

Young / Sommer LLC

ENVIRONMENTAL BREAKFAST CLUB REGULATORY SUMMARY

September 11, 2013

Prepared by:
Elizabeth Morss
Young/Sommer LLC
5 Palisades Drive
Albany, NY 12205
(518) 438-9907, ext. 232
emorss@youngsommer.com
<http://www.youngsommer.com>

Final Statutes, Regulations, Guidance and Cases

Citation	Summary	Implications	Schedule/Notes
HAZARDOUS WASTE FEDERAL Conditional Exclusions from Solid and Hazardous Waste for Solvent-Contaminated Wipes 40 CFR Parts 260 and 261 78 Fed. Reg. 46448 (July 31, 2013)	<p>Almost 10 years after its initial proposal, EPA adopted a rule excluding certain solvent-contaminated wipes from regulation as hazardous waste provided specific requirements are met. For purposes of the rulemaking, solvent-contaminated wipes include wipes that, after use or after cleanup of a spill: (1) contain one or more F001 through F005 solvents or the corresponding P- or U-listed solvents; (2) exhibit a hazardous characteristic when the characteristic of ignitability due to solvent; and/or (3) exhibit only the characteristic of ignitability due to the presence of one or more unlisted solvents. To qualify for the exception, facilities must meet the following conditions:</p> <ul style="list-style-type: none"> • Wipes must be accumulated, stored and transported in non-leaking, closed containers able to contain free liquids, should they occur. • Containers must be labeled "Excluded Solvent-Contaminated Wipes". • Wipes may be accumulated by the generator for no more than 180 days before being sent for cleaning or disposal. • At the time of transportation, the wipes and container must not contain free liquids. • Generators must keep records on-site showing that they are properly managing wipes. • Reusable wipes must be sent to an industrial laundry or dry cleaner that discharges any wastewater pursuant to a Clean Water Act direct discharge or pretreatment permit. • Disposable wipes must be sent to a properly permitted municipal solid waste or hazardous waste landfill, municipal solid waste or hazardous waste combustor, or hazardous waste boiler or industrial furnace. <p>The regulations can be found in the July 31, 2013 Federal Register at: www.gpo.gov/fdsys.</p>	<p>The rulemaking is of interest to any facility managing solvent-contaminated wipes potentially classified as hazardous waste. The exception is not available to: (1) any free liquid removed from the wipes themselves or from the container holding the wipes; (2) wipes that contain listed hazardous wastes other than solvents or that exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents (such as metals); and (3) wipes that are hazardous due to the presence of trichloroethylene.</p>	<p>The final rule takes effect January 31, 2014.</p> <p>EPA previously adopted a policy deferring determination of the regulatory status of solvent-contaminated wipes to the states and EPA regions. In response, DEC issued Policy DSH-HW-03-09 entitled <i>Regulatory Status of Laundered Industrial Rags and Soiled Clothing</i>. With the enactment of the federal regulations, DEC must review its own hazardous waste regulations to address the new standards. As always, DEC has the option of adopting stricter requirements than EPA.</p>

