



ENVIRONMENTAL BREAKFAST CLUB ENVIRONMENTAL REGULATORY SUMMARY

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Final Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
<p>AIR</p> <p>FEDERAL Guidance on Applying the Federal Prevention of Significant Deterioration Requirements to New and Revised National Ambient Air Quality Standards 40 CFR § 52.21</p>	<p>In the past several months, EPA has issued a series of guidance documents explaining how to apply the federal Prevention of Significant Deterioration (PSD) permit requirements to areas with new and revised National Ambient Air Quality Standards (NAAQS). The policies address the issue both generally and with regard to new/revised NAAQS for nitrogen dioxide (NO₂), sulfur dioxide (SO₂), and fine particulate matter (PM_{2.5}).</p> <ul style="list-style-type: none"> • <i>Applicability of the Federal PSD Permit Requirements to New and Revised NAAQS</i> (Apr. 1, 2010). Clarifies that PSD permit requirements cover any NAAQS that is in effect at the time of permit issuance unless EPA expressly adopts “grandfathering” provisions allowing the source to continue to rely on information already in its permit application. • <i>General Guidance for Implementing the 1-hour NO₂ NAAQS in PSD Permits, Including an Interim 1-hour NO₂ Significant Impact Level</i> (June 28, 2010). Explaining and clarifying the procedures that may be followed by PSD applicants and permitting authorities to demonstrate that proposed construction will not violate the new 1-hour NO₂ NAAQS, including: (1) methods for addressing situations in which modeled estimates of ambient NO₂ concentrations after application of best available control technology suggest possible NAAQS violations; (2) special rules for emergency equipment and startup conditions; and (3) establishment of screening values, including 1-hour NO₂ significant impact levels (SIL) – the screening levels used to identify ambient impacts that are sufficiently low relative to the NAAQS or PSD increment to be considered de minimis. • <i>Guidance Concerning Implementation of the 1-hour SO₂ NAAQS for the PSD Program</i> (Aug. 23, 2010). Similar to the NO₂ guidance summarized above. <p>In addition to these guidance documents, EPA has proposed three additional documents containing recommendations regarding appropriate dispersion modeling procedures to be used to demonstrate compliance with the PM_{2.5}, SO₂ and NO₂ NAAQS when applying EPA’s existing <i>Guideline on Air Quality Models</i> contained in 40 CFR Part 51, Appendix W.</p> <p>The guidance documents can be found on EPA’s website at: www.epa.gov/region07/air/policy/search.htm.</p>	<p>The guidance documents are primarily of interest to new or modified major sources subject to PSD. EPA will be applying the guidance to projects in New York until it approves the state’s 2009 PSD rules. Thereafter, DEC may rely on the guidance in implementing its own PSD permitting program.</p>	<p>Long term, EPA plans to adopt rulemakings incorporating key elements of the guidance into its PSD regulations, including adopting SILs for each of the three NAAQS subject to the guidance.</p>

Citation	Summary	Implications	Schedule/Notes
<p>NEW YORK STATE Reasonably Available Control Technology Standards for Commercial and Industrial Adhesives and Sealants 6 NYCRR Part 228</p>	<p>DEC adopted new reasonably available control technology (RACT) standards that limit emissions of volatile organic compounds (VOCs) from commercial and industrial adhesives, sealants, and primers. With this rulemaking, DEC divided 6 NYCRR Part 228 into two subparts – Subpart 228-1, which contains the existing VOC RACT standards for surface coating operations, and Subpart 228-2, which contains the new standards for commercial and industrial adhesives, sealants, and primers. The new rule bars manufacturers and distributors of specific types of adhesives, sealants and primers from selling products that contain more than a specified quantity of VOC; the VOC limits range from 30 to 850 grams of VOC per liter depending on the type of adhesive or sealant. Where adhesives, sealants or primers are used on an emissions unit, the facility may operate air pollution control equipment to achieve the necessary emission reductions in lieu of using compliant coatings. Facilities that cannot cost effectively comply using compliant coatings and/or add-on controls may seek a process-specific RACT determination.</p> <p>Where total actual VOC emissions from all industrial adhesive application processes, including related cleaning activities, equal three tons per year or more before controls, the rule requires facilities to use certain types of application equipment and comply with work practices designed to decrease VOC emissions during storage, mixing, handling and cleaning operations. The regulation includes various exemptions and exceptions, including a so-called “low usage exemption.”</p> <p>The rule can be found on DEC’s website at: www.dec.ny.gov/regulations/propregulations.html.</p>	<p>The rule primarily affects manufacturers of adhesives and sealants and industrial/commercial facilities that use these products (with certain exceptions). It is based on a 2006 model rule developed by the Ozone Transport Commission.</p>	<p>The rule took effect September 30, 2010.</p> <p>DEC proposed the rule in December 2009, made changes in response to public comments, and repropose the rule in June 2010. The final rule contains non-substantive changes from the June 2010 reproposal.</p>

