaluation events that would qualify as another Inspection type such as a Compliance Evaluation Inspection. Compliance assistance visit include technical site-specific compliance assistance and are conducted without the threat of enforcement. Therefore, compliance assistance visits cannot be linked to enforcement actions. However, compliance assistance is not a substitute for the regulated industries' responsibility to learn and comply with laws and regulations. Compliance assistance complements but does not replace appropriate enforcement.

Compliance Assistance Visits may be performed at conditionally exempt and small quantity hazardous waste generators, large quantity generators that have come under new management or have never been inspected before, or new businesses that have never registered. Compliance assistance visits may also be conducted when there are transfers of ownership; a change in manager, operator or other key persons at a facility; or significant changes in operational status (e.g., moving from small to large quantity hazardous waste generator status).

Typically, compliance assistance visit are conducted upon request from the facility; however, at times there may be compliance assistance initiatives proposed by the department to address emerging waste streams, (e,g., pharmaceutical wastes). Choose **"CAV – Compliance Assistance Visit"** as the type.

Case Development Inspection

A Case Development Inspection is an on-site inspection conducted for the sole purpose of gathering additional information that supports the evidence (e.g., on-site record review, interview) for a potential or pending enforcement case. A Case Development Inspection is performed only after an initial evaluation has resulted in the observation of potential violations. Case Development Inspections are conducted by both regional inspectors and enforcement case managers. Choose **"CDI – Case Development Inspection"** as the type.

Compliance Evaluation Inspection
A Compliance Evaluation Inspection is an on-site evaluation of the compliance status of the handler. A Compliance Evaluation Inspection includes an on-site examination of records and an evaluation of the handler's compliance with all applicable RCRA requirements. Where appropriate, it includes evaluation of groundwater monitoring activities, closure/post-closure activities, contingency plans, waste analysis plans and preparedness and prevention plans. Upon completion of a Compliance Evaluation Inspection, the inspector completes a report that documents the conditions at the facility during the inspection. A re-inspection of the handler or a "special request" by the Hazardous Waste Program may be coded as a Compliance Evaluation Inspection. Compliance Evaluation Inspections are conducted by regional and hazardous waste program inspectors. Choose **"CEI – Compliance Evaluation Inspection"** as the type.

Compliance Schedule Evaluation
A compliance schedule evaluation is an evaluation conducted to verify compliance with an enforceable compliance schedule associated with a formal enforcement action. Compliance Schedule Evaluations are conducted by both regional inspectors and enforcement case managers. Choose **"CSE – Compliance Schedule Inspection"** as the type.

Focused Compliance Inspection
A Focused Compliance Inspection is an on-site inspection that addresses only a specific portion or Subpart of the Missouri Hazardous Waste Management Law and Regulations. Permitting staff also performs closure/post closure inspections and resource Recovery inspections which may be counted as Focused Compliance Inspections. Focused Compliance Inspections are conducted by regional inspectors, Hazardous Waste Program inspectors and hazardous waste enforcement case managers. Choose **"FCI – Focused Compliance Inspection"** as the type and choose one of the following types of focus area inspections:

E-Scrap Recycler
An inspection focused on compliance with regulations associated with E-Scrap Recyclers. Choose **"ESR – E-Scrap Recycler"** as the focus area.

Used Oil Inspection
An inspection focused on compliance with the used oil regulations. Choose **"UOI -- Used Oil Inspection"** as the focus area.

Universal Waste Rule Inspection
An inspection focused on compliance with the Universal Waste Rule. Choose **"UWR – Universal Waste Rule Inspection"** as the focus area.

Financial Ability to Pay
A review of a facility's financial documents to determine whether it has an ability to pay penalties. Compliance and Enforcement case managers perform this record review in the office and not on-site. Choose **"FAP – Financial Ability to Pay"** as the focus area.

Financial Record Review
A financial record review is an extensive detailed review of a site's compliance with financial responsibility requirements. Financial record reviews are conducted in the office and not on-site.

Financial record reviews are conducted by hazardous waste enforcement case managers and permits financial planners. Choose **"FRR –Financial Record Review"** as the type.

Follow Up Inspection
A Follow Up Inspection is a partial on-site inspection to verify status of alleged violations cited during a previous inspection. Follow Up Inspections are conducted by regional inspectors and hazardous waste enforcement case managers. Choose **"FUI – Follow Up Inspection"** as the type.

Non-Financial Record Review
A non-financial record review is a detailed evaluation of non-financial records conducted in one of the department's offices. A non-financial record review should be used as the type only when the non-financial records are reviewed independently of another inspection. An example would be correlating analytical data received from the Environmental Services Program or evaluating Confidential Business Information Requests. Non-financial record reviews are conducted by regional inspectors and hazardous waste enforcement case managers. Choose **"NRR – Non-Financial Record Review"** as the type.

Significant Non-Complier
Significant non-compliers are those violators that have caused actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous waste constituents; are chronic or recalcitrant violators; or deviate substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements. In evaluating whether there has been actual or likely exposure to hazardous waste or hazardous waste constituents, inspectors should consider both environmental and human health concerns. Environmental impact or a substantial likelihood of impact alone is sufficient to cause a violator to be a significant non-complier, particularly when the environmental media affected requires special protection (e.g., wetlands or underground sources of drinking water). Additionally, when deciding whether a violator meets this criterion, inspectors should consider the potential exposure of workers to hazardous waste or hazardous waste constituents. Many of RCRA's hazardous waste requirements are designed to protect the individuals who work with or near hazardous waste. Therefore, the protection of these workers should be valued as highly as the protection of the general public.

The department is obligated to complete a separate Handler Evaluation Log reflecting the facility is a significant non-complier and to complete data entry of the Handler Evaluation Log. When an inspection reveals a facility is a significant non-complier, after consultation with the Enforcement Unit Chief and agreement on the status, the inspector will complete one Handler Evaluation Log documenting the inspection and the Hazardous Waste Unit Chief will complete one Handler Evaluation Log stating the facility is a significant non-complier.