Proposed Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
<p>BULK STORAGE</p> <p>NEW YORK STATE Revisions to Petroleum Bulk Storage Regulations 6 NYCRR Part 613</p>	<p>DEC made available for comment preliminary draft revisions to the petroleum bulk storage (PBS) regulations to incorporate changes required by the 2005 Energy Policy Act (EPAct) and 2008 revisions to New York's PBS statute. Major changes to 6 NYCRR Part 613 include:</p> <ul style="list-style-type: none"> • Conforming the definition of "facility" to the 2008 statute by adding certain underground storage tanks (USTs) larger than 110 gallons and specifying that the term refers to the property on which the tanks are located not the actual tanks. DEC also revised the definition of facility to exclude operational and temporary tanks from regulation. • Conforming the definition of "petroleum" to the 2008 statute and adding the term "petroleum mixture" to clarify when petroleum mixtures are regulated and under what program. • Conforming the definition of UST to the federal definition such that partially-buried tanks with 10% or more volume beneath the surface of the ground are regulated as USTs not aboveground storage tanks (ASTs). • Clarifying that the facility owner is responsible for tank registration while the tank owner is responsible for operation and maintenance of tank systems. • Establishing separate subparts for UST systems regulated by both EPA and DEC, UST systems regulated only by DEC, and AST systems. • Introducing tank system category terminology to differentiate among tank systems based on age. • Consolidating all recordkeeping requirements in a single table. • Requiring owners of federally regulated USTs to: (1) comply with new operator training requirements that differ depending on the individual's role in managing the tanks (general oversight versus emergency response only); and (2) satisfy federal financial responsibility requirements for third-party bodily injury. • Implementing statutory provisions barring delivery of chemicals to certain leaking or otherwise inadequate tank systems and establishing a system for "red tagging" tanks. <p>The proposed revisions to the PBS regulations can be found on DEC's website at: www.dec.ny.gov/chemical/92526.html.</p>	<p>The proposed revisions represent the first major overhaul of the PBS regulations in almost 30 years. Many of the changes – most notably the training and delivery prohibition requirements – are mandated by the 2005 EPAct. Changes to the definition of facility and petroleum are required to implement the 2008 changes to New York's PBS statute. Other changes address long-standing problems with the regulations.</p>	<p>DEC is accepting comments on the preliminary draft revisions until September 20, 2013. A public meeting on the proposed revisions was held on September 10, 2013 in Albany.</p> <p>DEC plans to formally propose the regulations in Fall-Winter 2013. Further revisions will likely be necessary once EPA finalizes revisions to the federal UST regulations proposed in 2011.</p>

Citation	Summary	Implications	Schedule/Notes
<p>BULK STORAGE</p> <p>NEW YORK STATE Revisions to Chemical Bulk Storage Regulations 6 NYCRR Parts 595-599</p>	<p>DEC made available for comment preliminary draft revisions to the chemical bulk storage (CBS) regulations to incorporate changes required by the 2005 Energy Policy Act and 2008 revisions to New York's hazardous substance bulk storage statute. Major changes to 6 NYCRR Parts 595-599 include:</p> <ul style="list-style-type: none"> • Deleting Part 595, Releases of Hazardous Substances, and relocating the spill reporting requirements to Parts 597 and 598. • Redefining "hazardous substance" to clarify how mixtures containing listed hazardous substances are regulated and better distinguish between petroleum and hazardous substances. • Conform the definition of "underground tank system" to the federal definition of UST. As a result of the change, most partially buried storage tanks (10% or more beneath the surface of the ground) will be regulated as USTs not ASTs. • Implementing new federal and New York State statutory provisions requiring individuals responsible for actual operation of UST systems to be properly trained. The type of training required depends on the individual's role in managing the tanks (general oversight versus emergency response only). • Implementing federal and New York State statutory provisions barring delivery of chemicals to certain leaking or otherwise inadequate tank systems and establishing a system for "red tagging" tanks. • Clarifying that the facility owner is responsible for tank registration. • Specifying that reportable quantities for spill reporting purposes are measured over a 24-hour period, consistent with federal hazardous substance spill reporting rules. Currently, the regulations do not specify a timeframe for measuring releases. • Clarifying the rules governing when spills of hazardous substance mixtures must be reported. • Establishing public participation requirements for chemical releases requiring implementation of a corrective action plan. <p>The proposed revisions to the CBS regulations can be found on DEC's website at: www.dec.ny.gov/chemical/92526.html.</p>	<p>The proposed revisions represent the first major overhaul of the CBS regulations in almost 20 years. Many of the changes – most notably the training and delivery prohibition requirements – are mandated by the 2005 EPAct. Other changes address long-standing problems with the regulations. For example, the current definition of "hazardous substance" specifically includes petroleum, creating conflicts with the PBS regulations. To eliminate the confusion, DEC clarified when materials containing petroleum are regulated as hazardous substances versus petroleum.</p>	<p>See schedule for PBS regulations above.</p> <p>The draft revisions made available for comment defined hazardous substance to include, among other things, materials that meet certain relatively broad criteria, such as "substances that cause physical injury or illness to humans when improperly treated, stored, transported, disposed of, or otherwise managed." At the September 10, 2013 public meeting concerning the draft regulations, DEC staff indicated that this controversial aspect of the definition of hazardous substance had been dropped.</p>