Citation	Summary	Implications	Schedule/Notes
<p>NEW YORK STATE NOx Emission Standards for Hot Mix Asphalt Plants 6 NYCRR § 212.12</p>	<p>DEC revised its general process emission source standards to add a new section establishing reasonably available control technology for nitrogen oxide emissions from hot mix asphalt production plants. 6 NYCRR Part 212 contains DEC’s provisions for controlling emissions from “general process sources” and includes a section establishing procedures for setting RACT standards for sources not covered by other, more specific VOC or NOx RACT rules. With the recent rulemaking, DEC amended Part 212 to add a new section, set forth at 6 NYCRR § 212.12, that establishes RACT for hot mix asphalt production plants. The new section requires annual tune-ups of all dryer burners beginning in 2011. Owners/operators of hot mix asphalt plants must submit plans by March 2011 detailing the methods used to reduce the moisture content of aggregate stockpiles. Beginning 2012, the owner/operator must assess the feasibility of installing a low NOx burner (LNB) whenever he/she is contemplating a burner replacement; by 2020, a similar economic feasibility analysis is required for all active plants. Following the initial public comment period, DEC significantly revised the draft regulations by extending the deadline for completing a LNB assessment, deleting detailed RACT analyses for most sources, and adding the requirement to prepare a moisture content plan, among other changes.</p> <p>The regulation can be found on DEC’s website at: www.dec.ny.gov/regulations/proregulations.html.</p>	<p>The rule, which primarily affects owners/operators of hot mix asphalt production plants, is intended to reduce emissions associated with combustion during the aggregate drying and heating process by reducing the amount of excess moisture in the asphalt (and so reducing the amount of heating required) and eventually requiring installation of LNBs, where feasible.</p>	<p>The rule took effect September 30, 2010.</p> <p>DEC proposed the rule in December 2009, made significant changes in response to public comments, and repropose the rule in June 2010. The final rule is identical to the June 2010 reproposal. In responding to comments on the reproposal, DEC clarified that plants that voluntarily install LNBs do not have to conduct an economic feasibility analysis and reiterated that the methods used to control moisture in aggregate stockpiles are site specific.</p>

Citation	Summary	Implications	Schedule/Notes
<p>NEW YORK STATE Annual Air Emission Statements; Emissions Testing, Sampling and Analytical Determinations 6 NYCRR subparts 202-1 and 202-2</p>	<p>DEC revised its annual emission statement regulations to require greenhouse gas (GHG) reporting and make other changes. Under 6 NYCRR subpart 202-2, major air emission sources must submit to DEC an emission statement that summarizes their actual emissions of specific air contaminants for the previous year. With the recent rulemaking, DEC expanded the list of contaminants subject to reporting to include the following six GHGs: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, all of which are covered both by the international climate change agreement known as the Kyoto Protocol and by EPA’s recently adopted mandatory GHG reporting rule. Other changes include:</p> <ul style="list-style-type: none"> • Revising the definition of “chemical family code” to include PM_{2.5}, hydrofluorocarbons, and perfluorocarbons; • Clarifying what months are included in each season for purposes of providing information on percent operation by season and on operation during peak ozone and carbon monoxide seasons; and • Clarifying confidentiality rules as applied to commercial information. <p>DEC also revised 6 NYCRR subpart 202-1, Emissions Testing, Sampling and Analytical Determinations, to replace the term “Commissioner” with “Department” and clarify that alternative emission tests require written DEC approval.</p> <p>The rule can be found on DEC’s website at: www.dec.ny.gov/regulations/propregulations.html.</p>	<p>The rule is primarily of interest to major air emission sources that are required to submit annual air emission statements to DEC.</p>	<p>The rule took effect September 30, 2010.</p> <p>DEC made the proposed rule available for comment in February 2010 and held three public hearings. The rule was not revised following the public comment period. In responding to public comments, DEC rejected suggestions that it use GHG emission data collected under EPA’s mandatory GHG reporting rule, noting that the federal data is collected on a facility-wide rather than a process level and that the sources subject to the two rules differ.</p>

