

## PRACTICAL SOLUTIONS

HAZARD EVALUATIONS, INC.  
QUARTERLY NEWSLETTER

FALL 2016

**Important  
Compliance  
Dates &  
Deadlines for  
2016:**PBS UST  
Operator  
Training,  
Registration  
**October 11**Quarter 3  
Stormwater  
DMR  
**October 28**TSCA  
Chemical Data  
Reporting  
**October 31**Cooling Tower  
Equipment  
Initial Annual  
Certification  
**November 1**All Current &  
Archived Issues of  
all HEI  
Newsletters are  
available on our  
website at

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ONLINE AT  
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(716) 667-3130**Cooling Tower Regulations Revised:  
Bacteriological Sampling Required Monthly**

Effective July 6, 2016, the NYSDOH Emergency *Legionella* Regulations were revised and re-issued as 10 NYCRR Part 4: Protection Against *Legionella*. Improper maintenance of cooling towers and other systems using recirculated water (defined broadly in the regulations to include evaporative condensers and other systems) can contribute to the growth and dissemination of *Legionella* bacteria, the causative agent of legionellosis (also known as Legionnaires' disease). Commonly used systems subject to the regulation include water towers associated with HVAC systems, condensers using chilled water to cool liquid products during manufacturing, and condensers using chilled water for refrigeration.

The NYSDOH required subject facilities to generate/revise a written maintenance program and plan by September 1, 2016 to comply with the content of the revised regulation and to address specific information about their regulated systems. New provisions include the requirement for "Bacteriologic culture sampling and analysis" (commonly completed dip slide testing) every 30 days and revised criteria for interpreting *Legionella*-specific results. Additionally, "Legionella-specific culture sampling and analysis" is required every 90 days. This specific sampling involves obtaining a grab sample for legionella-specific analysis at an ELAP-certified laboratory in NYS. All sampling results must be reported on the NYSDOH online electronic reporting system; however, reporting timeframes have been modified. Lastly, the startup and shutdown requirements associated with regulated cooling towers have been updated and each facility plan should identify the specific protocol used. The regular required inspection frequency will remain every 90 days and completion of a regular program certification remains due November 1 annually.



Sections of the regulation pertaining to NYSDOH inspection and enforcement have been further developed, suggesting formal NYSDOH inspections will be conducted at facilities in the near future. Programs and plans should be robust enough to guide facility personnel and ensure subject facilities remain compliant with all applicable sampling, reporting, certification, inspection, and maintenance requirements.

**Did you Know?**

Regulations for *Legionella* testing were initially issued by NYSDOH on August 17, 2015 as Statewide Emergency Regulations to combat the spread of *Legionella* after a multitude of outbreaks had taken place in NYC.

**OSHA Penalty Increases Are Now in Effect**

The stakes are now higher for receiving a violation from Occupational Safety and Health Administration (OSHA). The maximum penalty amounts allowable have increased, effective August 1, 2016. OSHA's penalty structure was last adjusted in 1990. When violations issued were considered "serious," and "other-than-serious", OSHA had the potential to issue a maximum penalty of up to \$7,000 per violation. With the revised maximum penalty structure, OSHA now has the potential to issue a maximum penalty of up to \$12,471 for "serious," and "other-than-serious" violations; which is an increase of approximately 78%. For violations which were considered "Willful" or "Repeat", OSHA previously had the potential to issue a maximum penalty of up to \$70,000 per violation. OSHA now has the potential to issue a maximum penalty of up to \$124,709 for "Willful" or "Repeat" violations.

Additionally, an "escalation adjustment" will now take place annually to reflect changes to the "Consumer Price Index for Urban Consumers" in order to adjust for inflation and other factors. This action by OSHA takes place due to the recently signed Federal Civil Penalties Inflation Adjustment Improvements Act of 2015 which required many federal agencies to review and increase their civil penalties.



The significant change in penalty structure is good reason for employers to take a hard look at where they stand from a compliance perspective. HEI offers a diverse range of safety related services including the development of written facility safety programs, site-specific safety training, on-site compliance audits and assessments, and much more to keep facilities in compliance and limit liability.

