

# Practical Solutions

HAZARD EVALUATIONS, INC.  
QUARTERLY NEWSLETTER

FALL 2015

## Clarifying NYSDEC Requirements for the 5YI of Plastic CBS Tanks



Plastic aboveground storage tank (AST) systems are often used to store large volumes of hazardous chemicals under the NYSDEC Chemical Bulk Storage (CBS) program at a variety of industrial facilities throughout the State. A "Five-Year Inspection" (5YI) is required under 6 NYCRR Part 598.7(d) and NYSDEC identifies specific requirements of 5YI's in DEC Program Policy "DER-16: Five-Year Inspection of Plastic Tanks." Maintenance requirements and a tank's actual useful lifespan can vary greatly between each plastic tank, depending on the manufacturer's tank specifications and the characteristics of the chemicals stored in each tank.

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In general, the 5YI is actually a less extensive inspection protocol than the annual CBS inspection (particularly true for tanks < 5,000 gallons) and is tank condition-focused. At a minimum, a 5YI must include a "thorough external visual tank inspection" for indications of 1) visual deterioration or 2) physical deterioration. The primary objective of the visual inspection is to identify signs of deterioration and degradation on the tank shell or the supporting structure. The physical inspection includes evaluation of the depth of cuts, cracks, permeation, and extensive brittleness, swelling, or softening of the tank that could lead or contribute to tank failure. This is the extent of the inspection protocol for tanks less than 5,000 gallons in total capacity. For 5,000-10,000 gallon tanks, the 5YI must also include the above described external inspection, as well as a liquid penetrant test or a stress cracking test. For tanks greater than 10,000 gallons, the inspection is most extensive and would include the external inspection, an internal inspection, a thickness measurement, and at least two other non-destructive test methods, as described in DER-16.

Regardless of tank size, it is important to understand the specific requirements of 5YI and it should be noted that 5YI's are **not** always five years apart. The 5YI conducted 5 years after the initial tank install will determine the remaining useful life of the tank from the time of the most recent inspection forward. When the useful life is determined by inspection to be less than 10 years, more frequent 5YI's are required at a rate of one-half the remaining useful life. For example, if the tank's useful life is estimated at 5 years, the next inspection must occur 2.5 years later. 5YI reports must include a determination of each tank's remaining useful life. DER-16 states manufacturer's guidance, "shall be used as a primary guide for evaluation of the tank system." This determination should include careful consideration of the properties of the tank contents and any manufacturer-provided guidance. Lastly, it should be noted that if the useful life determination is missing from 5YI reports, the NYSDEC may mandate issuance of a revised inspection report from the original inspector or a complete re-inspection of tanks associated with non-compliant inspection reports. Familiarity with tank manufacturer recommendations, thorough and regular inspections, and regulatory competence are critical to get the most out of your facility's tank system investment.

## Update on Testing Water Cooling Towers for Legionella

Pursuant to recently issued emergency NYS regulations (10 NYCRR Part 4), initial sampling and inspections of facility cooling towers were due on **September 17, 2015**. Registration, which includes submitting model number, cooling capacity, address location, manufacturer name, and more to the New York State Department of Health via an online registration program, was also due. Upcoming requirements include the First Quarterly Inspection due on **December 17, 2015** and the establishment of a Maintenance Program & Plan due **March 1, 2016**. Contact HEI for information on tower maintenance and guidance navigating the newly implemented regulations.



## OSHA Publishes Memorandum on RAGAGEP in PSM Enforcement

The memorandum on recognized and generally accepted good engineering practices (RAGAGEP) in Process Safety Management (PSM) enforcement published by OSHA on June 5, 2015 provides guidance on the enforcement of the PSM Standard's (29 CFR 1910.119) RAGAGEP requirements, including how to interpret "shall" and "should" language in published codes, standards, published technical reports, recommended practices or similar documents, and on the use of internal employer documents as RAGAGEP. As used in the PSM Standard, RAGAGEP applies to process equipment design, installation, operation, and maintenance; inspection and test practices; and inspection and test frequencies. RAGAGEP must be both "recognized and generally accepted" and "good engineering" practices. This memorandum represents OSHA's first attempt at providing guidance to employers on their responsibilities associated with complying with RAGAGEP and defining how to interpret "shall" and "should" language. If your facility has not verified its compliance and implementation of RAGAGEP and how this memorandum relates to you, now is the time.

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**NEWS FLASH!**

USEPA is due to launch its eManifest system in late 2015. The official start-up date is not yet established.

NYSDEC is considering using this system as well as no longer accepting hard copy manifests from generators, transporters, or disposal facilities.

For more information regarding these upcoming changes, contact HEI today.

**Attention Hazardous Waste Generators:** USEPA is proposing improvements to its hazardous waste generator regulations to be finalized sometime in 2016. The intent of these changes is to lessen some of the burden of hazardous waste regulations on generators and to make the regulations easier to find and interpret by reorganizing where they are located. USEPA is currently accepting comments on the proposed improvements. A few of the major proposed changes include (1) CESQG will now be referred to as 'VSQG' (Very Small Quantity Generator); (2) Generators can maintain their category in episodic disposal events that would otherwise push them into a higher category which are subject to additional requirements; (3) CESQGs would be able to send their waste to LQGs under the same control for more concise waste management; and (4) clearer, more thorough descriptions of waste determinations are presented. Current hazardous waste generator regulations can be found at 40 CFR Part 261.5 and 40 CFR Part 262. Additionally, the proposed rule would move all generator regulations to Part 262.

