

New Rule Requires Changes to Risk Management Plans

Submissions due June 21, 2004

Effective April 9, 2004 facilities that are subject to the chemical accident prevention regulations of Section 112(r) of the Clean Air Act will be required to submit information on any significant chemical accidents within six months of the date of the accident and report changes in emergency contact information within one month of the change. The new regulations also deleted the requirement for a brief description of the potential off site consequence analysis in the Executive Summary section of the Risk Management Plan, citing the possible security risks. The new regulations also require three new data elements in the Risk Management Plan: 1) the emergency contact e-mail address; 2) the purpose and type of any submission that revises or otherwise affects previously filed RMPs; and 3) the name, address and telephone number of the consultant that prepared the RMP (if any).

The five-year deadline for updating RMPs that were submitted on or before June 21, 1999 is June 21, 2004. Facilities that updated their RMPs after June 21, 1999 or made a new submission after that date will have a different anniversary date. However, *all facilities are required to include the new data elements in their RMP by June 21, 2004 regardless of their anniversary date for filing a full update.* If a full update is not required, facilities can add the new data elements as a “correction”. EPA is developing an web-based interface to allow facilities to add the new data elements on-line. The interface is expected to be available in May. For detailed information, visit EPA’s web site at <http://www.epa.gov/epaoswer/hotline/rmp.htm>.

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FEDERAL NEWS

EPA Adopts Stationary Combustion Turbine MACT

EPA recently adopted a maximum achievable control technology (MACT) standard for stationary combustion turbines. The standard, which is found at 40 C.F.R. Part 63, Subpart YYYYY, limits formaldehyde emissions from certain larger turbines. These sources also are subject to testing,

compliance monitoring, recordkeeping and reporting requirements. Many smaller combustion turbines are exempt from emission limitations and many other MACT requirements. The standards became effective March 5, 2004.

EPA Proposes Additional Mercury Rules for Power Plants

EPA has proposed a rule to address mercury emissions from fossil fuel-burning power plants. This proposal supplements the Utility Mercury Reductions proposal published on January 30, 2004. The January 30th proposal set forth two alternatives for addressing power plant mercury emissions – one involving the establishment of maximum achievable control technology (MACT) standards and the other involving the regulation of mercury through an emissions cap-and-trade program. The March 16, 2004 supplemental notice includes draft regulatory language for the January 30th proposal, including proposed state plan approvability criteria and a model cap-and-trade rule.

While the CAA does not currently regulate mercury emissions from power plants, EPA has

been studying the emission of mercury and other Hazardous Air Pollutants (HAPs) from power plants under the Title III HAP program. In December 2000, EPA published its findings which concluded that mercury emissions from coal and oil-fired power plants pose an environmental and health risk and that such emissions should be subject to MACT.

EPA is accepting comments on the proposed supplemental rule until April 30, 2004. EPA also has extended the deadline for commenting on the January 30, 2004 proposal until that date. Information about the Utility Mercury Reductions proposal, including the recent supplemental rulemaking, can be obtained from EPA's web site at: <http://www.epa.gov/mercury>.

STATE NEWS

DEC Issues MOSF Program Policy

DEC recently issued a new Program Policy implementing New York's major oil storage facility (MOSF) licensing regulations (6 NYCRR Part 610). MOSFs are oil storage facilities with a combined capacity of 400,000 gallons or more. The state issues licenses to MOSFs for periods of one to five years and requires license holders to meet various requirements relating to the storage of oil. This new policy, *Procedures for Licensing Onshore Major Oil Storage Facilities*, replaces "Spill Prevention Operations Technology Series #1" (SPOTS #1).

