

# Practical Solutions

HAZARD EVALUATIONS, INC.  
QUARTERLY NEWSLETTER

SPRING 2018

**Important  
Compliance  
Dates and  
Deadlines for  
2018:**

**April 15:**  
Air Title V  
Emission  
Statement

**April 28:**  
Quarter 1  
Stormwater  
DMR

**May 3:**  
BUD Re-  
petitioning

**May 30:**  
MSGP NOI

**July 1:**  
EPCRA Section  
313 (Form R)

**July 1:**  
Hazardous  
Waste  
Reduction  
Plan

VISIT US  
ONLINE AT:  
hazardevaluations.com

OR CALL:  
(716) 667-3130

## Final Revised Multi-Sector General Permit (MSGP) Effective March 1, 2018



The Clean Water Act provides that stormwater discharges associated with industrial activity to waters of the United States are unlawful, unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit. In New York State, the USEPA has approved a state program which is enacted through the administration of the State Pollutant Discharge Elimination System (SPDES) program. Facilities engaged in certain industrial activities, based on the operation-applicable United States Department of Labor's Standard Industrial Classification (SIC) codes), can obtain coverage under the NYSDEC SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP).

Draft versions that included revisions to the MSGP (GP-0-12-001), which expired September 30, 2017, were issued on March 31, 2017 and July 12, 2017. The final version of the MSGP (GP-0-17-004) became effective on March 1, 2018. The newly effective version identifies "new dischargers," which previously were unpermitted facilities. The new dischargers must develop a Stormwater Pollution Prevention Plan (SWPPP) that meets the requirements of GP-0-17-004 and submit a Notice of Intent (NOI) to the NYSDEC. Facilities previously permitted under GP-0-12-001 seeking to continue coverage have until **May 30, 2018** to submit the NOI for coverage under GP-0-17-004. These facilities are also required to update their existing SWPPP to satisfy the new/revised requirements outlined in the GP-0-17-004 permit document. In either case, the NYSDEC recommends that the NOI be submitted electronically using the e-NOI tool available on the NYSDEC website. A paper NOI form is also available for submission directly to the NYSDEC.

Updated MSGP program information can be found at: <http://www.dec.ny.gov/chemical/9009.html>.

See HEI's Fall 2017 newsletter for key changes and compliance requirements associated with the new stormwater regulations. Archived issues are available online at [hazardevaluations.com](http://hazardevaluations.com).



## OSHA Non-Compliance Penalties Have Increased

On November 2, 2015, President Obama signed into law the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015. The Act requires numerous federal enforcement agencies, including OSHA, to increase the civil penalties assessed upon employers when regulatory violations are cited. As a result of this law, penalties assessed on an employer for OSHA violations are increased annually based on the Consumer Price Index for Urban Consumers. As a result, OSHA's penalties were adjusted on January 2, for calendar year 2018.

The application of the law to OSHA results in a new penalty structure with increased maximum penalties per violation, as follows:

Violation Type	Previous Maximum	Maximum after 1/2/2018
Other-Than-Serious	\$12,471	\$12,934
Serious	\$12,471	\$12,934
Repeat	\$124,709	\$129,336
Willful	\$124,709	\$129,336
Failure to Abate	\$12,471 per day	\$12,934 per day

Although not all penalties are imposed at the maximum amount, employers should nonetheless expect that the new structure will increase the penalty assigned to any given violation.

The 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 site specific safety programs, site-specific safety training, on-site compliance audits and assessments, much more to keep you in compliance and limit your liability!

## USEPA Raises Penalties for Violations

The final rule on civil penalties for environmental violations was published in the Federal Register on January 10, 2018. Since the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, government agencies have raised civil penalties annually to reflect inflation. Prior to the passage of the 2015 Act, the United States Environmental Protection Agency (USEPA) only raised penalties for violations, such as hazardous waste and hazmat shipping mistakes, every four years. The purpose of the 2015 Act is to adjust for inflation, maintain the deterrent effect of civil penalties, and promote compliance with the law.

The following are the maximum civil penalties and are effective as of January 15, 2018;

- For violations of USEPA's Resource Conservation and Recovery Act (RCRA) hazardous waste storage, management, and disposal requirements, the maximum civil penalty increased to \$72,718 per day, per violation.
- Violations of the Toxic Substances Control Act (TSCA) are subject to the increased maximum civil penalty of \$38,892 per day, per violation.
- The civil penalty for Emergency Planning and Community Right-to-Know Act (EPCRA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) increased to \$55,907 per day, per violation.
- For violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) the maximum civil penalty increased to \$19,446 per day, per violation.
- The maximum civil penalty for violations of the Clean Air Act (CAA) increased to \$97,229 per day, per violation.
- The maximum civil penalties for violations of the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) increased to \$53,484 and \$55,907 per day, per violation, respectively.



## Trichloroethylene (TCE) Restrictions

Trichloroethylene (TCE) has been utilized for decades within spot cleaning and metal degreasing operations. Unfortunately, TCE is also recognized as a highly toxic carcinogen to humans "by all routes of exposure" as detailed by the United States Environmental Protection Agency (USEPA). A ban on the use of TCE in aerosol degreasing and spot cleaning in dry cleaning facilities was proposed in December of 2016; with a commercial vapor degreasing TCE ban proposed in mid-January of 2017, under the Toxic Substances Control Act (TSCA). Although these proposed regulations were set to pass near the beginning of 2018, the current administration has delayed turning these proposals into legislation.

Trichloroethylene (TCE) and tetrachloroethylene (PCE) have also been in the spotlight recently, as mentioned within the Small Business Administration's (SBA) new standard operating procedure (SOP), effective January 1, 2018. Since TCE and PCE possess properties that allow the cleaning fluids to be very mobile through the soil and groundwater, and pose a challenging clean-up once released into the environment, the SBA now requires "any property with on-site dry cleaners, whether currently in operation or operated historically at the site, that did, do, or likely used chlorinated and/or petroleum-based solvents, undergo a Phase II Environmental Site Assessment in addition to a Phase I." These more stringent guidelines may influence SBA loans moving forward.

With TCE under fire within the recent years, the delayed proposals seem to be only temporary, with a TCE ban looming ahead. If your company utilizes TCE for vapor degreasing, aerosol degreasing, or spot cleaning, now may be the time to begin to look into alternative solvents. Additionally, if you are within or will be within the due diligence period of a dry-cleaning property transaction, call the experienced environment consultants at HEI immediately for guidance concerning Environmental Site Assessments.

## Attention Facilities with Existing NYSDEC Beneficial Use Determinations!



Under revised NYSDEC regulation 6 NYCRR 360.12, all facilities with an existing Case-Specific Beneficial Use Determination (BUD) are required to re-apply for that BUD in order to remain compliant. Generally, case-specific BUDs are for waste material used: 1) as a substitute for a component material in the manufacture of a product; or 2) as a substitute for a commercial product. Since the waste material would be subject to Part 360 solid waste regulations upon disposal, facilities receive authorization from NYSDEC to manage this material in a non-conventional method.

Examples of case-specific BUDs include:

- The use of dried paper mill sludge as animal bedding;
- The use of crushed countertop material as a construction aggregate;
- The use of gypsum in the manufacture of wallboard or as a soil amendment; and
- The use of a nitrate solution from silver processing as a fertilizer.

**The deadline for re-petitioning is May 3, 2018. If an application is not received, your existing BUD approval will terminate.** For assistance in the BUD petitioning process or to review compliance with the solid waste regulations, contact HEI today.

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