Citation	Summary	Implications	Schedule/Notes
<p>FEDERAL NPDES Electronic Reporting Rule 40 CFR Parts 122, 123, 127, 403, 501 and 503 78 Fed. Reg. 46006 (July 30, 2013)</p>	<p>EPA proposed to require electronic reporting for most paper-based reports required under the National Pollutant Discharge Elimination System (NPDES) permit program. The proposed rule applies to reports, notifications and other submissions required under both individual and general NPDES permits, including: discharge monitoring reports; notices of intent to discharge in compliance with a general permit; general permit waivers, certifications and notices of termination of coverage; and program reports. Instead of paper reports, the proposed rule requires submission electronically to EPA through the National Environmental Information Exchange Network or to the authorized state, tribe or territory NPDES program. To promote transparency and accountability, EPA plans to make this more complete set of data available to the public, providing communities and citizens with easily accessible information on facility and government performance. The proposed rule includes an analysis of the initial costs associated with upgrading the information technology and infrastructure as well as the long-term costs/savings associated with implementation by EPA regions, states and permittees. EPA anticipates that after the first few years, the electronic submittal of data will result in significant savings, particularly for states.</p> <p>The proposed rule can be found in the July 30, 2013 Federal Register at: www.gpo.gov/fdsys.</p>	<p>The rule is potentially of interest to any facility subject to either an individual or general NPDES/SPDES permit.</p>	<p>EPA is accepting comments on the proposed rule until October 28, 2013.</p>

Citation	Summary	Implications	Schedule/Notes
<p>FEDERAL Revisions to Water Quality Standards Regulation 40 CFR Part 131 78 Fed. Reg. 54518 (Sept. 4, 2013)</p>	<p>EPA is proposing to revise the federal water quality standards (WQS) regulations to clarify key procedures for adopting and implementing WQS. Under the Clean Water Act (CWA), states must develop WQS based on the designated use of waterbodies (propagation of fish, shellfish and wildlife, recreation, public water supply, etc.). With the current rulemaking, EPA is proposing to revise 40 CFR Part 131 to clarify key provisions and ensure more effective program implementation. Major changes include:</p> <ul style="list-style-type: none"> • Requiring the EPA administrator to issue a formal, signed determination when a new WQS is necessary to meet CWA requirements. According to EPA, this change will eliminate any confusion over precisely when the agency has made such determinations. • Adding a definition of “highest attainable use;” requiring states to designate each waterbody with the highest attainable use; and requiring states to adopt criteria to protect the use. • Clarifying that states must reexamine water quality criteria during their triennial review of WQS to determine if any criteria should be revised in light of new or updated CWA criteria recommendations. • Clarifying the rules relating to antidegradation. Currently, the regulations require states to adopt an antidegradation policy and identify implementation methods, with special attention to protecting high quality (“Tier 2”) waters. With this rulemaking, EPA is: (1) clarifying that high quality waters can be identified on either a parameter-by-parameter or waterbody-by-waterbody basis; (2) specifying that states must conduct an alternatives analysis before deciding to authorize limited degradation of high quality waters; (3) requiring states to develop and make available to the public implementation methods for their antidegradation policies; and (4) addressing EPA’s authority to approve state-adopted antidegradation policies. • Establishing clearer requirements on the development and use of temporary variances, addressing applicability, submission requirements, implementation and renewal. <p>The proposed regulations can be found in the September 4, 2013 Federal Register at: www.gpo.gov/fdsys.</p>	<p>The proposed regulations will primarily affect states and tribes, who are responsible for adopting and implementing WQS. Facilities will be affected by the proposed changes to the extent WQS determine the effluent limits contained in NPDES/SPDES permits.</p>	<p>EPA is accepting comments on the proposed revisions until December 3, 2013.</p>

Other Recent Developments (Final)