The Policy addresses basic licensing issues such as application deadlines, license period

(including criteria for deciding whether to issue a license for less than the standard five years), annual inspections, and general and special license conditions. Also discussed is the preparation of Spill Prevention and Containment Plans and Environmental Compliance Reports. Appendix B of the Policy includes the procedures for renewing MOSF licenses, the DEC license renewal cover letter; and the licensing package itself, including: (a) the license/certification letter, (b) general conditions for an onshore MOSF license, (c) an onshore MOSF special license conditions checklist, (d) onshore MOSF special license conditions (instructions and deadlines), (e) guidelines for

installing monitoring wells, and (f) guidance on preparing Environmental Compliance Reports. A copy of the policy can be obtained from DEC's

web site at: <http://www.dec.state.ny.us/website/der/bulkstor/guidance/DER11.pdf>.

State Hazardous Waste Siting Plan

DEC has announced that it is extending for the second time the deadline for submitting comments on New York's Draft Hazardous Waste Facility Plan (see the December 2003 *Environmental Cable*). The new deadline is May 19, 2004. The plan, required by Section 27-1102 of the Environmental Conservation Law, is intended to assure that New York has adequate hazardous waste management capacity and to assist state agencies in siting hazardous waste treatment,

storage and disposal facilities. The draft plan concludes that while the State's only hazardous waste landfill will reach capacity at its current disposal unit by 2005, hazardous waste is now managed regionwide/nationwide and adequate capacity exists on a nationwide basis. The draft plan can be obtained from DEC's web site at: <http://www.dec.state.ny.us/website/dsh/index.html>.

Minor Revisions to State Hazardous Waste Regulations Adopted

DEC recently adopted minor revisions to its hazardous waste regulations to correct errors made when previously correcting and incorporating federal changes into New York's rules. Among the revisions are changes to 6 NYCRR § 373-1.11 to clarify that the Remedial Action Plan approval process is subject to the State's uniform permitting procedures (Part 621) and to the State's permit

hearing procedures (Part 624), and revisions to the regulations for bulk shipments by water to conform to the federal rules. The revised provisions became effective April 10, 2004. DEC proposed the changes in December 2003. The revisions can be obtained from DEC's web site at: <http://www.dec.state.ny.us/website/dshm/hzwstman/hzwstamend.htm>.

DEC Revising Construction NOI

DEC recently published a draft Notice of Intent (NOI) form for Stormwater Discharges Associated with Construction Activity under the State Pollutant Discharge Elimination System (SPDES) General Permit GP-02-01. The draft NOI form differs from the current form in several key respects: (1) the format of the form has been revised to allow for the use of a new technology that will allow for handwriting recognition; (2) the new NOI seeks data and sizing criteria for water

quality and quantity controls, as well detailed information concerning the particular erosion and sediment control practices employed at the site; and (3) the form requires the applicant to provide information about the SWPPP preparer. The public comment period has closed; however, copies of the draft form can be obtained from DEC's web site at: <http://www.dec.state.ny.us/website/dow/toolbox/swforms.html>.

DEC Circulates Dental Amalgam Regulations

DEC has proposed preliminary draft regulations addressing the management of elemental mercury and dental amalgam wastes at dental facilities. The regulations implement a 2002 New York law that prohibits dentists from

possessing elemental mercury (except in capsule form) and requires them to recycle mercury wastes generated in their dental practices. The preliminary draft regulations would establish 6 NYCRR Subpart 374-4 addressing mercury-containing

dental wastes. The draft regulations require dentists to use amalgam separators to remove mercury from wastewaters before discharging the water to sewage disposal systems, establish standards for storing dental amalgam on-site and require all dental amalgam to be sent for mercury recycling. The draft also imposes recordkeeping requirements, including written certifications from recyclers and information about the amalgam separator and the quantities of amalgam waste

generated and sent for recycling.

DEC is accepting comments on the preliminary draft regulations until May 21, 2004. Several workshops concerning the proposal have been scheduled at various locations throughout the state in late April. The draft regulations and workshop schedule can be found on the DEC web site at: [http://www.dec.state.ny.us/website/dshm/recy/mercdent.htm](http://www.dec.state.ny.us/website/dshm/rec/recy/mercdent.htm).