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<p>CLIMATE CHANGE</p> <p>NEW YORK STATE Climate Change and DEC Action Commissioner Policy CP-49</p>	<p>DEC issued a commissioner policy entitled <i>Climate Change and DEC Action, which establishes a broad framework designed to help DEC integrate climate change into all aspects of its activities</i>, including decision-making, planning, permitting, remediation, rulemaking, grants administration, natural resource management, enforcement, land stewardship and facilities management, internal operations, contracting, procurement, and public outreach and education. The policy includes the following five components to help achieve the desired integration:</p> <ul style="list-style-type: none"> • DEC staff are directed to make greenhouse gas reductions a fundamental goal and integrate mitigation objectives into DEC programs, actions, and activities, as appropriate. Mitigation refers to strategies to reduce GHG emissions and so mitigate climate impacts; a list of mitigation objectives is included in the policy. • DEC staff are directed to incorporate climate change adaptation strategies into DEC programs, actions and activities, as appropriate. Adaptation refers to strategies for coping with the likely impact of climate change on ecosystems and communities; a list of adaptation objectives is included in the policy. • DEC staff are directed to consider climate change impacts as they perform their daily Department-related activities. • DEC will form a Climate Action Team comprised of climate change coordinators from each division, office and region. The team will meet periodically to identify information needs, collaborate on interdivision climate change plans and strategies, and promote climate change education and training. • As part of its annual planning process, each DEC division, office and region must identify actions to be taken to further the policy and report on their progress in meeting the previous year's goals and objectives. <p>The policy can be found on DEC's website at: www.dec.ny.gov/regulations/65034.html.</p>	<p>The policy represents an attempt by DEC to compel staff to consider the climate change implications of all types of decisions made by the Department.</p>	<p>The policy takes effect October 22, 2010.</p> <p>DEC made a draft of the commissioner policy available for comment in May 2010 and revised it following the comment period. EPA prepared a responsiveness summary addressing the comments received.</p>

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<p>OTHER</p> <p>NEW YORK STATE Recent Environmental Legislation</p>	<p>The New York legislature adopted various environmental bills at the close of the 2010 legislative session, several of which were vetoed by the Governor. The following bills were signed and have become law:</p> <ul style="list-style-type: none"> • A.8642A/S.1145C – effective July 1, 2012, limits the sulfur content of number 2 heating oil sold for use in residential, commercial or industrial heating to 15 parts per million (the same limit currently applicable nationwide to diesel fuel used by heavy-duty vehicles and engines). • A.6919D/S.3296H – prohibits the sale of child care products such as pacifiers, sippy cups, and baby bottles that contain bisphenol A, a component of some rigid plastics; authorizes DEC to allow labeling of products that do not contain bisphenol A and adopt regulations implementing the law. • A.5823/S.1901 – amends the existing pesticide notification law to require owners/operators of multi-family residences that are the site of pesticide applications and are located in counties that have opted into the notification law to notify occupants of those residences, in addition to applicator’s notice to occupants of abutting properties. <p>The following bills were vetoed by the Governor:</p> <ul style="list-style-type: none"> • A.5176/S.1432 – prohibits radioactive or hazardous waste disposal sites or transfer stations from being sited within 1500 feet of school property. • A.3421/S.4958 – requires DEC to establish method for calculating greenhouse gas emissions and develop best management and procurement practices for state agencies to reduce their GHGs. • A.3419/S.5689 – requires state agencies to calculate GHG emissions as part of their annual environmental audits of ongoing operations. • A.0779A/S.2993B – requires DEC to periodically update model environmental assessment forms. • A.8489A/S.1330 – establishes criteria for identifying “high local environmental impact zones” and requires DEC to publish a list of such zones every two years. <p>The bills can be found on the Assembly’s website at: assembly.state.ny.us.</p>		<p>Earlier this year, the legislature enacted an electronic waste recycling law that requires electronics manufacturers to develop an equipment takeback program, imposes registration and other requirements on e-waste collection and recycling facilities, and institutes a phased ban on e-waste disposal.</p> <p>The legislature did not pass other controversial environmental laws, including: (1) a moratorium on drilling in the Marcellus Shale; (2) a law authorizing citizen suits to enforce state environmental laws; and (3) controversial limits on stationary source GHG emissions.</p>

