



ENVIRONMENTAL BREAKFAST CLUB REGULATORY SUMMARY

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Final Statutes, Regulations, Guidance and Cases

Citation	Summary	Implications	Schedule/Notes
AIR/CLIMATE CHANGE			
FEDERAL Emission Guidelines for Existing Municipal Solid Waste Landfills 40 CFR Part 60, subpart Cf 81 Fed. Reg. 59276 (Aug. 29, 2016) Standards of Performance for New, Reconstructed and Modified Municipal Solid Waste Landfills 40 CFR Part 60, subpart XXX 81 Fed. Reg. 59332 (Aug. 29, 2016)	<p>EPA adopted new emission guidelines (existing sources) and emission standards (new, reconstructed and modified sources) to reduce landfill gas (LFG) emissions from municipal solid waste (MSW) landfills. Although LFG contains a number of pollutants, the new guidelines/standards (set forth at 40 CFR Part 60, subparts Cf and XXX, respectively) were adopted primarily to address methane and carbon dioxide, two important greenhouse gases. The new guidelines/standards are similar in most key respects.</p> <ul style="list-style-type: none"> • Consistent with the existing rules, landfills are subject to the new guidelines/standards if they have a design capacity of 2.5 million metric tons and 2.5 million cubic meters of waste. • Active landfills that meet these thresholds must install LFG collection and control systems (GCCS) if annual nonmethane organic compound (NMOC) emissions are 34 metric tons or more (down from 50 metric tons under the existing rules). Landfills have 30 months to install any required controls. No controls are necessary if the landfill can demonstrate, based on surface emissions monitoring, that emissions of NMOC are below 500 ppm for four consecutive quarters. • The rules contain criteria for determining when it is appropriate to cap or remove all or a portion of the GCCS because the landfill is no longer emitting significant quantities of LFG. • EPA eliminated existing wellhead operating standards for oxygen and nitrogen while retaining them for temperature and negative pressure. Landfills must, however, continue to record oxygen/nitrogen levels at well heads to help determine whether their GCCS systems are operating properly. In addition, the regulations require regular surface monitoring of all cover penetrations and openings. • EPA clarified that landfill gas can be used for beneficial uses other than as a fuel for stationary combustion sources and set rules governing site-specific treatment systems. • Consistent with other recent rulemakings, EPA is requiring compliance with emissions standards during startup, shutdown and malfunction as well as electronic submission of certain performance test results. <p>The rules can be found in the August 29, 2016 Federal Register at: www.gpo.gov/fdsys.</p>	<p>The new emission guidelines apply to landfills that accepted waste after November 8, 1987 and began construction, reconstruction or modification on or before July 17, 2014. According to EPA, an estimated 1,014 active existing landfills will be subject to the new emission guidelines. Of this number, an estimated 731 are expected to be controlling landfill gas in 2025 based on their projected emissions.</p> <p>The new emission standards—which fulfill EPA’s requirement to review New Source Performance Standards every eight years—apply to MSW landfills that commenced construction, reconstruction or modification after July 17, 2014.</p> <p>The rules were adopted as part of the Obama administration’s Strategy to Reduce Methane Emissions, which was published in March 2014. The strategy focuses on reducing methane emissions from the four major sources of human-related methane: landfills, coal mining, agriculture, and oil and gas.</p>	<p>The emission guidelines and standards take effect October 28, 2016.</p>

Citation	Summary	Implications	Schedule/Notes
WATER			
NEW YORK STATE Standards and Specifications for Erosion and Sediment Control (July 2016)	<p>DEC revised the <i>New York State Standards and Specifications for Erosion and Sediment Control</i>, which contains the standard practices for controlling stormwater discharges from construction activities. Construction activity disturbing one acre or more (less in certain areas) must be covered by New York's State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges Associated with Construction Activity. Individuals seeking coverage under the permit must prepare an erosion and sediment control plan; the measures in the Standards and Specifications document are presumed to comply with the permit. The revised document updates recommended procedures and technologies to reflect recent developments and implement EPA's effluent limitation guidelines (ELG), set forth 40 CFR Part 450, which were adopted in 2009. Key changes include:</p> <ul style="list-style-type: none"> • Reorganizing the standard to reflect recommended design/planning considerations for developing an erosion and sediment control plan. • Identifying the important design considerations for specific types of construction projects (e.g., linear highway, linear utility, large residential, and small residential, among others). • Including standards/specifications for implementing EPA's ELG, e.g., concrete truck washout, site pollution prevention, soil restoration, buffer filter strips, and dewatering devices. • Adding new standards and specifications to address changes in technology, such as compost filter socks, dewatering devices, geotextile filter bags, sediment dikes, anchored stabilization matting, loose stabilization blankets and flow diffusers. • Deleting outdated practices/standards. • Clarifying the design criteria for key measures based on current studies and field testing (e.g., silt fences, sediment basins, and sediment traps, among others). <p>The Standards and Specifications document can be found on DEC's website at: www.dec.ny.gov/chemical/8694.html.</p>	<p>The Standards and Specifications document is used by planners, design engineers, developers, contractors, landscape architects, property owners, resource managers and others to develop or evaluate erosion and sediment control plans for construction projects. As previously noted, compliance with the standards and specifications is presumed to comply with the SPDES general permit for construction activities. Alternative methods may be explored on a case-by-case basis with DEC regional staff.</p>	<p>DEC received multiple comments concerning the draft revised document. According to DEC, the majority of the changes made in response to the comments clarified existing criteria in the document.</p>