To document the facility is a significant non-complier, complete only the handler and evaluation sections. Choosing **"SNY – Significant Non-Complier"** as the type of evaluation and providing a date on which the determination was made indicates the facility is a significant non-complier. The date of determination is typically the date when regional office and central office staff have a teleconference and decide the handler is a significant non-complier.

Not a Significant Non-Complier
When the facility returns to compliance and is no longer a significant non-complier, the individual with the case lead must complete the Handler and Evaluation sections of a new Handler Evaluation Log to indicate the facility is no longer a significant non-complier.

To document the facility is no longer a significant non-complier, complete only the Handler and Evaluation sections. Using "**SNN – Not a Significant Non-Complier**" as the type of evaluation and providing a date on which the determination was made indicates the facility is no longer a significant non-complier. The date of determination is typically the date the department received a submittal that demonstrated a return to compliance or the department otherwise determined the facility returned to compliance.

Date
Enter the date of the evaluation. This should reflect the date the on-site inspection or off-site records review was completed. When completing a Handler Evaluation Log to designate a handler as a significant non-complier, enter the date that regional office and central office staff determined through a teleconference the facility was a significant non-complier. When completing a Handler Evaluation Log to designate a handler as not a significant non-complier, enter the date on which the handler demonstrated a return to compliance.

Inspector
Enter the inspector's last name and first initial (Doe, J.).

Comments
Enter any applicable comments, in the Evaluation Comments field. An example follows:

If the generator status of the handler has changed from a Large Quantity Generator to a Small Quantity Generator, then enter "Registered as LQG. Generation rate indicates SQG."

D. Covered Violations
Include only those alleged violations covered in the current enforcement action. This information must be provided for all kinds of inspections, including Compliance Evaluation Inspections, Case Development Inspections, Focused Compliance Inspections, Follow-up Inspections and compliance assistance visits.

- **Violation Type –** Enter the appropriate violation type code by clicking on the down arrow and choosing the appropriate type. The code chosen should correspond to the code associated with the apparent violation cited on the checklist.
- **Date Determined** – The form uses the evaluation date as the date determined, but the date determined may be changed, if appropriate. For Compliance Evaluation Inspections and compliance assistance visits, enter the date of the inspection or visit. For non-financial record reviews, enter the date the review was completed.
- **Actual Compliance Date (Qualifier)** - Enter the date on which the facility actually returned to compliance regarding the apparent violation. In most cases, this is the date of the "no further action needed" letter sent by the region to the facility after they have provided documentation

that demonstrated that the apparent violation had been corrected. This would also apply in cases where a follow-up inspection is required to verify a return to compliance.

F. Enforcement Section

- **Type** – Enter the appropriate enforcement type code by clicking on the down arrow and choosing the appropriate type.
- **Date** - Enter the date the enforcement action was issued (e.g., the date issued in person, or the date of the letter transmitting the Notice of Violation or the Consent Order final signature date).
- **Responsible Person** – Enter the last name and first initial (Doe, J.) of the person responsible for the enforcement action.
- Hazardous Waste Program Compliance and Enforcement Section staff enters the **Calculated Penalty** and the **Settlement Amount**. If penalties have been collected, then enter the amounts in the Calculated Penalty and Settlement Amount fields. The calculated penalty is the total penalty from the original penalty calculation. The settlement amount is the total penalty a facility must pay according to a signed formal document, such as a Settlement Agreement, Consent Judgment, or Court Order.
- The Hazardous Waste Program enforcement staff enters the **SEP Code** and **SEP Amount Spent.** When the terms of a Settlement Agreement or Consent Judgment include a Supplemental Environmental Project, enter the appropriate SEP Code and enter the dollar amount to be expended on the project.
- **Enforcement Comments** - Enter any comments in this area to give detail to further describe the enforcement action. Warning Letter numbers and Notice of Violation numbers should be listed in the comments.

C. RCRAInfo Codes for Actions

The following table represents the CME Enforcement Types/Codes that can be put into RCRAInfo. However, please note that DEQ Compliance Staff will only be using the following four codes: 110 – Informal Correction Letter; 119 – Warning Letter; 120 – Notice of Violations; 122 – Referral to Enforcement.

Code	Description	Definition
100	Informal Actions (series)	Written and non-written actions that are communications from US EPA or a State agency that notify a hazardous waste site there is a problem and possible violations exist. Informal actions neither propose nor assess penalties
110	Verbal Informal	Informal Corrections Letter - Oral notification by an agency representative informing a RCRA hazardous waste site that they violated applicable laws or requirements. No further action is taken if the site achieves compliance

		in a timely manner.
119	VA Warning Letter	Warning Letter
120	Written Informal	Notice of Violation - A written notification by an agency representative informing and notifying a RCRA hazardous waste site that they violated applicable laws or requirements, advising the site of what to correct and by what date the correction should take place.
122	Referral to Enforcement	
123	VA Termination of Enforcement Order	
130	Notice of Determination	A written notification by an agency representative to a RCRA site in response to the specific site's self-disclosure of specific RCRA violations or requirements
140	Letter of Intent to Initiate Enforcement Action	A written notification by an agency representative notifying a RCRA hazardous waste site of further follow-up enforcement action by the responsible agency. In some instances, these actions may be considered Notices of Intent or Show Cause letters
200	Initial Formal Actions (series)	Initial formal administrative enforcement actions issued by the implementing agency asserting the agency's position that violations have occurred and that require hazardous waste sites to correct violations within a specific period and may propose penalties.
208	VA Initial Formal Administrative Enforcement Action	Draft Consent Order
209	VA Revised Formal Administrative Enforcement Action	Revised Consent Order
210	Initial 3008(a) Compliance	Initial formal administrative enforcement action issued by the implementing agency asserting the agency's position that violations have occurred. The respondent/defendant is afforded the opportunity to appeal the agency's determination of violations to a trier of fact. These orders often impose penalties or proposed penalties.
220	Initial Imminent and Substantial Endangerment Order	Initial formal administrative order issued by the implementing agency addressing conditions which may present an imminent and substantial endangerment to public health or the environment.
230	Initial Monitoring, Analysis, Test Order	Initial formal administrative order issued by the implementing agency addressing situations that require monitoring, testing and/or analysis.
240	Initial 3008(h) IS CA Order	Initial formal administrative order issued by the implementing agency addressing corrective action.