Proposed Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
<p>SOLID WASTE</p> <p>NEW YORK STATE Solid Waste Enforcement Policy Program Policy OGC 8</p>	<p>DEC made available for comment a draft program policy entitled <i>Solid Waste Enforcement Policy</i> that provides guidance to DEC staff and the public on enforcing DEC’s solid waste regulations, including those relating to solid waste treatment and disposal facilities, returnable containers, mercury-added consumer product manufacturers, and waste transporters. The policy includes a summary of DEC’s objectives, which include: ensuring compliance with solid waste laws, regulations and permits; deterring violations; and imposing sanctions consistently throughout the state. To achieve these objectives, the policy calls on staff to:</p> <ul style="list-style-type: none"> • Determine the severity of the violations and the appropriate enforcement response; • Determine the economic benefit component of the penalty to eliminate any financial advantage associated with noncompliance; • Determine the gravity component of the penalty using a Penalty Range Guide included as Appendix I to the policy; • Apply any mitigating/aggravating factors (timeliness in correcting violations, history of past violations, cooperation, severity of violation, and other mitigating/aggravating factors); and • Assure a return to compliance by using the appropriate enforcement tool (summary abatement order, criminal referral, consent order, and others). <p>The policy classifies violations based on their severity, establishing time frames for pursuing specific enforcement responses, and providing examples of solid waste violations in each category. The Appendix I, Penalty Range Guide, contains a chart summarizing the recommended penalty on a percentage basis considering the extent of deviation/importance to the regulatory scheme and potential for harm or actual damage.</p> <p>The draft program policy can be found on DEC’s website at: www.dec.ny.gov/regulations/68439.html.</p>	<p>The policy is of potential interest to owners/operators of solid waste treatment and disposal facilities (landfills, transfer stations, compost facilities, and vehicle dismantling facilities, among many others); it also applies to waste transporters, mercury-added consumer product manufacturers, and entities subject to the state’s returnable beverage container law.</p>	<p>DEC is accepting comments on the draft program policy until October 29, 2010.</p>

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<p>REMEDICATION</p> <p>NEW YORK STATE Institutional Controls: A Guide to Drafting and Recording Institutional Controls Program Policy DER-33</p>	<p>DEC made available for comment a draft program policy entitled <i>Institutional Controls: A Guide to Drafting and Recording Institutional Controls</i>, which provides direction on how to develop and properly record institutional controls as part of a cleanup decision. Many DEC-approved remedial actions leave contaminants in place at levels that have been determined to be safe for a particular use and/or include engineered structures and controls that require ongoing oversight and maintenance. To address these sites, DEC requires the imposition of “institutional controls” – measures to enforce restrictions on the use of real property that limit human or environmental exposure, restrict the use of groundwater, provide public notice, or prevent actions that would interfere with the effectiveness of the remedy. The draft program policy provides background concerning institutional controls and identifies procedures for implementing the three most common types of controls employed by DEC – environmental easements, deed restrictions, and environmental notices. For each type of institutional control, the program policy identifies when it is required, its basic features, and the process for implementing the control. In the case of environmental easements, for example, the policy summarizes the elements of a complete environmental easement package (proposed easement, updated title report, current deeds, survey, and commitment letter, among others) and the procedures for executing and recording the easement. The program policy also includes procedures for completing surveys (including Attachment A, Minimum Survey Requirements) and modifying/terminating institutional controls.</p> <p>The draft program policy can be found on DEC’s website at: www.dec.ny.gov/regulations/2393.html.</p>	<p>The program policy is primarily of interest to those involved in site remediations that require imposition of institutional controls. Specifically, the policy applies to DEC’s Inactive Hazardous Waste Site Remedial Program, the Brownfield Cleanup Program, the Voluntary Cleanup Program, the Environmental Restoration Program, the Spill Response Program, and cleanups at hazardous waste sites subject to the Resource Conservation and Recovery Act. The program policy is one of many issued by DEC in recent months to facilitate implementation of its remedial programs.</p>	<p>DEC is accepting comments on the draft program policy until October 29, 2010.</p>