AIR

FEDERAL: EPA established nonattainment designations for areas under the one-hour primary (health-based) national ambient air quality standard (NAAQS) for sulfur dioxide (SO₂). In 2010, EPA revised the primary SO₂ NAAQS, establishing a new one-hour SO₂ standard of 75 parts per billion while revoking the 24-hour and annual standards. With the current rulemaking, EPA designated 29 SO₂ nonattainment areas in 16 states based primarily on recorded air quality monitoring data for 2009–2011 showing violations of the one-hour NAAQS. These states must submit state implementation plans (SIPs) to EPA by April 6, 2015 explaining what measures they plan to implement; they must attain the NAAQS in these areas by October 4, 2018. Going forward, EPA is continuing its efforts to develop a designation method that combines monitoring data and modeling. Additional nonattainment areas may be designated once this process is complete. The final rule can be found in the August 5, 2013 Federal Register at: www.gpo.gov/fdsys.

Implications: None of the SO₂ nonattainment areas identified in the recent rule are located in New York. As a result, DEC is not required to implement additional measures to reduce SO₂ emissions to meet the NAAQS.

FEDERAL: EPA set the renewable fuel standards (RFS) that will apply to all gasoline and diesel transportation fuel produced or imported during calendar year 2013. Under the RFS program, gasoline and diesel producers and importers must use an increasing percentage of four types of renewable fuel: cellulosic biofuel, biomass-based diesel, advanced biofuel, and renewable fuel. To implement the RFS, EPA established a credit program under which every gallon of renewable fuel is assigned a unique number which is transferred along with the fuel. Refiners, blenders and importers subject to the RFS program must hold sufficient RFS credits to meet their obligations under the program. With the current rulemaking, EPA established the 2013 volume percentage standards for the four types of fuel subject to the RFS program. As required by the Clean Air Act (CAA), EPA set the cellulosic biofuel standard based on the volume projected to be available during the upcoming year. However, EPA declined to lower the advanced biofuel and renewable fuel standards to address the gap between the projected and statutory cellulosic biofuel levels after concluding that there are sufficient quantities of other advanced biofuels available to make up the difference. The final rule can be found in the August 15, 2013 Federal Register at: www.gpo.gov/fdsys.

Implications: The RFS rule is primarily of interest to motor vehicle fuel producers, blenders, importers and distributors.

NEW YORK STATE: DEC revised Program Policy DAR-2, entitled *Oversight of Private Air Monitoring*, which contains the procedures for DEC oversight of long-term, private air monitoring networks and the conditions under which DEC will accept data collected by such networks for air permitting and State Environmental Quality Review Act purposes. The policy identifies the following steps DEC must implement when overseeing the development and implementation of private air monitoring networks: (1) deciding whether air quality and/or meteorological monitoring is necessary; (2) network design and installation, including review of a

detailed Quality Assurance Project Plan containing the technical specifics of the monitoring program; (3) network operation; (4) data transmission and receipt (requiring at least monthly transmission of data to DEC); (5) quality assurance/quality control following guidelines included as Appendix A to the policy; (6) data review to ensure only accurate/precise data are accepted and entered into the DEC data record; and (7) data reporting, including quarterly reports containing air quality data and data quality assurance information. The revised program policy can be found on DEC's website at: www.dec.ny.gov/chemical/85333.html.

Implications: The policy is primarily of interest to large facilities required to conduct on-site air quality monitoring.

NEW YORK STATE: DEC revised its transportation conformity regulations to streamline the rule and conform to federal requirements. Under the CAA, states must ensure that federally funded transportation plans, transportation improvement programs, and individual transportation projects located in nonattainment and maintenance areas are consistent with the SIP. The transportation conformity regulations identify agencies involved in the review, establish timeframes, and lay out the procedures for consultation among involved agencies. With this rulemaking, DEC repealed 6 NYCRR Part 240 and replaced it with a new version that addresses recent changes to the federal transportation conformity regulations. The new DEC regulations focus on the consultation process for involved agencies, including: (1) interagency communications; (2) provision of draft documents; (3) consultation obligations and procedures, including the roles and responsibilities of DEC, the New York State Department of Transportation, and metropolitan planning organizations; (4) development of transportation control measures (TCM) and motor vehicle emissions budgets; (5) specific procedures relating to air quality models, regional significance and project changes, procedures for evaluating certain exempt projects, timely TCM implementation, and assessment of localized violations (so-called "hot spots"); among other subjects; (6) conflict resolution; and (7) public participation. DEC made nonsubstantive changes to the new rule following the public comment period. Information about the rule can be found on DEC's website at: www.dec.ny.gov/regulations/propregulations.html.