250	Field Citation	An expedited initial formal administrative enforcement action addressing violations observed. These actions are often issued directly to a site in the field and assess penalties. In some instances, these actions may be considered "tickets."
300	Final Formal Actions (series)	Final formal administrative enforcement actions initiated by the implementing agency asserting the agency's position that violations have occurred and that require hazardous waste sites to correct violations within a specified period and may propose penalties.
310	Final 3008(a) Compliance Order	Final formal administrative order issued by the implementing agency asserting the agency's position that remedial action is required. The respondent/defendant is afforded the opportunity to appeal the agency's determination to a trier of fact.
316	VA Notice of Informal Fact Finding Procedure	
317	VA Notice of Formal Hearing	
318	VA Special Order pursuant to §10.1-1186	
319	VA Administrative Order pursuant to §10.1-1455.G	
320	Final Imminent Hazard Order	Final formal administrative order issued by the implementing agency addressing conditions that may present an imminent and substantial endangerment to public health or the environment.
330	Final Monitoring, Analysis, Test Order	Final formal administrative order issued by the implementing agency addressing situations that require monitoring, testing and/or analysis.
340	Final 3008(h) IS CA Order	Final formal administrative enforcement action issued by the implementing agency addressing corrective action remediation needs.
380	Multi-site CA/FO	Final formal enforcement code to be used when a super CA/FO is issued pursuant to Part 22.13(b).
385	Single site CA/FO	Final formal enforcement code to be used when a single site CA/FO is issued pursuant to Part 22.13(b).
400	Civil Judicial Referrals (series)	A formal written request to another agency or unit of government to proceed with judicial enforcement (e.g., civil judicial action). Actions recorded in the 400 series are generally followed by filing of formal actions recorded in the 500 series.
410	Referral to the Attorney General	A formal written request to Attorney General to proceed with judicial enforcement.
420	Referral to Department of Justice	A formal written request to the Department of Justice to proceed with judicial enforcement.
425	Referral to DOJ to Collect Penalties	A formal written request to the Department of Justice to collect penalties.
430	Referral to District Attorney/City Attorney/County Attorney/State	A formal written request to a District Attorney, City Attorney, County Attorney, or State Attorney to proceed with judicial enforcement (all judicial referrals levels lower than DOJ and AG levels).

500	Initial Civil Judicial Actions (series)	Initial formal legal actions taken (formally filed) for violation(s) that are not criminal actions, which may seek the imposition of penalties. Actions recorded in the 500 series are generally initiated as a result of a referral as recorded in the 400 series.
510	Initial Civil Judicial Action for Compliance and/or Monetary Penalty	Initial formal legal actions taken (formally filed) for violation(s) that are not criminal actions, which require compliance and/or assessment of monetary penalties.
520	Civil Action for Imminent and Substantial Endangerment	Initial formal legal action filed in court to address conditions which may present an imminent and substantial endangerment.
530	Initial Civil Judicial Action for Compliance and/or Monetary Penalty	Initial formal legal action filed in court to address situations where violations require corrective action remediation response.
600	Final Civil Judicial Actions (series)	Final formal legal actions taken (formally filed) for violation(s) that are not criminal actions, which may seek the imposition of penalties. Actions recorded in the 600 series are generally initiated as a result of a referral as recorded in the 500 series.
610	Final Civil Judicial Action for Compliance and/or Monetary Penalty	Final formal legal actions taken (formally filed) for violation(s) that are not criminal actions, which require compliance and/or assessment of monetary penalties.
620	Final Civil Action for Imminent and Substantial Endangerment	Final formal legal action filed in court to address conditions that may present an imminent and substantial endangerment to public health or the environment.
630	Final Civil Judicial Action for Compliance and/or Monetary Penalty	Final formal legal action filed in court to address situations where violations require corrective action remediation
700	Criminal Actions (series)	Formal legal actions taken for knowing violations and knowing endangerments or for placing another person in imminent danger or death or serious bodily injury.
710	Referral to Criminal Enforcement	A formal request to another agency or unit of government to proceed with criminal enforcement.
720	Criminal Indictment	A written notification advising a hazardous waste site they have been charged with a criminal offense.
730	Criminal Conviction	A court ruling which finds a hazardous waste site guilty of a criminal offense.
740	Criminal Acquittal	A court ruling which finds a hazardous waste site not guilty and has been set free from the charge of an offense by verdict, sentence, or other legal process.
800	Administrative Referrals (series)	A formal written request to another agency or unit of government to proceed with enforcement or to proceed with compliance investigation.
810	State to EPA – Administrative Referral	A formal written request to US EPA from a State to proceed with enforcement.
820	EPA to State	A formal written request to a State from US EPA to proceed with

	Administrative Referral	enforcement.
830	RCRA to CERCLA Administrative Referral	A formal written request from a State or US EPA RCRA program to a State or US EPA CERCLA program.
840	EPA Regions to EPA HQ Administrative Referral	A formal written request from a US EPA Region(s) to US EPA Headquarters (HQ) that includes Federal Facilities and/or other cases to be handled at the HQ level.
850	Administrative Referrals to Other RCRA Programs	A formal written request from a RCRA regulatory program that is referred to another RCRA regulatory program, including UST, Corrective Action, and Municipal Solid Waste.
860	Administrative Referrals to Other Programs	A formal written request from a RCRA regulatory program that is referred to other regulatory programs such as Air, Water, OSHA, etc.
865	Referral to US Treasury	A formal written request to the US Treasury Department to collect penalties.