**SARA, Your Consultant, and You: A Year-Round Relationship**

Many facilities are required to report their chemical storage and use under EPCRA (Emergency Planning and Community Right-to-Know Act– SARA Title III) to the state and USEPA every year in the first half of the calendar year. This reporting includes the full previous calendar year's chemical storage (Tier II) as well as use, management, and release (Form R) information. Although the actual filings take place through July, preparation for SARA reporting should be a year-round process. HEI recommends preparation be ongoing as regulations, requirements, the regulated chemical list, and the electronic reporting system can change throughout the year. Familiarity with facility operations is critical to a consultant's understanding of how chemicals are managed and used, and in the establishment of a comprehensive SARA database. HEI strongly recommends a facility inspection by our personnel each fall to help identify information gaps, inventory errors, and any process changes that have occurred at the facility in the past year. Also, SARA databases are used as a tool for other compliance work conducted throughout the year, including air permitting, bulk storage management, stormwater plans, and spill prevention plans. Working closely with your consultant throughout the year helps to prevent many of the short-falls and errors that potentially occur in the SARA season and in other compliance work, as well as ensures a complete and accurate filing that is less likely to have to be revised or changed. Below, we offer some suggestions for streamlined filings and tips to avoid non-compliance.

**Keep Adequate Records:** Record material purchases, where and how they were used at the facility, waste management activities, manifests and bills-of-loading, and locations of stored materials. Accurate records can mean the difference between having to report a chemical or revise an entire form. Many times, records are incomplete or have discrepancies between departments or personnel on rates and manner of material use.

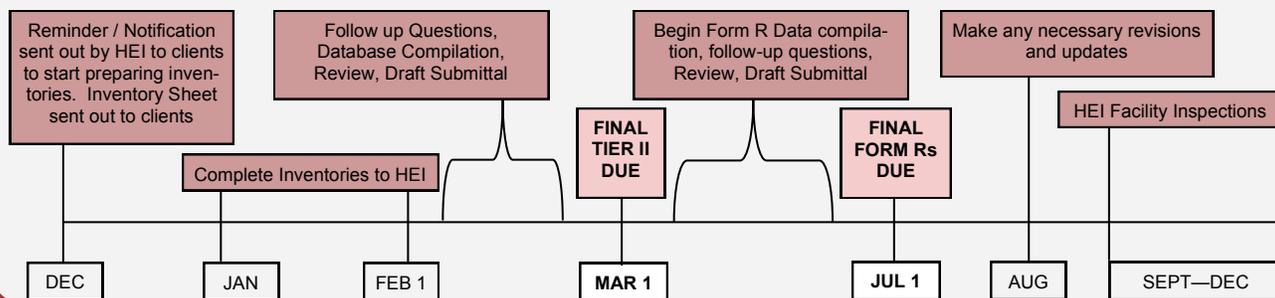
**Return Completed Inventories:** Inventories require less follow-up time when complete information is received regarding on-site chemicals and products. Completed inventory lists should be returned before February 1st to provide adequate time for clarification, calculation and on-time filing. Any chemical on site (whether stored or used) that requires a Safety Data Sheet and meets the reporting criteria must be included. Bulk storage containers should also be counted. Maximum amounts, annual usage, and appropriate units should be clearly reported. Additional items that were not included on the completed annual inventories are often discovered through HEI's other on-site compliance work.

**Max On Site vs. Annual Usage:** The maximum amount on hand is an estimate of the maximum amount present at the facility on any single day during the reporting year and is used for Tier II calculations. Annual Usage is the total material amount that the facility consumed over the reporting year and is used for Form R determinations. Purchase records or inventory logs can be used to determine these amounts. There is often confusion as to how each of these amounts are applied.

**A Few Additional Notes...**

- It is important that SARA databases are updated with new information as it becomes available. Therefore, having the most up-to-date, complete SDS (formerly MSDS) is crucial. Too often, SDS kept on file by facilities are significantly outdated or unavailable.
- A few exemptions are applicable to Tier II forms and Form Rs and are dependent on the material and how it is used. Some examples of exemptions include ammonia in a closed system, solids not in use (sheet metal, polymers), and chemical use within a "laboratory." Exemption applicability is determined once a completed inventory has been received. It is best to include everything on an inventory, even if it is believed to be exempt, so that your consultant can make a complete determination and is aware of the materials that exist on-site.
- Both Tier II and Form R forms are submitted electronically, but through different systems. Tier II forms are submitted to ePlan, while Form Rs are submitted through USEPA's CDX. ePlan submits to most States and participating fire departments. CDX submits automatically to the USEPA and the State. Consult HEI during submittal times for help navigating these two different systems.

**ANNUAL SARA TIMELINE**



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