Implications: The revisions are primarily of interest to transportation planners and those engaged in projects with major transportation implications.

CLIMATE CHANGE

FEDERAL: A federal appeals court vacated an EPA rule that exempted some industrial plants that burn biomass from the requirement to obtain Prevention of Significant Deterioration (PSD) permits for greenhouse gas (GHG) emissions. EPA's 2010 GHG tailoring rule established "tailored" GHG applicability thresholds under the PSD program in recognition of the fact that GHGs are emitted in significantly larger quantities than other PSD pollutants. In 2011, EPA deferred the regulation of carbon dioxide (CO₂) emissions that directly result from the combustion or decomposition of biomass to provide the agency with time to study the impact of such sources on climate change. In a split decision, the Court of Appeals for the District of Columbia Circuit rejected the various administrative law-based arguments offered by EPA in support of the deferral rule, including the suggestion that the deferral was justified under the "one step at a time" doctrine, which allows agencies to implement rules in stages. The court in *Center for*

Biological Diversity v. EPA did not address whether EPA had the authority to permanently exempt GHG emissions from biomass from regulation under the PSD program.

Implications: The decision is primarily of interest to industrial sources burning or otherwise processing biomass.

HAZARDOUS WASTE

NEW YORK STATE: DEC issued a **policy memorandum authorizing regulated parties to store used, broken cathode ray tubes (CRTs) and CRT glass under less stringent federal hazardous waste regulations**. CRTs and CRT glass are commonly found in older televisions, computer monitors and other similar equipment. Because these materials contain toxic quantities of lead, they traditionally were managed as hazardous waste. In 2006, EPA adopted special rules for handling CRTs to simplify day-to-day management and encourage recycling. With the recent policy memorandum, entitled *Use of Enforcement Discretion for Cathode Ray Tube (CRT) Glass*, DEC is deferring to the 2006 federal standards until it revises the state hazardous waste regulations to address CRTs. The policy allows recyclers to separate CRTs into their key components and store the materials separately without triggering the hazardous waste regulations provided they comply with the federal CRT rules. DEC hopes that the memorandum will facilitate electronics recycling in New York. The policy can be found on DEC's website at: www.dec.ny.gov/regulations/8489.html.

Implications: The policy memorandum is primarily of interest to electronics recyclers.

REMEDIATION

FEDERAL: EPA published a direct final rule **amending the standards and practices for all appropriate inquiries to reference American Society for Testing and Materials (ASTM) International's Standard E1527-13, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process**. In 2005, EPA issued a rule setting standards for conducting "all appropriate inquiries" into prior ownership and use of property for purposes of allowing site owners/purchasers to qualify for liability protections under the federal Superfund program. The rule established a procedure for demonstrating all appropriate inquiries and allowed use of ASTM E1527-05, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process* in lieu of following the requirements in the final rule. EPA later amended the rule to allow the use of ASTM Standard E2247-08 by those purchasing relatively large tracts of rural property or forestlands. With the current rulemaking, EPA also is allowing the use of ASTM E1527-13 as an option for conducting site assessments. The direct final rule will take effect November 13, 2013 unless EPA receives adverse comments by **September 16, 2013**. The direct final rule and proposal can be found in the August 15, 2013 Federal Register at: www.gpo.gov/fdsys.

Implications: The rule is potentially of interest to anyone involved in purchasing possible brownfield sites.