DEC Announces Results of 2003 Enforcement Activities

DEC recently issued a brief report summarizing its enforcement activities in 2003. The Department issued 3,211 consent orders in 2003, slightly less than half of which (48 percent) involved alleged violations of tank registration and testing requirements under the petroleum bulk storage program. Although the number of consent orders issued increased by 523 from 2002 to 2003, the total penalties levied decreased from \$10.7 million to \$9.7 million. The number of

Commissioner's Orders (i.e., orders imposed when alleged violators refuse to sign consent orders) increased over eight-fold from 2002 to 2003 (from five to 43). Under the Superfund program, DEC issued 31 consent orders to responsible parties in 2003, down from 41 the previous year; however, the total value of the orders increased from \$66.0 million to \$98.4 million. The number of voluntary cleanup and brownfield agreements decreased from 77 in 2002 to 66 in 2003.

CALENDAR OF EVENTS

- April 21:** Eastern NY Chapter, Air & Waste Management Association Monthly Meeting. Topic: MACT Update - Misc. Organic Chemical Manufacturing NESHAPS. Speaker: Paul Supple, SOLID Environmental 12:00 noon, Holiday Inn Turf, Wolf Rd. \$15 members; \$25 non-members (includes \$10 Chapter membership). For reservations contact Janis Falon, 518-487-7648 or email jef@woh.com
- May 7:** Capital District Environmental Breakfast Club 7:30 am, Holiday Inn Turf, Wolf Rd. Colonie. Topic: The New State Superfund Program, Part II: Financing and Cleanup Standards. Speaker: Kevin M. Young, Young, Sommer...LLC \$12 pre-registered, \$14 day of event. 518/438-9907 ext. 240 or e-mail bpopolizio@youngsommer.com
- May 12:** Mohawk Valley Environmental Information Exchange Monthly Meeting. Topic: DEC Update; Sandra LeBarron, Regional Director, DEC Region 6. Radisson Hotel Utica Center- 200 Genesee St. Utica (Across from the State Office - Building- Park in the garage free) Meeting Format: Buffet Breakfast 7:30 - 8:00AM - Program 8:00 - 9:30 AM \$10-12 includes breakfast. For reservations email davep@mvatc.net.
- May 19:** Eastern NY Chapter, Air & Waste Management Association Monthly Meeting. Topic: Plant Vulnerability (New DOT Regulations, terrorism and other emergencies) 12:00 noon, Holiday Inn Turf, Wolf Rd. \$15 members; \$25 non-members (includes \$10 Chapter membership). For reservations contact Janis Falon, 518-487-7648 or email jef@woh.com
- June 4:** Capital District Environmental Breakfast Club 7:30 am, Holiday Inn Turf, Wolf Rd. Colonie. Topic: to be announced \$12 pre-registered, \$14 day of event. 518/438-9907 ext. 240 or e-mail bpopolizio@youngsommer.com

QUIK-REPLY FORM

For more information on the topics in this issue, fax or mail this form to: Vicki Schlierer, Regulatory Affairs Paralegal, Young, Sommer...LLC, Five Palisades Drive, Albany, NY 12205. Fax: (518) 438-9914.

Name: _____

Title: _____

Company: _____

Address: _____

City, ST, Zip: _____

Phone: (____) ____ - _____ Fax: (____) ____ - _____

Please send copies of the following:

- | | |
|---|---|
| <input type="checkbox"/> Risk Management Plan Rule Amendments | <input type="checkbox"/> Draft Construction NOI Form |
| <input type="checkbox"/> MOSF Policy | <input type="checkbox"/> Draft Dental Amalgam Regulations |

Reservations for the Capital District Environmental Breakfast Club, Holiday Inn Turf, Wolf Road, Colonie, NY May 7, 2004:

_____	Registration (includes full breakfast buffet)	\$12.00
_____	Binder update	\$5.00

Please make your reservation no later than **May 4, 2004**. Fax your reservation to 518/438-9914; call Betsy Popolizio at 518/438-9907 ext. 240; or email bpopolizio@youngsommer.com Cancellations will be accepted until May 4. No refunds or credits given after that time. To help us plan, please make a reservation. **The registration fee will be \$14.00 for walk-ins.**