

PRACTICAL SOLUTIONS

HAZARD EVALUATIONS, INC.
QUARTERLY NEWSLETTER

SPRING 2017

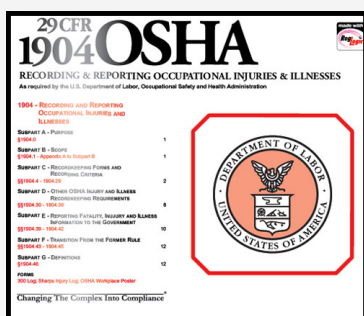
IMPORTANT
COMPLIANCE
DATES &
DEADLINES
FOR 2017:APRIL 15:
Air Title V
Emission
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Quarter 1
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OSHA Amends Recordkeeping Regulations

On May 12, 2016, OSHA published final rule changes to 29 CFR Part 1904, the OSHA Recordkeeping regulations. The changes address three areas including: employee involvement, discrimination, and electronic submission of injury and illness records to OSHA. Although the amended text is somewhat limited, the impact of the changes could be far-reaching. OSHA now requires all employers to: (1) provide employees and employee representatives access to injury and illness records; (2) inform employees they have the right to report work-related injuries and illnesses; (3) inform each employee of how they are to report a work-related injury or illness; and (4) refrain from deterring employees from reporting injuries or illnesses. In addition, the regulation prohibits employers from discharging and/or discriminating against employees for reporting a work-related injury or illness.



The revisions are the result of two identified issues: (1) employers deterring employees from reporting injuries or illnesses, and (2) discrimination against employees for reporting a work-related injury or illness. OSHA states in the preamble of this change and in an interpretation issued on October 19, 2016, that the agency views incentive programs that remove a benefit from employees if certain injury goals are not achieved to constitute deterring employees from reporting, and thus OSHA says this type of incentive program is prohibited. The agency also suggests that routine drug testing after an injury or accident could deter employees from reporting and be viewed as discriminatory, unless there is reasonable cause to believe that drugs may have played a role in the incident. OSHA further states that even if there is reasonable cause to conduct substance testing, the test must be able to determine that the employee was under the influence of the substance at the time of the injury or accident and not simply indicate that the employee had taken the substance sometime in the recent past.

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In addition, OSHA is also now requiring most employers to submit their injury and illness records to OSHA electronically. Starting in 2017, all establishments that have employed more than 250 people at any time during 2016 and have been required by the regulations to retain records must submit the 300A, 300, and 301 forms electronically to OSHA. Also, those employers who employed more than 20 employees but fewer than 250 in 2016 and are in an industry whose NAICS code is listed in Appendix A of the new rule must submit their 300A to OSHA electronically. For the 2016 data, the submission deadline is July 1, 2017. OSHA will be establishing a website where facilities can submit these records in the near future.

As a result of the revised regulations, employers may be confused about how the changes affect their record-keeping programs and determining which incentive programs are acceptable. HEI can help employers determine if their incentive programs meet the requirements of these changes. In addition, HEI can also provide advice for substance testing issues.

Attention: WNY Safety Conference Set for April 5th & 6th!



The WNY Safety Conference has been held annually since 1936 and this year will be held on April 5-6, 2017 at the Seneca Niagara Casino & Hotel in Niagara Falls, New York. Keynote speakers include: Mike Abrashoff, Former Commander of USS Benfold; Robert McCall, President of Inspire High Performance, LLC; Alison Levine, Team Captain of the First Women's Everest Expedition; and Mark A. Everest, President and CEO at Occupational Athletics, Inc. The 2017 conference focus will consider how leadership principles apply to all aspects of life and will address certain challenges in the workforce such as collaboration and innovation. With over 30 exhibitors, the 2017 WNY Safety Conference is sure to be an exciting and educational experience. **For more information and to register online, visit wnysc.com.**

ATTENTION PHARMACIES!

NYSDEC has announced initiatives to assist retail pharmacies in staying compliant with RCRA.

There are two aspects to this program. First, an environmental audit agreement that allows pharmacies to develop best management practices & become compliant with regulations prior to being audited by NYSDEC. Second, a Pharmaceutical Take-Back Program (PTBP) enables pharmacies to manage expired or waste pharmaceuticals for proper disposal.

An audit agreement must be completed by **May 1, 2017** to participate in the audit program. Separately, an application to participate in the PTBP must be submitted by **May 1, 2017**.

More information:
Audit Program:
www.dec.ny.gov/chemical/99555.html

PTBP:
www.dec.ny.gov/chemical/108213.html

We are planning to move to our new office in **May 2017** at 3636 N. Buffalo Road, Orchard Park, NY 14127

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Hazardous Waste Generators: Do Not Miss this Frequently Neglected Manifest Requirement...