FEDERAL/STATE: The Court of Appeals for the Second Circuit recently upheld a jury verdict finding Exxon liable for methyl tertiary butyl ether (MTBE) contamination of groundwater on negligence, trespass, public nuisance and failure to warn

grounds. In the 1990s, MTBE was frequently added to gasoline to meet the oxygen content requirements of the CAA's reformulated gasoline (RFG) program. However, MTBE imparts a strong odor and taste, even at low concentrations; also, it is extremely soluble in water. These factors contributed to serious MTBE groundwater contamination problems nationwide. In *In re: Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation*, a jury found Exxon liable under New York tort law for contaminating New York City-owned wells in Queens by releasing MTBE from leaking underground storage tanks. The Second Circuit upheld the decision, concluding among other things that: (1) the lawsuit was not preempted by the CAA's RFG program; (2) the maximum contaminant limit established under New York's drinking water regulations did not define whether an injury occurred for standing purposes; (3) Exxon was liable as a direct spiller of MTBE because it owned many of the leaking underground gasoline storage tanks allegedly responsible for the releases; and (4) the evidence showed that Exxon failed to warn station operators of the special risks associated with storing gasoline containing MTBE. Note that the jury did not find Exxon liable for manufacturing a defective product.

Implications: The decision clarifies the circumstances under which a chemical supplier can be held liable for groundwater contamination caused by its product.

OCCUPATIONAL SAFETY AND HEALTH

FEDERAL: The Occupational Safety and Health Administration (OSHA) and National Institute of Occupational Safety and Health (NIOSH) issued a **joint Hazard Alert addressing the dangers of 1-Bromopropane** (also known as n-propyl bromide), which is commonly found in products used in vapor and immersion degreasing operations, adhesive spray applications, dry cleaning, and certain solvent sprays. N-propyl bromide can irritate the eyes, mucous membranes, upper airways and skin and damage the nervous system; these effects may continue even after exposure to the chemical has ended. The guidance contains background information about n-propyl bromide and offers suggestions for reducing worker exposure, addressing subjects such as evaluating exposure and controlling it through chemical elimination or substitution, engineering controls (e.g., isolation or ventilation), administrative controls (e.g., reducing worker exposure time and keeping containers closed between uses), and personal protective equipment (e.g., respiratory and skin protection). The Hazard Alert can be found on OSHA's web site at: www.osha.gov/Publications/OSHA_3676.pdf.

Implications: The Hazard Alert is primarily of interest to companies using products containing n-propyl bromide.

OTHER

FEDERAL: EPA is **requiring all facilities to report nonconfidential information electronically under the Toxic Release Inventory (TRI) program effective January 21, 2014** using software provided by the agency. The only exception to this requirement is for trade secret forms and substantiation forms, which may continue to be submitted in hard copy. According to EPA, as of 2010, approximately 95% of all TRI submissions were made electronically; electronic submission is purportedly easier for

facilities and helps EPA make information available to the public faster. The rule implementing the change can be found in the August 27, 2013 Federal Register at: www.gpo.gov/fdsys.

Implications: The rule is of interest to any facility required to submit TRI reports.

FEDERAL/STATE: In a potentially controversial decision, the Court of Appeals for the Third Circuit concluded that **property owners were not preempted by the Clean Air Act from bringing a lawsuit for nuisance, negligence and recklessness, and trespass** against a nearby power plant for alleged air pollution problems. The plaintiffs in *Bell v. Cheswick Generating Station* commenced a class action lawsuit alleging that ash and contaminants from the nearby coal-fired power plant were settling on their property causing soiling and other damage and preventing them from using and enjoying their homes and yards. The power plant moved to dismiss the action, arguing that allowing the claims to proceed would undermine the CAA's comprehensive scheme for regulating air emissions. The court of appeals reversed the district court decision granting the motion, concluding that the CAA did not preempt the private property owners' class action tort law claims. In so finding, the appeals court noted that the CAA includes a savings clause that preserves certain existing claims and that the Supreme Court had reviewed a similar provision under the Clean Water Act and found that it allowed state nuisance claims. The court went on to reject the power plant's argument that allowing the common law claims to proceed would undermine the CAA by allowing the jury and court to set emission standards.

Implications: The case arguably allows state nuisance and other common law claims against facilities that are complying with state and EPA-issued air permits.