**REMINDER:**

The deadline for UST operators to become authorized by NYSDEC was **October 11, 2016**. Authorized operators must have also completed the following tasks by this deadline:

- ◇ Update the PBS registration to include operator name[s] and authorization number[s];
- ◇ Print each operator's Operator Authorization Certificate and file with facility PBS records; and
- ◇ Facilities with Subpart 2 USTs must designate and train Class C Operators and maintain records of the Class C Operator Training with facility PBS records.

## Electronic Submission Mandated for Stormwater Reports

The NPDES Electronic Reporting Rule published by the USEPA in October 2015 requires stormwater compliance reports to be submitted electronically starting at the end of 2016. This includes the submittal of Discharge Monitoring Reports (DMRs), Notices of Intent to Discharge (NOIs), and other required program reports.

As an authorized state agency, the NYSDEC carries out its own stormwater program: State Pollution Discharge Elimination System (SPDES) which models the USEPA's NPDES requirements. Due to this authorization, information submitted to the NYSDEC satisfies USEPA compliance requirements.

The current electronic reporting system used by the NYSDEC to manage submitted reports and compliance data under SPDES is "NetDMR." This system currently has a separate test and live websites in order to train facilities and municipalities without the risk of misreporting. Users must successfully complete and submit a DMR on the test site prior to registering and completing "live" reports that are certified and submitted to the NYSDEC.

Regulatory agencies are planning to phase out paper reporting completely over the next five years. "Phase 1" which requires the regulated community to submit DMRs electronically only, begins December 21, 2016. Starting December 21, 2020 all SPDES/NPDES reports must be submitted electronically.

## Pollution Prevention Tool Becomes Available: Publicizing Facility Efforts to the Community Under TRI

The Toxics Release Inventory (TRI) collects information from facilities on the quantities of toxic chemicals recycled, combusted for energy recovery, treated for destruction, and disposed of or otherwise released both on- and off-site. This information is collectively referred to as "production-related waste managed" (PRWM). Tracking PRWM over time helps identify facility progress in reducing wastes generated encouraging and documenting implementation of safer waste management methods.

A new tool within the TRI database, referred to as "Pollution Prevention (P2) Data," allows facilities to specifically and descriptively highlight the methods they are employing to reduce toxic chemical releases. These optional P2 submissions demonstrate environmental leadership and provide context for the toxic chemical quantities each facility reports. Data users (citizens) can then query each facility's TRI data through Envirofacts, TRI Explorer, or the myRTK websites to review any P2 information provided by a facility.

For example, if production or materials used change drastically, this occurrence may raise flags during the data user's review of facility data. Now a significant increase or decrease in release volumes can be clearly explained in words, providing clarity beyond a static numeric value.

HEI can now include this information in a facility's annual TRI filing providing companies a new means of satisfying its Right-to-Know responsibilities, while promoting stewardship and transparency.

FACILITY NAME	ADDRESS	YEAR	PRIOR YEAR RELEASE	CURRENT YEAR RELEASE	PERCENT CHANGE	POLLUTION PREVENTION INFORMATION (ACTIVITY CODES/TEXT)
DOW CHEMICAL JOLIET SITE P2 Details	26332 S FRONTAGE RD W, CHANNAHON, IL 60410	2009	406.70	10.00	-97.54%	The facility where this material was handled was sold January 21, 2009.
GUARDIAN AUTOMOTIVE-LAGRANGE MOULDING P2 Details	1560 LUKKEN IND DR W, LAGRANGE, GA 30240	2007	10,353.00	1,954.00	-81.13%	Significant decrease in production. Reduce amounts of all chemicals used.

▲ The P2 reporting tool can help the community understand why your facility uses certain chemicals and highlights the specific actions taken to reduce waste.

The Comment Period for changes to 6 NYCRR Part 225-2 ended on Oct. 7, 2016.

... Updates to follow...

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