Generator awareness of the method of final disposition of any hazardous waste is critical to satisfying all requirements of the USEPA's Resource Conservation and Recovery Act (RCRA) hazardous waste management regulations, as implemented and enforced in New York State by the NYSDEC. 6 NYCRR Part 372.2 (b)(2)(ii) requires that the generator of each hazardous waste listed in Box 9 of each Uniform Hazardous Waste Manifest (UHW) confirm with the designated disposal facility the ultimate disposal method for each waste stream. If the receiving facility does not provide a hazardous waste management code in UHW Box 19 that reflects the ultimate disposal method of the hazardous waste, the generator must provide a NYSDEC Handling Code in Box 13 of the manifest to designate the ultimate disposal method of the hazardous waste using one of the following codes:

L	Landfill
B	Incineration, heat recovery, burning
T	Chemical, physical, or biological treatment
R	Material recovery of more than 75% of the total material

For example, when Management Method Code H141 is entered by the receiving facility in UHW Box 19, the waste will be: stored, bulked, and/or transferred off-site and that no treatment/recovery, fuel blending, or disposal will occur at the receiving Treatment, Storage, and Disposal Facility (TSDF). This indicates to the NYSDEC that the waste disposal was not complete at the TSDF listed on the manifest; the material will then likely be bulked and transferred to a secondary TSDF for ultimate disposition under separate transport & manifesting. It is the generator's responsibility to communicate with the receiving facility and determine how the waste will be ultimately managed, in order for the UHW to be completed properly.

This information is critical to fulfill "cradle-to-grave" management of hazardous wastes. Regardless of how the waste will be managed, it may be best practice to include a NYSDEC Handling Code in UHW Box 13 to identify the ultimate disposal method for each hazardous waste in order to avoid inspection violations.

Additional Reminders for HW Generators:

1. An initial LDR notification is required to be provided to the TSDF for all HW streams banned from landfilling (per 6 NYCRR Part 371 or 376) and requiring further processing prior to disposal.
2. A "c7 Notification" is required to be submitted to NYSDEC when electronics are sent from an SQG or LQG for off-site recycle in order to apply the HW metals exemption.

Revisions to the TRI Rule Incorporate Additional Subject Substances

Several changes have been proposed or approved related to the Toxic Release Inventory Reporting Program (TRI) that may affect annual facility reporting requirements.

- **Effective Now:** "1-Bromopropane" (CAS No. 106-94-5), an aerosol solvent, was added to the list of reportable chemicals in November 2015. If required, Form Rs will be due July 2017 for the 2016 Reporting Year (RY). This substance is not known by any other common name.
- **Proposed:** In November 2016, USEPA proposed a rule that would add a category including 13 chemicals to the TRI list. If finalized, reports for the Nonylphenol Ethoxylates category will be due July 2018 (RY 2017).



Adoption of 6 NYCRR Part 597 Revisions to Include Certain Firefighting Compounds

NYSDEC added several substances from a group of chemicals called "perfluorinated compounds" (PFCs) to its list of hazardous substances at 6 NYCRR Part 597.3. The substances are often found in firefighting foams and have the potential to have impacts on the environment and public health. Facilities that store or handle the substances in certain configurations are subject to the requirements of the Chemical Bulk Storage (CBS) regulations. Subject tanks containing subject substances must have been registered by April 25, 2016. Further, facilities are required to comply with the storage and handling requirements of the CBS regulations by April 25, 2018.

Requirement to Report Annual Gas Use to NYSDEC

According to 6 NYCRR Part 551.2(b), "each person who first produces, sells or purchases oil and gas produced in the State and the operator of each gas storage facility in [NYS] must file with the [NYSDEC]...a statement of the oil and gas produced, sold, purchased or stored." The report, known as the "Purchaser/Taker's Annual Gas Report Form", is due annually no later than March 31st. This report is required if a facility or organization has purchased, acquired, or transported natural gas in New York State. It is only applicable to "First Purchasers" and, therefore, would not be required to be completed for purchases from a utility because the utility company itself is considered the "First Purchaser". However, entities first purchasing gas from a well, for example, would have to report on the Purchaser/Taker's Annual Gas Report Form. In addition, the entity reporting would have to complete and submit an Organizational Report which essentially registers the entity with NYSDEC and is a one-time initial report. NYSDEC uses the data to understand the ultimate use of natural gas resources throughout the State. Appropriate forms and additional information can be found online on the NYSDEC website.