CHAPTER 12 – OTHER INSPECTOR DUTIES

In addition to performing hazardous waste inspections under RCRA and the VHWMR, inspectors have additional job duties that may be assigned. These job duties could include any of the following:

- Issuance of Provisional Identification Numbers;
- FOIA Requests;
- Public Education and Outreach;
- Performing Site Investigations;
- Responding to Routine Compliance Inquiries and Regulatory Interpretation.

A. Issuance of Provisional EPA Identification Numbers:

Occasionally, a company or location that does not already have an EPA Identification number will generate hazardous waste, whether through a one-time clean out, site maintenance, or some type of removal action, and need to dispose of the waste. In general, anyone or any facility generating hazardous waste is required to obtain an EPA Identification Number for their specific site location by filing a Notification of Hazardous Waste Activity through EPA Form 8700-12 (see Appendix 6) and obtaining a permanent EPA ID number for that site.

However, Virginia has provided for the issuance of Provisional EPA ID Numbers to generators in cases where a site does not normally hold a permanent EPA ID number, but has generated hazardous waste due to some unusual circumstance, or in cases when an emergency situation arises necessitating expedient management of a hazardous waste, or in cases where the waste generation activity will only be temporary and of short duration, such as a specific job or contract activity. Provisional numbers allow a mechanism for generators to meet the EPA ID Number / Notification requirement without congesting the RCRAInfo data management system with permanent numbers that may only be temporal. Typically, inspectors (region-specific, check with your LPM) will be the ones to issues these Provisional EPA ID Numbers. Regional LPMs should also be able to issue these numbers. In the event that regional staff is unavailable to issue a Provisional EPA Identification Number, the Central Office Hazardous Waste Compliance Coordinator can serve as the backup for this function, as can the RCRAInfo Staff in the Waste Planning, Data and Reporting Division of the Office of Financial Responsibility and Waste Programs.

The regulatory language under 9 VAC 20-60-328.D. states "If an emergency or other unusual incident occurs which causes a necessity for the rapid transport of a hazardous waste to an authorized hazardous waste management facility, the generator involved in such a circumstance can telephone the Department of Environmental Quality (804-698-4000) and obtain a provisional identification number. Applicants receiving such a number will be mailed a blank EPA Form 8700-12 that shall be completed and returned to the Department of Environmental Quality regional office within 10 calendar days."

Like routine generators, generators obtaining provisional EPA ID numbers are also required to submit a Notification form 8700-12. This does not establish a permanent EPA ID number provided

the form is correctly completed, but is required as part of DEQ's provisional number protocol. Notification Forms submitted in support of a provisional number must be sent directly to **the DEQ Regional Office issuing the number.**

Issuance of provisional numbers for situations other than an "emergency or other unusual incident" is solely at the discretion of DEQ staff in accordance with the principles described herein. For situations where it is determined that issuance of a provisional number is inappropriate, the generator may apply for and will be issued a permanent EPA ID number in accordance with federal and state regulations. As a matter of policy, the 8700-12 form must be completed and faxed or mailed to the issuing Regional Office BEFORE the number is issued. We require this because there have been numerous instances where the Provisional ID number recipient fails to return the required form for verbally issued numbers. This is a particularly serious concern if there are repeat occurrences of this type of behavior, usually involving jobbers/contractors, and the Department may consider possible enforcement action in such cases as a 'failure to notify' violation of the regulations. However, a Provisional ID number will be issued verbally by the regional office or central office immediately in cases of extreme emergency involving a hazardous waste threat to public health and safety or the environment. The recipient is still required to complete and submit a copy of the 8700-12 notification form within 10 days as part of the required paperwork. Generators who may require a Provisional ID number should make arrangements to obtain it in advance of their anticipated need, to the extent possible.

In some cases, contractors performing the work at a job site will request the provisional ID number instead of the property owner/contracting agent. While DEQ would certainly encourage and recommend that the contracting agent exercise primary responsibility for obtaining the number because they are the primary generator sharing co-generator responsibilities with the contractor, it is not a specific regulatory requirement. Nonetheless, DEQ regional staff may use discretion in issuing provisional EPA ID numbers directly to co-generator contractors, and must be assured in such cases that the primary generator/contracting agent is cognizant of his generator responsibilities under the regulations and those that are implied by issuance of the number.

In general, provisional numbers are NOT issued to contractors working on a fixed site to which a Permanent EPA Identification Number has already been issued. Contractors are usually working on a fixed site as a result of being hired/contracted by the property owner, who will have primary responsibility as the site hazardous waste generator even though the contractor is also acting as, and has responsibilities as, the co-generator. Provisional numbers are not usually issued to landfills or other fixed site locations that have established permanent household hazardous waste (HHW) collection programs at their facilities and require a number for shipping the waste to a TSD facility. However, provisional numbers may be issued to one-day-event type collection programs, or for temporary "sweep" programs such as mercury or pesticide collection under the universal waste rule. Any determinations for these unusual circumstances will have to be made on a case-by-case basis.

Of course, if a handler will be routinely generating hazardous waste at a fixed site on a regular or even episodic basis, he must obtain a permanent EPA ID number if his generation category requires

it (i.e., anything greater than CESQG). In such cases a provisional number is inappropriate. For example, a college or university that may routinely exceed CESQG waste generation levels during semester changeovers when cleaning out chemical stocks or lab waste, or a fuel storage facility that becomes a large generator when cleaning out tanks once a year, would be candidates for a permanent number.

