

Practical Solutions

Environmental Advantage, Inc.
& Hazard Evaluations, Inc.

Winter 2023
Quarterly Newsletter

Important Compliance Dates & Deadlines for 2023:

Q4 TP-550 HW Assessment & Fees
January 20

Annual Stormwater Compliance Report
January 28

Annual & Semi-Annual Air Compliance Report
January 30

EPCRA 312 (Tier II)
March 1

Annual Hazardous Waste Report
March 1

Annual Part 360 / BUD Reports
March 1

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NYS to Change Universal Wastes Following USEPA 2019 Updates



In an effort to lessen the burden of those facilities generating common wastes such as aerosol cans and paint, the United States Environmental Protection Agency (USEPA) added certain types of these wastes to the hazardous wastes that can be managed under the Universal Waste (UW) rule in 2019. The New York State Department of Environmental Conservation (NYSDEC) is looking to follow suit and has proposed revisions to their regulations at 6 NYCRR Part 374 in order to do so.

These proposed regulations would add both aerosol cans and certain paints to the wastes able to be managed as Universal Waste in New York State (NYS). These proposed regulations would limit paint considered to be Universal Waste to “interior and exterior architectural and structural coatings, including but not limited to, primers, sealers, resin (single component), epoxy-based flooring paint (single-component), lacquers, latex, water-based paint, oil-based paint, and bridge paint.” According to the proposed regulatory definitions, universal waste paint does not include “other industrial, original equipment or specialty coatings, paint thinners, or paint contaminated applicators, debris or personal protective equipment.” There will be certain storage and labeling requirements, as well as container size limits, specific to aerosol cans and universal waste paints under these proposed revisions.

Waste generators would benefit from these items being added to the UW rule due to the lessened labeling and recordkeeping requirements and longer accumulation limits prescribed for universal wastes versus wastes required to be managed under the full hazardous waste regulations. Waste generators should keep in mind that these items cannot be managed under the universal waste rule in NYS until the changes go officially into effect in NYS, even though they are in effect at the federal level. Contact EA today for more information on these proposed changes or hazardous and universal waste employee training.

Reminder: Closure of Large Quantity Generator Facility or Unit



A large quantity generator (LQG) that accumulates hazardous wastes in containers, tanks, drip pads, and containment buildings, must comply with several requirements prior to closing a unit at the facility, or prior to closing the facility. The owner or operator must close the facility in a manner that minimizes or eliminates the need for further maintenance, post-closure escape of hazardous waste, and complies with closure requirements of 40 CFR Parts 262 and 265. The facility must meet the following conditions:

- Submit a notification for closure of a waste accumulation unit in accordance with 40 CFR 262.17(a)(8)(i) (A) or (B);
- Submit a notification for closure of the facility in accordance with 40 CFR 262.17(a)(8)(ii)(A)-(D);
- Follow closure performance standards for container, tank system, and containment building waste accumulation units in accordance with 40 CFR 262.17(a)(8)(iii)(A); and
- Follow closure performance standards for drip pad waste accumulation units in accordance with 40 CFR 262.17(a)(8)(iv).

Prior to closure, facility owners or operators must remove or decontaminate all contaminated equipment, waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste and leakage. These items must be managed as hazardous waste. If, after all reasonable efforts have been made to remove or decontaminate all residues, the owner or operator finds that not all contaminated subsoils can be practically removed or decontaminated, they must close the facility and perform post-closure care in accordance with closure and post-closure care requirements that apply to landfills (40 CFR 265.310). If your facility is a LQG and needs assistance closing your hazardous waste management unit or facility in accordance with the applicable regulations, contact Environmental Advantage (EA) today.

In 2021, the NYSDEC proposed updates to the Chemical Bulk Storage (CBS) and Petroleum Bulk Storage (PBS) rules to better correspond with the federal regulations and to provide more consistency between the two programs. The public comment period for the proposed updates has been extended to January 24, 2023.

Preparing for SARA Tier II and Form R Reporting



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 is ongoing. HEI and EA work throughout the year to remain updated on changing regulations and new requirements. Annually, USEPA may add or delete chemicals that require reporting and make updates to their reporting system. Currently, there are a total of 180 PFAS chemicals that must be considered when completing the Form R report due July 1, 2023.

Working closely with your consultant throughout the year helps to prevent many of the shortfalls 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 list some suggestions that can lead to a smooth SARA season.

1. **Keep Good Records** - Record material purchases, where and how they were used at the facility, waste management activities, manifests and bills-of-lading, 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.
2. **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 (SDS) and meets the reporting criteria must be considered, including bulk storage containers. Maximum amounts, annual usage, and appropriate units should be clearly reported. 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 your consultant can make a determination and is aware of the materials that exist on-site.
3. **Maintain Up-to-Date SDS** - It is important that SARA databases are updated with new information as it becomes available. Therefore, having the most up-to-date, complete SDS from your supplier(s) is crucial. Too often, the SDS kept on file by facilities are significantly outdated or unavailable.

EPA Proposes to Remove the De Minimis Exemption for Form R Reporting of PFAS

On December 15, 2022, the USEPA proposed a rule to eliminate the de minimis exemption which currently allows facilities to avoid reporting use, management, and release information on per- and polyfluoroalkyl substances (PFAS) when those chemicals are used in small, or de minimis, concentrations of chemical in mixtures or trade name products; below 1% for each of the TRI-listed PFAS and 0.1% for perfluorooctanoic acid (PFOA). During the 2021 reporting season, many facilities claimed the de minimis exemption as a reason for not reporting. This proposed rule would list PFAS as "chemicals of special concern," which would make them ineligible for the de minimis exemption and require facilities to report on PFAS in future reporting years, regardless of their concentration in products.

Maximum Allowable Limits Established for 1,4-Dioxane in Cleaning Products



As of December 31, 2022, household cleansing and personal care products that are to be sold or offered for sale in NYS will be limited on the amount of 1,4-dioxane that they can contain due to a 2019 Amendment to Articles 35 and 37 of the Environmental Conservation Law (ECL) by the NYS Legislature. That limit will be 2 parts per million (ppm) for household cleansing and personal care products and 10 ppm for cosmetics. The limit will then drop for cleaning and personal care products to 1 ppm by December 31, 2023.

There will be a provision for manufacturers to apply for certain waivers.

The NYSDEC is in the process of developing regulations in order to implement the law. Product mixing and blending facilities are likely to be the most affected by this change. Facilities should review chemical inventories, SDSs, and formulations to determine their 1,4-dioxane concentrations and usage.

1,4-dioxane is classified by the USEPA as likely to be carcinogenic to humans and it does not readily biodegrade in the environment. The Chemical Abstract Service (CAS) number for 1,4-dioxane is 123-91-1. Facilities should note that this chemical substance is also listed as a chemical subject to Toxic Release Inventory (TRI) or "Form R" reporting required by the EPCRA Section 313. Contact EA for more information on how this law could potentially affect your compliance obligations.

Important Compliance Dates & Deadlines for 2023:

Annual Water Withdrawal Report
March 31

Annual Greenhouse Gas Report
March 31

Air Title V Emission Statement
March or April*

*Deadline is dependent on the number of processes listed in the facility's Title V permit

Note:

The new ASTM Standard Practice for Environmental Site Assessments E1527-21, originally published in November 2021, will now be recognized by the USEPA under the All Appropriate Inquiry (AAI) rule beginning February 13, 2023. The previous ASTM E1527-13 will be phased out of the AAI rule after one year.



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