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WATER			
FEDERAL Effluent Guidelines and Performance Standards for Pollutant Discharges from Construction Sites 40 CFR Part 450	EPA asked a federal court to partially vacate portions of its December 2009 rule establishing effluent limitations guidelines and new source performance standards to control the discharge of pollutants from construction sites . Among other things, the rule established minimum erosion and sediment control, soil stabilization, and pollution prevention measures designed to reduce turbidity and sediment discharges from construction sites. In addition, sites disturbing 10 acres or more are required to comply with a controversial turbidity limit of 280 nephelometric turbidity units (NTU) and monitor compliance with that limit. In a lawsuit brought by the National Association of Home Builders (NAHB) and others challenging the NTU standard, EPA conceded on a motion for partial vacature of the final rule that it “improperly interpreted the data” and that the calculations in the record were therefore inadequate to support the 280 NTU limit. In granting the motion, the court remanded the limit back to EPA and suspended the litigation for 18 months to give the agency time to review and revise the rule. As part of that review, EPA also plans to reconsider issues relating to linear gas and electric utility projects and the applicability of the limit to cold weather and small sites. Key litigation-related documents can be found on the NAHB website at: www.nahb.org . The final effluent guidelines can be found in the December 1, 2009 Federal Register at: www.gpoaccess.gov/fr/index.html .	The rule is primarily of interest to those engaged in construction activities that disturb one acre or more of land. DEC must review its existing General Permit for Stormwater Discharges from Construction Activity and revise it to incorporate new requirements contained in the rule.	The final rule took effect February 1, 2010 and required construction sites that disturb 20 acres or more at one time to comply with the 280 NTU turbidity limit by August 1, 2011 (February 2, 2014 for sites disturbing 10 acres or more). With the recent court order, however, states are unlikely to implement the NTU limit, although the work practice and other requirements remain in effect.
NEW YORK STATE Environmental Benefit Permit Strategy Rankings	DEC made its revised Environmental Benefit Permit Strategy (EBPS) rankings available for review . The EBPS rankings prioritize State Pollutant Discharge Elimination System (SPDES) permits for full technical review based on criteria outlined in DEC guidance. The review under the EBPS program occurs independent of routine SPDES permit renewals. Each year, DEC publishes the priority list for central office, which handles most major industrial SPDES permits, and for each DEC regional office. SPDES permits on the top 10 percent of the list are scheduled for review in the coming year. The 2010/2011 list can be found on DEC’s website at: www.dec.ny.gov/permits/6054.html .	Facilities in the top 10 percent of the EBPS rankings can expect their SPDES permits to be subject to a full technical review during the upcoming year.	Any interested party may submit a request to change a facility’s rankings.

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<p>NEW YORK STATE Guidance for Dam Engineering Assessment Reports Program Policy DOW 3.1.4</p>	<p>DEC's Division of Water made available for comment draft Program Policy DOW 3.1.4, entitled <i>Guidance for Dam Engineering Assessment Reports</i>. DEC's recently revised dam safety regulations require owners of high hazard (Class C) and intermediate hazard (Class B) dams to submit an engineering report that provides an independent review of existing dams, identifies deficiencies, and specifies corrective measures. According to the policy, an engineering assessment report must contain the following components: (1) hazard classification evaluation; (2) complete safety inspection; (3) evaluation of the dam's spillway capacity; (4) evaluation of the dam's structural stability; (5) evaluation of the outlet works (reservoir drain) capacity; (6) review of the dam's Emergency Action Plan; and (7) conclusion as to whether the dam meets current regulations and safety guidance. The tasks associated with performing the assessment are identified as follows:</p> <ul style="list-style-type: none"> • File review. Review the owner's and DEC's files on the dam. • On-site engineering inspection and investigation. Steps include: (1) conducting a hazard classification reconnaissance that involves inspecting the downstream area of the dam to determine the likely impact of a breach and reviewing planning board records to identify possible future development; and (2) performing a dam safety inspection that includes a comprehensive investigation of the visible physical features of the dam, including photographs and possible underwater inspections. • Engineering review, calculations, and conclusions. Steps include: (1) reviewing the dam's hazard classification (high, intermediate or low); (2) conducting a hydrology assessment that includes determining the inflow design storm; (3) conducting a hydraulic assessment; (4) conducting a stability assessment that may include a geotechnical investigation; and (5) providing a conclusion that includes whether the dam conforms to dam safety criteria and recommendations and a schedule if changes are necessary. • Engineering assessment report generation. Discusses the format of the report. <p>The assessment must be performed by a professional engineer registered to practice in New York with the appropriate experience. The final report must be submitted to DEC, with a copy retained by the owner of the dam.</p> <p>The program policy can be found on DEC's website at: www.dec.ny.gov/lands/4991.html.</p>	<p>The program policy is primarily of interest to owners/operators of intermediate and high hazard dams and dams assigned a condition rating of unsafe or unsound.</p>	<p>DEC is accepting comments on the draft program policy until October 29, 2010.</p>