It has been DEQ's practice that PNs expire thirty (30) days from the date of issuance and may be used up to two times within that 30 day period (for the same waste generation operation). However, there may be certain situations where a provisional number can be issued for a project that may last for a longer period (e.g. a bridge repainting operation, or short term lead paint abatement project). Such determination must be made on a case-by-case basis. The following describes some possible scenarios where a provisional number may also require use more than once:

- A handler has filed a Notification for a permanent number but the number has not yet been issued.
- Hazardous waste has been discovered on the same property, and shipments must be made separately to different TSD facilities or on different days, or if subsequent discovery occurs at some interval shortly after the first discovery.
- When there is a short-term remediation project extending over a 30-day period that may involve more than one shipment, which takes place at the same location.

Guidance to the regulated community on how to obtain a provisional EPA ID number can be found on the DEQ website. The generator, or contractor working on behalf of a generator, must submit the completed Form 8700-12, indicating on the form that the generation of the waste is temporary.

Upon receipt of the completed Form 8700-12/provisional EPA ID# request, DEQ regional staff must first determine if the location requesting a PN has previously had an EPA ID number. This can be done by looking at the address in ECM, or by checking RCRAInfo by address for both active and inactive sites. If no previous EPA ID# has been issued, the assigned staff member can proceed.

The person processing the request will first review the request, and make sure that the Form 8700-12 is complete and accurate, and all necessary boxes have been filled. If not, the inspector processing the form would call or email the requestor, and provide information to assist them in revising their form. Once the submitted form is deemed complete and accurate, the inspector will record information contained on the Form 8700-12 on the Provisional EPA ID# tracking tab on the hazardous waste tracking sheet on the RCRA drive. Additionally, the information might have to be logged into a Regional logbook, or by some other permanent system specified by the LPM for that Regional Office. The tracking sheet or log must include the following:

- The Provisional Number;
- The generator/contractor contact information (or both);
- Date;

- Generator Location;
- Generator type; and
- Amount of waste being managed.

Also, an expiration date for the number is put into the tracking sheet. This date should be thirty days from the date of number issuance. If the PN is for VDOT or another requestor who has indicated that the project needs to go up to 60 days, a 60 day expiration period can be set.

Provisional Numbers are generated as follows using the Hazardous Waste Tracking Sheet for the appropriate regional office:

- A Provisional Number always begins with the three letters **VAP**.
- The next digit of the PN is the Regional Office number for the issuing Region:
  Southwest - 1
  Blue Ridge - 2
  Valley - 3
  Northern - 4
  Piedmont – 5
  Tidewater - 6
- The next two digits are the month of the calendar year of the PN request.
- The next four digits are the current calendar year of the PN request.
- The last two digits is the number of that provisional quest in that Region for the calendar year.

For example, a Provisional request in Piedmont Region received on January 15, 2017 is the fourth request of the year. That request will have the following provisional ID number:
VAP + 5 + 01 + 2017 + 04 = **VAP501201704.**

Once the PN has been determined, the inspector should print out the facility's electronic completed form 8700-12 (if the request was submitted via hard copy, omit this step). The inspector should write the PN that was assigned on to all applicable sections of the 8700-12. There are places for this number on the first page and at the top of each subsequent page. Each time the number is written onto the form, the inspector should initial it. On the final page, the inspector needs to sign the sheet, identify the date, and identify the regional office that assigned the PN. After all these items have been written onto the 8700-12, the completed form should be scanned back to the inspector's computer for issuance.

There are two forms that need to be sent to the requestor along with their completed 8700-12 form. Copies of these forms appear at the end of this Chapter and in Appendix 7 of this handbook. The first form should be completed when issuing a Provisional Number. The completed form should be emailed to the requestor along with the blank follow-up form, which is the second form after this section. The requestor must complete the follow-up form after the end of the expiration period, and submit it back to DEQ.

The completed PN package that gets emailed to the requester is as follows: the completed Form 8700-12, the completed Form 1 and a blank Form 2, along with a forwarding email. A sample email to accompany the PN package is found at the end of this chapter.

The Regional Office should also maintain a copy of the 8700-12 form, as well as forwarding a copy of the form to the data group in Central Office, Office of Financial Resources and Waste Programs. Regional Offices issuing Provisional EPA ID#s may also request information on the transporter and destination TSD facility to verify that they hold proper authorizations or permits to manage hazardous waste.

Please note with regard to PNs, all the normal generator requirements apply. There are no exclusions from the full generator requirements just by benefit of obtaining a provisional number. A provisional number is an EPA ID number to use on a manifest for unusual circumstances of waste generation at facilities not normally generating hazardous waste. In general, the number is used for an *ad hoc* application for unusual waste generation and shipment without accumulation. However if the generator accumulates any waste on-site rather than just generate and ship (presumably within 3 days following the satellite accumulation strategy) then all 262.34 requirements apply. A provisional number does not relieve the generator of *any* of the generator requirements.

Note: The generator will also need to complete a biennial generator report if they exceed generator quantities for the event (1000 kg/mo) and if it is a reporting year, and will have to pay the annual LQG fee to DEQ for that calendar year.

B. FOIA Requests

DEQ's FOIA Policy can be found in Appendix 4.

The Virginia Freedom of Information Act (VFOIA) gives the people of the Commonwealth ready access to records in the custody of public officials, and free entry into meetings of public bodies in which the business of the people is conducted. Such access is provided to any citizen of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth according to the provisions of the law, regardless of the reason for the request. Each DEQ employee Is a custodian of records, both paper and electronic, in his or her possession. No custodian shall either disclose or withhold records subject to discretionary disclosure (see DEQ FOIA Policy Part IVB) without prior consultation with the DEQ FOIA officer.

