

Practical Solutions

HAZARD EVALUATIONS, INC.
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Revised SPDES Industrial Multi-Sector General Permit Effective October 1, 2017 *Critical Changes to Sector-Specific & Regular Compliance Requirements Implemented*

The New York State Department of Environmental Conservation (NYSDEC) has prepared a revised draft renewal and modification of the SPDES Multi-Sector General Permit for Stormwater Discharges from Industrial Activity (MSGP) (GP-0-17-004) to replace the current MSGP ("GP-0-12-001"), which expired September 30, 2017. The MSGP covers discharges of stormwater to surface waters of NYS from industrial activities ("Sectors") as defined in 40 CFR Part 122.26(b)(14)(i thru ix and xi). The revised permit ("GP-0-17-004") is expected to become effective on October 1, 2017 with a five-year permit term. Facilities with active coverage under the current MSGP will remain covered under the revised permit, once made effective by NYSDEC. Facilities are responsible for identifying and implementing updated requirements, as appropriate. Key proposed changes presented in the draft version of MSGP GP-0-17-004 include:

- A mandate that Discharge Monitoring Reports (DMRs) be submitted electronically through the United States Environmental Protection Agency's (USEPA) electronic reporting system, NetDMR (administered through USEPA's electronic reporting site, Central Data Exchange, "CDX");
- Use of electronic filing of the Notice of Intent (NOI); paper submission of reports (other than DMRs) and the NOI will continue to be an option until December 21, 2020;
- Combining the Comprehensive Site Compliance Inspection & Evaluation (CSCIE) and annual dry weather flow monitoring (ADWFM) requirements in order for non-stormwater discharges to be promptly detected and addressed as necessary (requires 72 hours without precipitation);
- Elimination of the 30-day waiting period to gain coverage under the permit following a change of ownership of the facility (i.e., coverage will apply once the revised NOI is received and processed by NYSDEC);
- Updated non-numeric effluent limits to more closely align with values presented in USEPA's 2015 MSGP (national version of industrial general permit);
- Requirements for Sector S - Air Transportation facilities to comply with USEPA's 2012 Airport Deicing Effluent Guidelines (40 CFR Part 449);
- An increase in the frequency of Benchmark and Numeric Effluent Limit monitoring and reporting (from once per year to twice per year; i.e., "semi-annual");
- Elimination of the Corrective Action Form/Non-Compliance Event Form (instead semi-annual DMRs will be used to track exceedances and document subsequent resolution);
- Revision to the Annual Certification Report (ACR) to include a description of any non-compliance event(s) and the corrective measures and long-term preventative actions implemented;
- Addition of specific Best Management Practice (BMP) for Sector N—Scrap Recycling and Waste Recycling Facilities to stock and use mercury spill kits (per NYSDEC TOGS 1.3.10, revised October 2015);
- Removal of Sectors AD (Non-Classified Facilities) and AE (Department of Public Works and Highway Facilities) from the MSGP (instead facilities will be reviewed and evaluated by NYSDEC on a case-by-case basis);
- Requirements for facilities to obtain a permit issued pursuant to 6 NYCRR Part 182 or a letter of non-jurisdiction from NYSDEC, if endangered or threatened species are involved or will be impacted;
- Requirement for facilities to obtain an individual SPDES permit or coverage under the SPDES General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002) for new construction associated with MSGP facilities, in order to comply with State Historic Preservation Act (SHPA) requirements; and
- Due to infrequent use statewide, elimination of the Alternative Certification of "Not Present" or "No Exposure" waiver for benchmark monitoring on an outfall-by-outfall or pollutant-by-pollutant basis.

Upon approval and implementation by NYSDEC, subject facilities with active coverage should take note of changes that will impact their facility; carefully revise the Stormwater Pollution Prevention Plan (SWP3) to comply with the updated permit requirements; implement additional BMPs, as appropriate; retain a copy of the revised permit with the SWP3; modify their sampling and reporting frequencies, as appropriate; obtain the updated forms issued by the NYSDEC for compliance with the MSGP program, when made available (e.g., ACR); and establish a NetDMR (CDX) account for DMR reporting if an account has not yet been established.



Courtesy: EHS Daily Advisor

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Remaining Key Compliance Dates & Deadlines for 2017

- MSGP
Stormwater
Q3 DMR
October 28
-
- Cooling Tower
Annual
Certification
November 1
-
- MSGP
Stormwater
Annual CSCIER
December 31
-
- MSGP
Stormwater
Q4 Visual
Monitoring
December 31
-
- MSGP
Stormwater
Q4 Annual
Sampling
December 31
-
- Cooling Tower
Bacteriological
Sampling
Every 30 Days
-
- Cooling Tower
Legionella
Sampling
Every 90 Days
-
- Cooling Tower
System
Inspection
Every 90 Days

OSHA Issues New Regulations for Silica Exposure

As discussed in a previous HEI newsletter, OSHA issued new regulations addressing employee exposure to respirable crystalline silica dust in General Industry effective June 23, 2016. The date by which an employer must be in compliance with these regulations (with the exception of some medical monitoring requirements) is June 23, 2018. Employers must be in compliance with the medical monitoring requirements for employees exposed to respirable silica at or above the Action Level for more than 30 days per year by June 23, 2020.

