

Practical Solutions

Environmental Advantage, Inc.
& Hazard Evaluations, Inc.

Summer 2023
Quarterly Newsletter

Important Compliance Dates & Deadlines for 2023:

Q2 TP-550 HW Assessment & Fees
July 20

NYS Part 360 Transition
July 22

Q2 / Semi-Annual Stormwater DMR
July 28

Semi-Annual Air Compliance Report
July 30

Q3 TP-550 HW Assessment & Fees
October 20

Q3 Stormwater DMR
October 28

Revised Solid Waste Management Regulations



The New York State Department of Environmental Conservation (NYSDEC) has revised the 6 NYCRR Part 360 Series regulations (Solid Waste Management), and also made minor revisions to 6 NYCRR Part 371 (Hazardous Waste) and 6 NYCRR Part 377 (Siting of Industrial Hazardous Waste Facilities). The revisions include technical amendments and clarifications to the comprehensive 2023 rulemaking, as well as updated criteria needed due to legal and policy developments, which reduces the regulatory burden in situations where protection of human health and environment would not be impacted. The revision, which goes into effect **July 22, 2023**, include:

- Removal of the 500-ton per day limit for registered construction and demolition debris handling and recovery facilities (CDDHRFs);
- Established that registered facilities can accept combinations of concrete, asphalt pavement, rock, or brick (CARB) to match newly established pre-determined beneficial use determinations (BUDs);
- Replaced the term “excavated material” with “fill material” to encompass anything excavated for construction or maintenance, whether reusable as fill or not;
- Reduction in the sampling frequency requirement for fill material with lower amounts of contaminants;
- Updates to the waste transporter requirements by expanding the exemption to allow contractors who generated certain construction and demolition debris (CDDs) to manage those wastes under their ownership or control;
- Adjustments to help implement the 2019 Food Donation and Food Scraps Recycling Law; and
- New language to clarify that the definition of solid waste under the Part 370 Series is separate and distinct from the definition of solid waste under the Part 360 Series.

NYSDEC ADOPTS PBS AND CBS CHANGES

The NYSDEC has adopted changes 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 changes go into effect October 17, 2023. Be sure to check out EA’s Fall Newsletter for a list of regulatory changes.

USEPA Proposes Ban on Perchloroethylene (PCE)



On June 8, 2023, the United States Environmental Protection Agency (USEPA) proposed a ban on most uses of perchloroethylene (PCE). The solvent is widely used in many industrial settings including petrochemical manufacturing and vapor degreasing for aerospace parts and engines and in commercial settings including dry cleaning and as a component of brake cleaners and adhesives. PCE is known to cause serious health risks including neurotoxicity and cancer. This proposal would protect people from these risks by banning all consumer. However, some industrial/commercial uses would still be allowed but only in cases where strict workplace controls could be implemented, including uses related to national security, aviation and other critical infrastructure, and the Agency’s efforts to combat the climate crisis. The Agency anticipates a rapid phase down in the manufacturing, processing and distribution of PCE for all consumer uses and many industrial and commercial uses, most of which would be fully phased out in 24 months. PCE use in dry cleaning could take 10 years to be fully phased out.

For the industrial manufacturing, industrial processing, and other uses of PCE, USEPA is proposing a workplace chemical protection program which incorporates a strict inhalation exposure limit and other requirements to prevent skin exposure. The USEPA has received data from industries that indicate many workplaces already have controls in place that may reduce exposures sufficient to meet the inhalation exposure limit in the proposed rule or to prevent direct skin contact with PCE.

The USEPA encourages members of the public to read and comment on the proposed rule for 60 days following publication in the Federal Register via docket EPA-HQ-OPPT-2020-0720 at www.regulations.gov.

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Environmental Justice Law Amended



On March 3, 2023, New York Governor Kathy Hochul signed and approved an amendment to the State's environmental justice law (EJL). The EJL, which was originally enacted in December 2022, modified the State Environmental Quality Review (SEQR) Process and the New York State Department of Environmental Conservation's (NYSDEC) permit approval process by requiring that environmental justice impacts be considered by State Agencies in reviewing proposed projects. The 2023 amendment delays the effective date of the legislation until December 30, 2024. Once the new EJL goes into effect, the NYSDEC will not be allowed to issue an applicable permit for a new project if it determines that the project will "cause or contribute more than a de minimis amount of pollution to any disproportionate pollution burden on a disadvantaged community". The Department will not be allowed to approve a permit modification or renewal if "the issuance of the permit would significantly increase the existing disproportionate pollution burden."

Disadvantaged communities are determined based upon specific criteria established by the New York Climate Justice Working Group. Communities which currently meet this criteria are identified on a map available on the NYSDEC's website. Applicants of applicable permits will be required to prepare an "existing burden report" if the proposed project has the potential to cause or contribute more than a de minimis amount of pollution to any disproportionate pollution burden a disadvantaged community. The permits affected by the EJL include those for water pollution, air pollution, liquefied natural and petroleum gas, waste transporters, solid and hazardous waste, and water withdrawal. The NYSDEC may require applicants to implement "appropriate operational changes" that would reduce the pollution burden on the disadvantaged community as a condition of an applicable permit, if such actions are deemed "reasonable and practicable" by the Department.

The NYSDEC is currently working with the New York State Department of Health to develop the scope of the existing burden report. Among the items to be contained in the report are "relevant baseline data on existing burdens, the environmental or public health stressors already borne by the disadvantaged community as a result of existing conditions, the potential or projected contribution of the proposed action to existing pollution burdens in the community, and existing and potential benefits of the project to the community including increased housing supply, or alleviation of existing pollution burdens that may be provided by the project."

The EJL will add another required step to the permit application process for facilities operating within and around disadvantaged communities. EA will continue to provide updates regarding the EJL as new information becomes available.

Universal Wastes Updates

Effective July 8, 2023, New York State has added aerosol cans and certain paints to the hazardous items that are able to be managed as Universal Waste (UW), under certain conditions. This was done in an effort to reduce the burden on generating facilities. There are certain paints that are not included and still must be handled under the traditional hazardous waste management regulations, as applicable. There are also new requirements for those facilities partaking in puncture-and-drain operations for their aerosol cans. For more information, see our EA June 2023 regulatory bulletin and/or contact EA today.

Multi-Sector General Permit Update

The NYS Department of Environmental Conservation (NYSDEC) released their final version of the State Pollution Discharge Elimination System (SPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) GP-0- 23-001, which went into effect on March 8, 2023 with a five-year permit term. Under the new permit, industrial facilities that discharge stormwater to surface waters of the State must obtain permit coverage through either an individual industrial SPDES permit or SPDES Multi-Sector General Permit, or must submit a No Exposure Exclusion Certification that industrial activities are not exposed to stormwater. Highlighted changes under the new permit include:

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- Technology and water quality-based treatment requirements;
- Standard regulatory language pertaining to monitoring, record keeping, reporting, and compliance responsibilities;
- All documents must be submitted electronically using nForm and NetDMR;
- Implementation of enhanced stormwater control measures for facilities that have the potential to be impacted by future physical climate risks and demonstrate that these risks have been considered;
- Clarifies an additional inspection is required when corrective actions are triggered;
- Clarifications and deletions to certain sectors, definitions, and appendices; and
- Confirmation of permit termination upon discovery of facilities being closed or otherwise no longer in operation.

Although the new MSGP went into effect on March 8, 2023, facilities covered under the previous MSGP (GP-0-17-004) had interim coverage for up to 120 calendar days (June 28, 2023).

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