Inspectors may get FOIA requests that are identified as FOIA requests. Inspectors may also get RFIs that are not specifically identified as FOIA requests. Inspectors may be asked to provide information for FOIAs received by other individuals in DEQ. In compliance with the VFOIA, DEQ's FOIA policy states that DEQ will treat every written, electronic or oral request for records as a request under the VFOIA, whether or not that law is explicitly cited in the request. The required response time to FOIA requests is within five days of DEQ's receipt of request unless a seven day extension to the five days

has been justified.

While the VFOIA does not apply to requests made by individuals who are not citizens of the Commonwealth of Virginia, DEQ will make every attempt to honor such requests from outside the Commonwealth within a reasonable time.

In order to facilitate the fulfillment of future FOIA requests, it is imperative that information related to each inspection be uploaded to ECM in a timely manner. This would include the inspection report and any supporting documentation received from the facility. It would also include any photographs necessary to document non-compliance. The inspector, if required to perform ECM uploads, within thirty days of the completion of the inspection. If there is a regional scanner who performs the ECM uploads, the information should be forwarded to that scanner within thirty days of the completion of the inspection.

C. Public Education and Outreach

DEQ HW Inspectors are sometimes asked to give presentations to the regulated community in their Region on compliance topics. To assist with this, past DEQ and EPA presentations on numerous topics are linked at DEQNET/Programs/Land_Division/Hazardous_Waste/Presentations or HW_Presentations. The CO HWCC is available to assist with development of any presentations to be given by the HW Inspectors, or is available to do presentations in the regions in lieu of the regional inspectors.

D. Performing Site Investigations

Response to, and investigation of, reports of improper waste management is a part of each HW Inspector's Employee Work Profile. Occasionally a HW inspector will be asked to respond to a Pollution Response and Preparedness (PReP) call, or to attend a PReP call with the regional PReP coordinator to determine the applicability of the VHWMR to the site being investigated. This investigation could include a site visit, preparation of a site visit report, and a follow up to the facility that was investigated. It could also involve a formal hazardous waste inspection.

The HW inspector is responsible to take complete, accurate information on any complaints received, to file proper forms, to take every opportunity to explain proper waste management waste minimization, beneficial reuse, and recycling. The HW Inspector must investigate the assigned complaints and direct appropriate abatement, enforcement, or referral action to insure that monitoring efforts and documentation are consistent. The HW Inspector must also supply information to keep the complaint (PREP) database up to date and/or recommend closing cases or transferring to another DEQ staff member's responsibility.

The HW Inspector must also Supply information to complainants in accordance with the regulations, and review complaints to assure that proper follow-up has taken place.

E. Responding to Routine Compliance Inquiries and Regulatory Interpretation

It is our responsibility as an agency to interpret our regulations and offer guidance to the regulated community. Generators, consultants, contractors, attorneys and others commonly seek our advice on regulations outside the scope of an inspection, compliance evaluation or enforcement action.

This sometimes results in protracted discussions and negotiations, or even escalation to executive management levels. It is in everyone's best interest to ensure that our mutual goals are met to protect the environment, ensure regulatory compliance, and provide fair and equitable treatment of all parties influenced by our agency's actions.

Generators questioning applicability of a regulation or situation of interest to them often seek concurrence that their position does not conflict with DEQ's regulations. This may involve waste management processes that they have not yet applied or applications they may be unclear on. DEQ may also become involved in issues that are not yet subject to our compliance/enforcement process, but which indicate potential non-compliance consequences. It should be clear in these situations that DEQ is acting in an advisory and compliance assistance role to resolve conflicts that are not the direct result of an inspection or compliance/enforcement effort.

The ultimate decision to undertake any of our compliance recommendations is the generator's sole responsibility. DEQ offers opinions based on our expertise, research, EPA and internal policies, and precedents on how we intend to interpret our regulations. Whether the generator chooses to follow our recommendation or not is his sole decision. DEQ does not make the decision for him nor compel him to follow any advice we offer. We do not tell the regulated community what they "must" do. Our mechanism to ensure compliance following any action, or inaction, by a generator after we have made a best effort to offer compliance assistance is to follow established compliance and enforcement protocols, including administrative, civil and/or criminal actions. DEQ does have authority, and responsibility, to interpret our own regulations and fulfill our compliance and enforcement obligations. Some issues may ultimately be matters for the courts to resolve. EPA may also be asked, or choose, to become involved with RCRA Subtitle C regulation interpretation, or use their own investigation and compliance/enforcement authorities after the fact.

But, it should be clearly understood and represented to the generator that we are offering advice in his best interest, not compelling specific actions except through the authority of our enforcement instruments. It is his decision to choose or reject our recommendations. The self-implementing structure of RCRA Subtitle C places the duty to comply on the generator. If a generator chooses to follow a course of action contrary to our recommendation and/or interpretation of our regulations, resulting in significant and/or overt acts of non-compliance, we can and should pursue remedies available to us through the compliance/enforcement process. However, in our eagerness to enforce our regulations and resolve disputed or difficult situations, an inadvertent case decision is not in our best interest. Of equal, if not greater, concern is lending official support to questionable interpretations or disputed positions that are likely to conflict with our or EPA's regulations.

Give the best advice we have, seek solutions to solve problems to the extent possible while protecting the interests of the agency and our duty to follow the law, do not commit to or agree with a position that we cannot support and believe is in conflict with our responsibilities as an agency and under the law, do not compel an action that may impede a facility's rights under the APA. We can both take it from there.