Other Recent Developments (Final)

AIR

FEDERAL: EPA adopted **new standards for emissions of mercury and other hazardous air pollutants from cement plants**. In 2006, EPA revised its emission standards for Portland cement plants under the National Emission Standards for Hazardous Air Pollutants (NESHAP) program, which is set forth at 40 CFR Part 63, subpart LLL. The controversial rule set mercury standards for new sources based on the performance of wet scrubbers and required new and existing sources to implement certain work practices to reduce emissions. Various states and citizens groups challenged these standards, arguing, among other things, that EPA failed properly to control mercury emissions. The final rule contains new limits on emissions of mercury, total hydrocarbons, particulate matter (PM), and hydrochloric acid from new and existing Portland cement kilns and in-line kiln/raw mills. To monitor compliance with those limits, EPA is requiring continuous emission monitoring systems (CEMS) for mercury, total hydrocarbons, and hydrochloric acid; facilities must either operate a bag leak detection system or CEMS to confirm compliance with the PM limit. At the same time, EPA finalized amendments to the New Source Performance Standards (NSPS) for cement plants. The standards, which are found at 40 CFR Part 60, subpart F, limit emissions of PM, nitrogen oxides, sulfur dioxide, and opacity from new and modified cement plants. The new rules take effect November 8, 2010; they can be found in the September 9, 2010 Federal Register at: www.gpoaccess.gov/fr/index.html.

Implications: There are currently three Portland cement plants in New York, all of which are located in and around the Capital Region.

CLIMATE CHANGE

FEDERAL: EPA revised the **general provisions of its mandatory greenhouse gas reporting rule to require affected facilities to provide additional information**. The mandatory GHG reporting rule, which is set forth at 40 CFR Part 98, requires certain GHG-emitting facilities and suppliers of fuels and industrial gases to report their GHG emissions annually to EPA. EPA recently amended the rule to require these reports to include: (1) the name, address and ownership status of the reporting facility's U.S. parent company; (2) primary and other applicable North American Industry Classification System code(s); and (3) an indication of whether any of the reported emissions are from a cogeneration unit located at the facility. The final rule can be found in the September 22, 2010 Federal Register at: www.gpoaccess.gov/fr/index.html.

Implications: The revisions to the mandatory GHG reporting requirements are primarily of interest to facilities currently or potentially subject to the rule.

FEDERAL: EPA announced that it is **phasing down services offered under the agency's Climate Leaders program** in the wake of adoption of the mandatory GHG reporting rule, discussed above. Climate Leaders is a voluntary program under which organizations completed corporate-wide GHG inventories, set reduction goals, and documented progress toward achieving those goals in exchange

for public recognition. In conjunction with the phase-down, EPA is encouraging participants who want to go beyond the mandatory reporting requirements to transition to programs run by states and nongovernment organizations. EPA is also looking for new ways to promote, support and recognize climate leadership. Information about the Climate Leaders program can be found at: www.epa.gov/climateleaders.

Implications: The announcement is primarily of interest to companies that are currently participating in EPA's Climate Leaders program.

OTHER

NEW YORK STATE: DEC is **accepting applications for its New York Environmental Leaders (NYEL) program**, which seeks to recognize and provide incentives to organizations that demonstrate use of sustainable business practices or pollution prevention practices that exceed environmental compliance. Incentives available to participants include: an invitation to apply for a summer intern to help with a "beyond compliance" environmental project; access to a specially designated DEC contact to facilitate communication between DEC and the NYEL member; and use of the NYEL logo. The program consists of two tiers: (1) a leadership tier (open to organizations with a track record of environmental leadership); and (2) an entry tier. Applications for entry into the program this year must be submitted to DEC by **October 31, 2010**. NYEL information and application forms can be found on DEC's website at: www.dec.ny.gov/chemical/939.html.