The new standard parallels many other OSHA chemical exposure regulations, such as the standards for cadmium, formaldehyde, and lead. The permissible Exposure Limit (PEL) for respirable silica is now 50 ug/m³ as an 8-hour time-weighted average (TWA). As with many other exposure standards, the silica standard has an Action Level (AL) which is 25 ug/m³. The new standard also defines what OSHA considers silica, which is crystalline structures including quartz, cristobalite, and/or tridymite. In addition, OSHA specifically states in the preamble to the new silica regulation that amorphous silica is not considered crystalline and therefore, is not regulated by this standard.

The new respirable silica dust standard requires the following: employee exposure assessments; employee notification of monitoring results; a medical surveillance program for employees exposed above the AL; housekeeping requirements; employee training; and recordkeeping. Additionally, where exposures exceed PEL levels, the standard also requires the establishment of "regulated areas"; a respiratory protection program, engineering controls, specified work practices, and a written exposure control plan. In addition, OSHA recently issued similar regulations specific to construction and agricultural operations. If you have silica exposures at your facility, HEI can help you assess them and come into compliance with the new standard.

Changes to TSCA Potentially Affect Manufacturers & Processors *Additional Reporting Required Over the Next Year for Subject Facilities*

The USEPA finalized its rule to essentially "reset" the Toxic Substances Control Act (TSCA) chemical substance inventory on June 22, 2017. The goal of this rule is to determine which chemical substances are active or inactive; a chemical is listed as "active" if it has been reported during the last two Chemical Data Reporting (CDR) cycles in 2012 or 2016 or there has been a pre-manufacturing notice (PMN) submitted for the substance during the "lookback period" (June 21, 2006 through June 21, 2016). USEPA has released an interim active/inactive inventory and the rule requires manufacturers (including importers) and processors to review the lookback period, to determine whether they need to retroactively file a notification of activity that they are/had been manufacturing/processing a chemical on the interim inventory listing that is now listed as inactive.

By filing, a facility communicates to the USEPA that the reported substance(s) are in fact "active". Manufacturers must report within 180 days (February 7, 2018) of the rule being published in the federal register and processors must report within 420 days (October 5, 2018). Information reported includes chemical identity information (no manufacturing amounts or dates are required). The USEPA will then update and finalize its list to include all verified active and inactive substances. At that point, if a chemical is listed as inactive and a manufacturer intends to manufacture the substance in the future, forward-looking reporting is required and chemical identity information as well as an expected date of manufacture must be reported no longer than 90 days prior to the expected date of manufacture. If a facility has not reported for subject substances in the past under CDR or a PMN, they may be subject to this reporting requirement. HEI recommends facilities review their chemical manufacturing, importing, and processing practices back to June 2006 to determine whether they are subject. Moving forward, the USEPA's goal is to keep the TSCA inventory updated by publishing a Federal Register notice every 90 days to indicate which substance(s) have been reactivated.

USEPA Adopts OSHA's Hazard Communication Standard GHS Hazard Categories; Possible Impacts to Reporting Requirements Under EPCRA Sections 311/312

In 2012, the Occupational Safety & Health Administration (OSHA) adopted the United Nations Global Harmonization System of Classification and Labeling of Chemicals (GHS), thereby revising its Hazard Communication Standard (HCS). Under GHS, chemical manufacturers and importers must have SDSs that are standardized and use the revised hazard classifications. According to the USEPA, "GHS is a standardized approach for classifying chemicals by their health, physical and environmental effects, and communicates this information to downstream users by using consistent signal words, pictograms, hazard statements, etc., on labels and Safety Data Sheets (SDSs)."

Under EPCRA Sections 311/312, facilities handling hazardous chemicals must report the quantity, locations, and the potential chemical hazards to the respective State, local emergency planning committee (LEPC), and local fire departments. In an effort to reduce the burden on the regulated community and ensure consistency, the USEPA is also adopting the OSHA GHS health & physical Hazard Classifications through a June 2016 technical amendment to EPCRA. Moving forward, GHS Hazard Classifications are required to be used in submissions of Tier II (EPCRA 311/312) information annually to the State LEPC, and fire departments. There are 24 physical and health hazards in this classification system and facilities should use the revised classifications on their CY2017 Tier II forms. Updated SDSs that are in compliance with GHS should also be submitted. If not already completed, facilities should have received or should request updated SDSs from their suppliers for chemicals used and/or stored on-site. USEPA's final rule and technical amendments become effective January 1st, 2018.

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