

Practical Solutions

Environmental Advantage, Inc.
& Hazard Evaluations, Inc.

Summer 2021
Quarterly Newsletter

New York State Enacts the HERO Act



On May 5, 2021, Gov. Cuomo signed the New York Health and Essential Rights (HERO) Act into law. The HERO Act is intended to prevent the spread of COVID-19 and other airborne diseases in the workplace. The Act has two parts: The first part requires employers to implement an airborne infectious disease exposure prevention plan, and the second part requires employers to allow the formation of a joint labor-management workplace safety committee.

The HERO Act applies to all private employers in New York State, regardless of size. The Act not only applies to COVID-19, but to any viral, bacterial, or fungal disease that is spread through the air and is designated by the New York State Department of Health as a highly contagious disease.

All private employers are required to have an infectious disease exposure prevention plan. The plan is required to cover 11 topics: (1) employee health screenings, (2) face coverings, (3) personal protective equipment, (4) hand washing, (5) cleaning frequently touched surfaces, (6) social distancing, (7) quarantine orders, (8) engineering controls such as air flow and ventilation, (9) designated supervisor(s) to enforce safety standards, (10) compliance with NYS notice requirements, and (11) verbal review of safety standards, employer policies, and employee rights. Employers can either create a plan that meets or exceeds the NYS Departments of Labor and Health standard, or use the recently published NYS Model Safety Plan. In addition to the Safety Plan, employers must allow employees to establish a Safety Committee composed of at least two-thirds non-supervisory employees. The Act also allows NYS to issue fines for non-compliance.

HEI can provide assistance to help your team ensure that you take the appropriate steps in achieving compliance.

Things to Note

1. The New York State Department of Environmental Conservation (NYSDEC) issued two enforcement discretion letters on February 12, 2021 that address the requirements of the Part 360 regulations. The letters extend the transition deadline for facilities subject to Part 360, Part 361, and Part 364 until May 3, 2022.
2. New York State is still working to revise hazardous waste management regulations (FedReg6) to incorporate state-initiated changes and the Federal changes since 2012, including the definition of Solid Waste Rule and the Hazardous Waste Generator Improvements Rule.

Chemical Facility Anti-Terrorism Standards (CFATS) Program



The Chemical Facility Anti-Terrorism Standards (CFATS) program was established by the Department of Homeland Security in 2006 and operation of CFATS has been extended until July 2023. The program is used to identify and regulate high-risk chemical facilities to ensure security measures are in place to reduce the risk of hazardous chemicals being weaponized. The CFATS regulation applies to industries including: chemical manufacturing, storage, and distribution; plastics; universities and laboratories; paint and coatings; and metal production and finishing.

The CFATS regulation lists over 300 chemicals of interest (COI), the screening threshold quantities (STQs), and concentrations in Appendix A of the regulation. If a facility has a COI on-site that is at or above the STQ, then that facility is required to report the chemical through an online survey called Top-Screen. Some of the most common COIs include ammonia, chlorine, hydrogen peroxide, aluminum (powder), sodium nitrate, sulfur dioxide, and nitric acid if they are on-site at or above the STQ. If you believe your facility may be subject or if you would like to ensure that your facility is not subject, contact EA or HEI for a complete review and final determination.

Important Compliance Dates & Deadlines for 2021:

Q2 TP-550 HW Assessment & Fees
July 20

Q2 / Period / Semi-Annual Stormwater DMR
July 28

Semi-Annual Air Compliance Report
July 30

SQG Re-Notification
September 1

Q3 TP-550 HW Assessment & Fees
October 20

Q3 Stormwater DMR
October 28

Cooling Tower Equipment Initial Annual Certification
November 1

3636 N. BUFFALO ROAD
ORCHARD PARK, NEW YORK 14127
envadvantage.com
hazardevaluations.com



Heat Illness Awareness



Each year, dozens of workers in the United States die from heat illness, sometimes referred to as heat stress, due to working in extremely hot environments. In 2011 OSHA launched the Heat Illness Prevention Campaign to raise awareness and educate employers and workers on the dangers of working in hot environments. This campaign highlighted three key words to keep workers safe: **Water, Rest, and Shade.**

Workers can be exposed to hot or humid conditions from a variety of sources. Working outdoors may come to mind first, but working indoors around heat producing machinery or processes, such as foundries, ovens, boiler rooms or steam applications can also produce heat illness. Types of heat illness include heat stroke, heat exhaustion, heat cramps, and heat rash. Common first aid practices include removing the affected worker from the hot or humid area, providing cool beverages (preferably water), and cooling the worker down by applying cool water or cold compresses to the body.

Under Section 5(a)(1) of OSHA's General Duty Clause, employers are required to provide employees with a place of employment that is "free from recognizable hazards that are causing or likely to cause death or serious harm to employees." This clause includes heat-related hazards. In addition to implementing engineering controls, such as air conditioning, fans, and ventilation, major steps that employers can take to prevent heat related illnesses include providing **water, rest, and shade.** Acclimation periods for new or returning employees who will be assigned to work in the heat or hot environments have also proven effective in reducing the amount of heat related illnesses.

Part 350 – NYS Food Donation and Food Scraps Recycling Law Updates



Department of
Environmental
Conservation

Effective January 1, 2022, large generators of food scraps will be required to separate and donate edible food and separate and recycle all remaining food scraps, if there is an organics recycler within a 25 mile radius with sufficient capacity. Edible food means food that is suitable for humans to eat, and food scraps is inedible food, food contaminated papers, edible food not donated, and food processing waste. Food scrap does not include recalled or seized food. Facilities will also be required to train workers, obtain an appropriate transporter, self-haul, or recycle on-site, and submit an annual report to the New York State Department of Environmental Conservation (NYSDEC). A large generator is identified as a facility that generates an annual average of two tons or more of wasted food and food scraps per week. Some examples include restaurants, grocery stores, hotels and motels, colleges and universities, malls, event centers, food processors, etc. Exclusions to the law include hospitals, nursing homes, adult care facilities, and K-12 schools.

On June 1, 2021, the NYSDEC released a list of Designated Food Scraps Generators (DSFGs) that are required to comply with this law, or submit a waiver from part or all requirements for review. All facilities on the list are required to donate to the maximum extent practicable. If there is a recycling facility within 25 miles of the generator with excess capacity, then the generator is also required to recycle all remaining food scraps. Additionally, any business or institution not on the list, but meeting the annual average of two or more tons per week, must comply with all requirements. Waivers may be granted for up to one year if: the generator does not produce an average of 2 tons of food scraps per week; the total cost of organic recycling is at least 10% greater than the cost of landfilling or combustion; there are no organic recyclers within 25 miles with sufficient capacity; a transporter is not available; or other unique circumstances apply. Waivers must be submitted **by October 1, 2021.**

The NYS Food Donation and Food Scraps Recycling Law's final regulations are expected to be published in Summer/Fall 2021. For more information, visit the NYSDEC's website. Begin planning today by contacting Environmental Advantage, Inc. to discuss your options.

Reminder!

Beginning June 30, 2021, the USEPA is no longer accepting paper manifests from hazardous waste receiving facilities. E-manifests must be submitted through the online RCRAInfo portal. Additionally, the deadline for hazardous waste generators to use the e-Manifest system is June 1, 2023.

VISIT US

ONLINE AT:

envadvantage.com

hazardevaluations.com

OR CALL:

(716) 667-3130