Implications: This announcement is potentially of interest to companies seeking state recognition for their environmental compliance efforts.

Other Recent Developments (Proposed)

WATER

FEDERAL/NEW YORK STATE: EPA made available for comment its **draft total maximum daily load (TMDL) for the Chesapeake Bay, a watershed that encompasses the Susquehanna and Chemung River Basins** and so includes portions of south central New York, including Elmira and Binghamton. Under the Clean Water Act, states must identify waters that are impaired for their designated uses and establish TMDLs – pollution budgets designed to identify necessary reductions in pollutant loads. The draft Chesapeake Bay TMDL allocates allowable nitrogen, phosphorus and sediment pollution between point and nonpoint source discharges and identifies measures designed to assure the attainment and maintenance of water quality standards in the tidal portion of the Chesapeake Bay watershed. In conjunction with the TMDL, New York and other states in the basin prepared draft watershed implementation plans identifying sources of nutrient and sediment (agriculture, urban runoff, point sources, septic systems, forest and atmospheric deposition) and providing information about measures to be implemented to satisfy the TMDL. DEC's plan emphasizes that New York's portion of the watershed is characterized by very low growth, low intensity agriculture, forest, low income, and high water quality and that the state has serious concerns about the fairness of the allocations in the TMDL. EPA is accepting comments on

the draft TMDL until **November 8, 2010** and has scheduled numerous public meetings throughout the watershed. Notice of the TMDL can be found in the September 22, 2010 Federal Register at: www.gpoaccess.gov/fr/index.html. DEC is accepting comments on its draft watershed implementation plan until **November 3, 2010**. The draft can be found on DEC's website at www.dec.ny.gov/lands/33279.html.

Implications: The TMDL and watershed implementation plan are potentially of interest to facilities in south central New York that discharge to the Susquehanna and Chemung River Basins.

FEDERAL: EPA proposed **changes to analysis and sampling test procedures applicable under various Clean Water Act programs**. The rules, which are found primarily in 40 CFR Part 136, identify test procedures that must be used for the analysis of pollutants in applications and reports under the National Pollutant Discharge Elimination System (NPDES) permit program as well as state certifications required under Section 401 of the Clean Water Act. EPA develops its own analytical methods and relies on methods developed by voluntary standards development organizations. Approved methods are used to determine compliance with NPDES permits and other monitoring requirements. With this rulemaking, EPA is proposing to add to the list of approved methods and update versions of previously approved methods. EPA also is clarifying the process for obtaining approval of alternate procedures for nationwide or regional use. EPA is accepting comments on the proposal until **November 22, 2010**. The proposal can be found in the September 23, 2010 Federal Register at: www.gpoaccess.gov/fr/index.html.

Implications: The proposal is potentially of interest to facilities with wastewater discharge permits.

OTHER

FEDERAL: EPA is **requesting public input on the agency's role in the "green" or sustainable products movement with the goal of determining** how it can make a "meaningful contribution to the development, manufacture, designation, and use of sustainable products." The 1990 Pollution Prevention Act charges EPA with facilitating the adoption of source reduction techniques by business and identifying opportunities to use federal procurement to encourage source reduction. The notice poses a series of questions concerning EPA's role in the sustainable products movement in such areas as: assembling information and databases; evaluating the lifecycle of products; defining criteria for more sustainable products; and generating eco-labels and/or standards, among other subjects. EPA is accepting stakeholder input until **October 19, 2010**. The notice can be found in the September 16, 2010 Federal Register at: www.gpoaccess.gov/fr/index.html.

Implications: The notice is primarily of interest to manufacturers, wholesalers and retailers.