Other Recent Developments (Proposed)

AIR

FEDERAL: EPA is reconsidering three changes to its recently revised **National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing stationary reciprocating internal combustion engines (RICE)** located at major and area sources of hazardous air pollutants. The standards, set forth at 40 CFR Part 63, subpart ZZZZ, establish emission limits and other requirements for RICE. In response to various petitions, EPA agreed to accept comment on the following RICE rule revisions adopted in January 2013: (1) a provision allowing certain engines to delay the requirement to use ultra-low sulfur diesel fuel until January 1, 2015; (2) a provision delaying the requirement for operators of certain engines to submit annual reports on engine use until March 31, 2016; and (3) criteria for allowing engines at area sources to be used for 50 hours in non-emergency situations to supply power as part of a financial arrangement with another entity. In each case, the contested provision was not part of EPA's original proposal and so was not subject to public comment. EPA is accepting comments on the proposed revisions until **November 4, 2013**; they can be found in the September 5, 2013 Federal Register at: www.gpo.gov/fdsys.

Implications: The proposed revisions are primarily of interest to owners/operators of stationary RICE.

WATER

FEDERAL: EPA published its preliminary 2012 Effluent Guidelines Program Plan identifying new or existing industrial wastewater dischargers that have been selected for development of effluent guidelines and/or pretreatment standards. The guidelines establish technology-based effluent limits for specific categories of direct and/or indirect wastewater dischargers. These effluent limits are then incorporated into NPDES/SPDES permits or pretreatment permits unless superseded by stricter water quality-based limits. With the recent notice, EPA announced that it had not identified any industry category for new or revised effluent guidelines. In addition, it is considering delisting the coalbed methane extraction subcategory based on the declining importance of this industry in the face of increased extraction of natural gas from other sources. EPA also is proposing to delist the chlorine and chlorinated hydrocarbon manufacturing industry from the plan. In addition, EPA: (1) determined that additional information is necessary before concluding its review of the pulp, paper and paperboard, petroleum refining, and meat and poultry products point source categories; and (2) requested general comments on the annual review process, which is used to identify source categories for possible regulation. EPA is accepting comments on the preliminary 2012 Effluent Guidelines Program Plan until **October 7, 2013**; the notice of availability can be found in the August 7, 2013 Federal Register at: www.gpo.gov/fdsys.
Implications: The notice is primarily of interest to facilities in the named source categories.

NEW YORK STATE: DEC proposed to issue two general permits for placement, construction, maintenance and removal of stream crossings for timber harvesting. The first permit (GP-0-13-002), Temporary Bridges for Logging Activities, authorizes temporary bridges no longer than 30 feet placed bank-to-bank and limited to no more than one crossing per 1,000 feet of stream course. The second permit (GP-0-13-004), Temporary Bridges and Culverts for Logging Activities, applies to bridges no longer than 50 feet meeting similar conditions as well as temporary culverts no greater than 8-feet wide. Individuals seeking coverage under the first permit must submit a completed Request for Authorization Form and supplementary information to DEC and wait 5 days before proceeding with construction authorized under the permit. Individuals seeking coverage under the second permit must receive written authorization from DEC before proceeding. The permittee must then comply with the terms and conditions of the permit. The deadline for submitting comments on the draft permits has closed; they can be found on DEC's website at: www.dec.ny.gov/permits/6061.html.
Implications: The permits are primarily of interest to individuals/companies engaged in timber harvesting.

OCCUPATIONAL SAFETY AND HEALTH

FEDERAL: The Occupational Safety and Health Review Commission (Commission) is seeking comment on the possible development of an alternative dispute resolution (ADR) program at the review level. The Commission adjudicates contested citations issued by OSHA at the trial level before an administrative law judge and, if directed for review, before the Commissioners on appeal. Currently, the Commission operates an ADR program at the trial level. Under that program, an ALJ acts as a settlement judge and oversees the ADR process. If a case does not settle, it is tried before another ALJ. The ALJ's decision can then be appealed to the

Commissioners. With this notice, the Commission is seeking comment on whether to establish a similar ADR program at the review level, requesting feedback on issues such as the types of cases that should be included/excluded, when the ADR process should begin, whether telephone/video conferencing should be allowed, who should serve as “third-party neutrals”, and how much time should be allotted to the ADR process. The Commission is accepting comments until **October 21, 2013**; the notice can be found in the August 22, 2013 Federal Register at: www.gpo.gov/fdsys.