Form 1

Your Provisional EPA ID Number Is:
Site Name:
Site Address:
Contact Name & Number:
Date Issued:
Expiration Date:

Virginia Department of Environmental Quality (DEQ) has provided for the issuance of provisional EPA ID numbers to hazardous waste generators in cases where a site does not normally generate hazardous waste and hold a permanent ID number, but has generated hazardous waste due to some unusual circumstance, when an emergency situation arises that necessitates the expedient management of a hazardous waste, or where the waste generation activity is temporary and of short duration, such as a specific job or contract activity. DEQ's compliance assistance policy on provisional EPA ID numbers may be found on our website at:
http://www.deq.virginia.gov/Portals/0/DEQ/Land/issuanceofprovisionalEPAIDnumbers.pdf

The following lists the conditions for use of the provisional EPA ID number you have been assigned. Failure to comply with the conditions may impact future attempts to obtain a provisional EPA ID number, require assignment of a permanent EPA ID number to the subject site, and/or may result in enforcement action. If you have questions, please contact your DEQ regional office identified on the DEQ website at:

http://www.deq.virginia.gov/Locations.aspx

CONDITIONS FOR USE OF THE PROVISIONAL EPA ID NUMBER

1. The provisional EPA ID number is being issued based on information provided in the **RCRA SUBTITLE C SITE IDENTIFICATION FORM (EPA Form 8700-12)**.

   The form and instructions for completing the form may be found on DEQ's Internet website at:
   http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/SolidHazardousWasteRegulatoryPrograms/HazardousWaste.aspx.

2. The provisional EPA ID number issued on this date is a **temporary** number. It is DEQ's position that these numbers **expire thirty (30) days from the date of issue** and may be used on manifests up to two times within that 30-day period for the same waste generation event. If additional time becomes necessary, the generator can request one extension to the 30-day period. Should the activity take longer than 60 days, the generator will need to obtain a permanent EPA ID number for

the site. This number will be deactivated at the end of the generation event.

3. If a generator will be routinely generating hazardous waste at a fixed site on a regular or even episodic basis, a temporary number may not be used and the generator must obtain a **permanent** EPA ID number.

NOTE: A Large Quantity Generator (LQG) is any generator who generates greater than 1,000 kg (approx. 2,200 lbs.) of hazardous waste or greater than 1 kg of acute hazardous waste in any calendar month. A Small Quantity Generator (SQG) generates between 100-1,000 kg/month (220 - 2,200 lbs.) of hazardous waste or less than 1kg of acute hazardous waste. A Conditionally Exempt Small Quantity Generator Quantity (CESQG) generates less than 100 kg/month (<220 lbs.) hazardous waste.

A chart summarizing the generator requirements for LQGs and SQGs is attached.

REQUIREMENTS FOR LARGE QUANTITY GENERATORS (LQG) In addition to complying with the RCRA generator accumulation requirements found in the Virginia Hazardous Waste Management Regulations (VHWMR), a generator of more than 1000 kg of hazardous waste or more than 1kg of acute hazardous waste in any calendar month of the year may be subject to an annual fee as provided under 9 VAC 20-60-262 B.8 of the VHWMR.

Please note, an LQG or SQG must continue to comply with the applicable generator requirements from the commencement of the generating activity, through the last shipment of waste from the provisional event to an off-site TSD.

1. Please complete the attached sheet related to the LQG Annual Fee and send it to DEQ within 30 days of expiration of temporary number. If the original provisional EPA ID number request specifies that the generator will be a SQG, a person who becomes a LQG (after receiving the provisional EPA I.D. number) shall notify the department in writing **immediately** of this change in status and document the change in the operating record. Any person that applies for a provisional EPA ID number as a LQG who ceases to be a LQG shall notify the department in writing **immediately** of this change in status and document the change in the operating record as specified by 9VAC20-60-315.D.

2. A person who is a LQG at any time during the calendar year shall be assessed an **annual fee** of **$1000**. For the evaluation of facility status or of generator status, the annual year shall be considered to be from January 1 to December 31. Please note, if hazardous waste from a single provisional EPA ID event starts in one calendar year and is completed in the next, the responsibility will be on the generator to show that the hazardous waste was generated in one or both of the

calendar years. Generators requiring a provisional EPA ID number for managing waste under the conditions of 9VAC 20-60-1283.F (emergency removal under official authority) are not subject to the fee. The fees regulations are available on the DEQ website at:

http://www.deq.virginia.gov/Portals/0/DEQ/Land/Guidance/dhwfr.pdf

LQGs may pay the annual fee to the DEQ upon receiving the provisional EPA ID number. If the department does not receive the payment prior to the annual billing period, the department will bill the generator for amounts due or becoming due in the immediate future. All payments are due and shall be received by the department no later than the first day of October (for the preceding annual year) unless a later payment date is specified by the department in writing as per 9VAC20-60-1284.A. Please be advised that if the invoice was received but not paid, you may be subject to a late penalty.

A LQG shall submit a transmittal letter to the DEQ which shall contain the name and address of the generator, the Federal Identification Number (FIN) for the generator, the amount of the payment enclosed, and the period that the payment covers. With the transmittal letter shall be payment in full for the correct fees due for the annual period. A copy of the transmittal letter only shall be maintained at the facility or the site where the hazardous waste was generated. Fees shall be paid by check, draft or postal money order made payable to "Treasurer of Virginia" and shall be sent to:

Department of Environmental Quality
Attn: Accounts Receivable
P.O. Box 1104
Richmond, VA 23218 (as specified by 9VAC20-60-1284.B.)

3. Any person who is a LQG during an odd numbered year (i.e., 2017, 2019, or 2021, etc.), is subject to the biennial hazardous waste reporting requirement as specified by 40 CFR 262.40. Additional information about the hazardous waste report is available at:
https://www.epa.gov/hwgenerators/biennial-hazardous-waste-report

Form 2

Hazardous Waste Generator Status for Annual Fee

Please fill out the following form and return to the DEQ within 30 days after expiration of the provisional EPA ID number. Copies of manifests used to ship the provisionally-generated hazardous waste to a TSD must be provided along with this completed form.