FEDERAL: The Pipeline and Hazardous Materials Safety Administration (PHMSA) **proposed miscellaneous amendments to the hazardous material transportation regulations to update and clarify certain regulatory requirements**. Among other things, the PHMSA proposed to add an exception from the package labeling requirements for "consolidation bins," which are used by motor carriers to consolidate and provide additional protection for shipments of small packages. In place of requiring full labels, the PHMSA proposes to require bins to be marked generally as "hazardous materials" and meet various size, design and other requirements. Other

proposed changes include: (1) updating incorporations by reference; (2) revising the definition of “person” to include those who manufacture, repair or test packaging authorized for transportation of hazardous materials consistent with the federal hazardous materials transportation statute; (3) revising the rules governing labeling/placarding of intermediate bulk containers; (4) harmonizing the hazardous materials table with international standards; and (5) revising rules governing shipment of regulated medical waste, fireworks, explosives, cylinders, and lab packs. The PHMSA is accepting comments on the proposed revisions until **November 29, 2010**. The proposal can be found in the September 29, 2010 Federal Register at: www.gpoaccess.gov/fr/index.html.

Implications: The proposal is potentially of interest to persons engaged in shipping hazardous materials.

Upcoming Deadlines

NOTE: This calendar is limited to items of general interest.

October 4, 2010: Deadline for submitting comments on EPA’s draft SIP call and FIP implementing the GHG tailoring rule, which applies the PSD program to large GHG sources. See the September 2, 2010 Federal Register at www.gpoaccess.gov/fr/index.html for details.

October 7, 2010: DEC seminar about recently finalized Program Policy DER-10, *Technical Guidance for Site Investigation and Remediation* scheduled in Albany. See DEC’s website at www.dec.ny.gov/about/44896.html for details.

October 12, 2010: Deadline for submitting comments on EPA’s proposed revisions to the TSCA inventory update reporting rule. See the August 13, 2010 Federal Register at www.gpoaccess.gov/fr/index.html for details.

October 13, 2010: Deadline for submitting comments on EPA’s proposed revisions to the total coliform rule applicable to public water systems (extended from September 13, 2010). See the July 14, 2010 Federal Register at www.gpoaccess.gov/fr/index.html for details.

October 19, 2010: Deadline for submitting input on EPA’s possible role in the sustainable products movement. See the September 16, 2010 Federal Register at www.gpoaccess.gov/fr/index.html for details.

October 29, 2010: Deadline for submitting comments on DEC’s draft *Solid Waste Enforcement Policy*. See DEC’s website at www.dec.ny.gov/regulations/68439.html for details.

October 29, 2010: Deadline for submitting comments on DEC’s draft program policy entitled *Institutional Controls: A Guide to Drafting and Recording Institutional Controls*. See DEC’s website at www.dec.ny.gov/regulations/2393.html for details.

October 29, 2010: Deadline for submitting comments on DEC's draft program policy entitled *Guidance for Dam Engineering Assessment Reports*. See DEC's website at www.dec.ny.gov/lands/4991.html for details.

October 31, 2010: Deadline for submitting application to participate in DEC's New York Environmental Leaders program. See DEC's website at www.dec.ny.gov/chemical/939.html for details.

November 3, 2010: Deadline for submitting comments on DEC's draft program policy entitled *Petroleum Bulk Storage (PBS) Inspection Handbook*. See DEC's website at www.dec.ny.gov/regulations/2387.html for details.

November 3, 2010: Deadline for submitting comments on DEC's draft watershed implementation plan for the Chesapeake Bay TMDL. See DEC's website at www.dec.ny.gov/lands/33279.html for details.

November 8, 2010: Deadline for submitting comments on EPA's draft *Guidance Document: Best Management Practices for Unused Pharmaceuticals at Health Care Facilities*. See EPA's website at water.epa.gov/scitech/wastetech/guide/unusedpharms_index.cfm for details.

November 8, 2010: Deadline for submitting comments on EPA's draft TMDL for the Chesapeake Bay. See the September 22, 2010 Federal Register at www.gpoaccess.gov/fr/index.html for details.

November 22, 2010: Deadline for submitting comments on EPA's proposed revisions to its wastewater analysis and sampling test procedures. See the September 23, 2010 Federal Register at www.gpoaccess.gov/fr/index.html for details.

November 26, 2010: Deadline for submitting comments on DEC's *Draft Strategic Plan for State Forest Management*. See DEC's website at www.dec.ny.gov/lands/64567.html for details. NOTE: Public hearings in each of DEC's nine regions were held from September 14th to September 30th.

November 29, 2010: Deadline for submitting comments on the PHMSA's proposed revisions to the hazardous material transportation regulations. See the September 29, 2010 Federal Register at www.gpoaccess.gov/fr/index.html for details.