Implications: The notice is of general interest to companies regulated by OSHA.

OTHER

NEW YORK STATE: The Lake George Park Commission proposed to require **mandatory inspections of trailered vessels prior to launch into Lake George** by any means, including trailered boats. Under the proposal, before launching into Lake George, all trailered boats must be inspected by a trained “vessel inspection technician” to confirm that they are clean, drained and dry. Boats that do not pass inspection must be washed and decontaminated at the inspection station with high pressure hot water. Inspected vessels will then be outfitted with inspection tags securing the boat to the trailer. Boats leaving Lake George also will be tagged. These boats can relaunch into the lake without a new inspection provided the inspection tag is intact. All launches into the lake must be recorded with the launch operator. In addition, launch operators must secure launches to prevent the entry of boats during off-hours. According to the Commission, the regulation will not result in significant additional costs to boat owner/operators or the operators of launch sites, who already employ individuals to assist boat operators. The Commission is accepting comments on the proposed rule until **October 15, 2013**; public hearings are currently scheduled in Lake George and Ticonderoga on October 8, 2013 and October 10, 2013, respectively. The rule can be found in the August 21, 2013 State Register at: docs.dos.ny.gov/info/register/2013/aug21/toc.html.

Implications: The rule is primarily of interest to owners/operators of boat launches on Lake George and boaters using the lake.

Upcoming Deadlines

NOTE: This calendar contains items of general interest.

September 20, 2013: Deadline for submitting comments on EPA’s proposed effluent limitation guidelines and standards for the stream electric power generating point source category (extended from August 6, 2013). See the June 7, 2013 Federal Register at www.gpo.gov/fdsys for details.

September 20, 2013: Deadline for submitting comments on DEC’s preliminary draft revisions to the petroleum and chemical bulk storage regulations. See DEC’s website at www.dec.ny.gov/chemical/92526.html for details.

September 25, 2013: Deadline for submitting comments on EPA's proposed rule establishing a third-party certification framework for the composite wood products formaldehyde standards (extended from August 9, 2013). See the June 10, 2013 Federal Register at www.gpo.gov/fdsys for details.

September 30, 2013: Deadline for submitting data in conjunction with DEC's development of its list of impaired waters under CWA § 303(d). Information about the assessment process can be found on DEC's website at www.dec.ny.gov/chemical/23846.html.

October 7, 2013: Deadline for submitting comments on EPA's preliminary 2012 Effluent Guidelines Program Plan. See the August 7, 2013 Federal Register at www.gpo.gov/fdsys for details.

October 9, 2013: Deadline for submitting comments on EPA's proposed rules implementing emission standards for formaldehyde from composite wood products (extended from August 9, 2013). See the June 10, 2013 Federal Register at www.gpo.gov/fdsys for details.

October 15, 2013: Deadline for submitting comments on the Lake George Park Commission's mandatory aquatic invasive species vessel inspection program. See the August 21, 2013 State Register at docs.dos.ny.gov/info/register/2013/aug21/toc.html for details.

October 21, 2013: Deadline for submitting comments on the potential development of an alternative dispute resolution program to be administered by the Occupational Safety and Health Review Commission at the review (rather than the trial) level. See the August 22, 2013 Federal Register at www.gpo.gov/fdsys for details.

October 28, 2013: Deadline for submitting comments on EPA's proposed NPDES electronic reporting rule. See the July 30, 2013 Federal Register at www.gpo.gov/fdsys for details.

November 4, 2013: Deadline for submitting comments on EPA's proposed revisions to the reciprocating internal combustion engine NESHAP. See the September 5, 2013 Federal Register at www.gpo.gov/fdsys for details.

December 3, 2013: Deadline for submitting comments on EPA's proposed revisions to the water quality standards regulations. See the September 4, 2013 Federal Register at www.gpo.gov/fdsys for details.