Attention: Sanjay Thirunagari
Department of Environmental Quality
P. O. Box 1105
Richmond, VA 23218

(Facility Name and EPA ID number)

Operated under the generator status of _____during calendar
(LQG, SQG, CESQG, Non-generator)
Year _____.

EPA Form 8700-12 Submitted on: _____

Waste generated: Start date: _____ End date: _____

Total amount of waste generated from this event (lbs): _____
Largest amount of waste generated in any month of the provisional event: _____

Facility billing contact person and billing address is as follows:

Billing contact name: _____
Billing contact phone number: _____
E-mail ID: _____
Address:
_____
_____
_____
_____

All LQGs are billed an annual fee of $1000.00 per calendar year.

Prepared: 7/20/2017

Summary Table – HW Generator Requirements

Requirement	Conditionally Exempt Small Quantity Generators	Small Quantity Generators	Large Quantity Generators
Quantity Limits The amount of hazardous waste generated per month determines how a generator is categorized and what regulations must be complied with.	≤100 kg/month, and ≤1 kg/month of acute hazardous waste, and ≤100 kg/month of acute spill residue or soil **261.5 (a) and (e)**	>100 and <1,000 kg/month **262.34(d)**	≥1,000 kg/month, or >1 kg/month of acute hazardous waste, or >100 kg/month of acute spill residue or soil **262.34(a)**
EPA ID Number Acquire a unique EPA identification number that identifies generators by site.	Not Required	Required **262.12**	Required **262.12**
On-Site Accumulation Quantity Determine amount of hazardous waste generators are allowed to "accumulate" on site without a permit.	≤ 1,000 kg to remain a CESQG ≤ 1 kg acute to remain a CESQG ≤ 100 kg of acute spill residue or soil to remain a CESQG **261.5(f)(2) and (g)(2)**	≤ 6,000 kg **262.34(d)(1)**	No Limit
Accumulation Time Limits Determine amount of time hazardous waste is allowed to accumulate on site.	Time starts when/if a CESQG accumulates greater than 1,000 kg (approx.. five full 55-gallon drums) – CESQG is then an SQG	≤180 days or ≤270 days (if transporting greater than 200 miles) **262.34(d)(2) and (3)**	≤90 days **262.34(a)**

Accumulation Requirements Manage hazardous waste in compliance with certain technical standards.	None	Basic requirements with technical standards for containers, tanks, drip pads or containment buildings **262.34(d)(2) and (3)**	Full compliance for management of containers, tanks, drip pads or containment buildings **262.34(a)**
Personnel Training Ensure appropriate personnel complete classroom or on-the-job training to become familiar with proper hazardous waste management and emergency procedures for the wastes handled at the facility.	Not required	Required **262.34(d)(5)(iii)**	Required **265.16 from 262.34(a)(4)**
Contingency Plan and Emergency Procedures Develop procedures to follow during an unplanned major event.	Not required	Basic planning required **262.34(d)(5)(i-iv)**	Full plan required **Part 265 Subpart D**
Preparedness and Prevention Develop procedures to follow in the event of an emergency.	Not required	Required **Part 265 Subpart C**	Required **Part 265 Subpart C**
Air Emissions Control hazardous air emissions from tanks and containers	Not required	Not required	Required **Part 265 Subparts AA, BB and CC**
Land Disposal Restrictions Meet standards for placing on the land and associated requirements for certifications, notifications, and waste analysis plan.	Not required	Required	Required

		Part 268	**Part 268**
Manifest Tracking hazardous waste shipments using the multiple-copy manifest - required by the Department of Transportation (DOT) and EPA	Not required	Required **Part 262 Subpart B**	Required **Part 262 Subpart B**
Waste Minimization Certify steps taken to reduce or eliminate the generation of hazardous waste	None	Good faith effort required **262.27**	Program in place required **262.27**
Pre-Transport Requirements Package and label hazardous waste for shipment off site to a RCRA facility for treatment, storage, or disposal	Only if required by the DOT or the state	Required **262.30 – 262.33**	Required **262.30 – 262.33**
Biennial Report Report data from off-site shipments of waste during the previous calendar year	Not required	Not Required	Required **262.41**
Exception and Additional Reporting Report if any required copies of signed manifests are not received back - Provide information on quantities and disposition of wastes upon request	Not required	Required **262.42(b) and 262.43**	Required **262.42 and 262.43**
Recordkeeping Maintain records of manifests, biennial reports, exception reports and waste testing	Not required	Required **262.40(a), (c) and (d)**	Required **262.40**
Facility Type	Facilities noted in **261.5(f)(3)**	RCRA permitted/interim	RCRA permitted/interim

Send off-site shipments to appropriate facilities for management	**and (g)(3)**	status facility **Parts 264/265, 266/267 and 270**	status facility **Parts 264/265, 266/267 and 270**
Closure Close equipment, structures, soils and units by meeting specified performance standards and disposal and decontamination requirements	Not required	Tanks only **265.201(f)**	- General **265.11(a) and 265.114** - Unit specific **Part 265, Subparts I, J, W and DD**

Sample E-mail To Accompany Provisional ID Number

Subject: EPA Provisional ID Number VAP_____ - [LOCATION NAME]

[Facility Contact Name],

The assigned temporary EPA ID number is noted in the subject line above as well as entered onto a copy of the scanned form received, and attached. Please also see the attached document for additional information regarding your provisional number. In addition, the attached letter includes a form that **must** be returned to DEQ. (I suggest you attach the manifest(s) or similar shipping document and provide a statement as to time period of generation to support the statement on the document.)

NOTE: Your provisional number has been issued through [EXPIRATION DATE – 30 DAYS FROM EFFECTIVE DATE].

If you have any questions, please feel free to contact me. Thank you.

[Provisional ID Number Processor Name]
[Provisional ID Number Processor Title]