Proposed Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
AIR			
FEDERAL Title V Permit Petition Provisions 40 CFR Part 70 81 Fed. Reg. 57822 (Aug. 24, 2016)	<p>EPA proposed changes to its Title V operating permit regulations to clarify and streamline the process for submitting and reviewing petitions objecting to Title V permits. Under the Title V program, after the state public review process has ended, proposed permits must be submitted to EPA for a 45-day review period. If EPA does not act, any person may petition EPA to object within 60 days after the end of the 45-day period. According to EPA, significant questions/uncertainties have arisen over the years about the petition process, which EPA is attempting to address with this rule. Key changes include:</p> <ul style="list-style-type: none"> • <i>Specifying how Title V applications should be submitted.</i> EPA has developed a central point of entry for all Title V petitions using an electronic submittal system. Facilities that cannot use this preferred method for submission can transmit their petitions via email or to a central EPA address. • <i>Proposing mandatory petition content and format requirements.</i> To ensure the completeness and consistency of petitions, EPA has identified key information that must be included in Title V petitions (permit identification, evidence of timely filing, and identification of petition claims, including specific grounds for objections, identification of where issue was raised during public comment period, and permitting agency's response). EPA also has proposed a petition format and included an example to illustrate how information is expected to be presented in a petition. In a related change, the rule will specifically require the petitioner to send a copy of the petition to both the permitting authority and the applicant. • <i>Clarifying obligations of permitting authority.</i> EPA is proposing to require permitting authorities to respond in writing to all significant comments received during the public comment period. These responses must then be submitted, with the proposed permit and statement of basis, to EPA. The 45-day review will not commence until EPA receives all of the documents. <p>The proposed rule can be found in the August 24, 2016 Federal Register at: www.gpo.gov/fdsys.</p>	<p>The proposed rule is potentially of interest to facilities with Title V permits. The goal of the rulemaking is to streamline and clarify the petition process for the benefit of both petitioners and EPA.</p> <p>In addition to the proposed rule changes, EPA's rulemaking includes a series of "recommended practices" for permitting authorities to help ensure that Title V permits have complete administrative records and comport with the requirements of the Clean Air Act. These practices address consultation with EPA, community outreach/public participation, and provision of adequate rationale for final decisions, among other concerns. EPA included a similar list of recommended practices for permit applicants as well as guidance on the appropriate steps following an EPA order granting a petition.</p>	<p>EPA is accepting comments on the proposed rule until October 24, 2016.</p>

Other Recent Developments (Final)

CLIMATE CHANGE

FEDERAL: In response to a 2007 petition from environmental groups, EPA has issued a long-awaited **finding that greenhouse gases (GHGs) from aircraft may endanger public health and welfare**, setting the stage for the agency to regulate aircraft GHG emissions under Clean Air Act (CAA) § 231(a), 42 USC § 7571(a). More than six years ago, EPA assessed available scientific information concerning the impact of GHG emissions on the climate both now and in the future, and analyzed the impact of those effects on public health and welfare. Based on that information, EPA concluded that the following six GHGs collectively must be considered an air pollutant under the CAA: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. EPA went on to find that emissions of these “well-mixed greenhouse gases” from motor vehicles contribute to air pollution that is endangering public health and welfare. After reviewing research collected since its 2010 motor vehicle endangerment finding, EPA reaffirmed its earlier conclusions regarding the potential dangers of GHG emissions and found that emissions of the same six GHGs from aircraft also endanger public health and welfare. The international agency charged with regulating emissions from aircraft plans to issue international carbon dioxide emission standards in March 2017. The recent endangerment finding is a necessary prerequisite to EPA adopting regulations implementing the same or stricter standards in the United States. The findings, which are effective September 14, 2016, can be found in the August 15, 2016 Federal Register at: www.gpo.gov/fdsys.

Implications: The endangerment finding is primarily of interest to manufacturers/users of jet aircraft and larger turboprop aircraft. The findings do not apply to small piston-engine planes (the types of planes often used for recreational purposes) or military aircraft.

OTHER

FEDERAL: The Department of Transportation’s Pipeline and Hazardous Material Safety Administration (PHMSA) **revised the hazardous material transportation regulations to codify certain crude and ethanol shipping requirements** contained in the 2015 Fixing America’s Surface Transportation (FAST) Act. In May 2015, the PHMSA, in cooperation with the Federal Railroad Administration, adopted new rules for “high-hazard flammable trains” (HHFTs) to improve classification and characterization of mined gases and liquids such as crude oil, establish a mechanism for the public to obtain information about the routing of hazardous materials, reduce operating speeds, establish enhanced standards for new and existing tank cars used in HHFTs, and phase out the use of certain older tank cars. At the end of 2015, Congress enacted the FAST Act, which prioritized the phaseout of tank cars based on the type of product transported rather than on the packing group assigned under PHMSA regulations. The change means that tank cars used to transport crude oil (i.e., “unrefined petroleum products”) and ethanol will be phased out before those used to transport other Class 3 flammable liquids. The rule, which was adopted without public notice and comment, took effect August 15, 2016; it can be found in the August 15, 2016 Federal Register at: www.gpo.gov/fdsys.

Implications: The rule is potentially of interest to crude oil and ethanol producers, shippers and distribution facilities. Albany has become a major transshipment point for Bakken crude oil and ethanol.

Other Recent Developments (Proposed)

AIR

NEW YORK STATE: DEC announced plans to submit a state implementation plan (SIP) to EPA showing that its **air program complies with the basic SIP requirements related to attainment of the 2012 annual fine particulate matter (PM_{2.5}) national ambient air quality standard (NAAQS)**. In 2012, EPA lowered the annual PM_{2.5} NAAQS from 15 to 12 micrograms per cubic meter. After reviewing proposed attainment designations from New York, EPA found that New York State was in attainment for the annual PM_{2.5} NAAQS. Under the CAA, when EPA revises a NAAQS, states with attainment areas must submit “infrastructure SIPs” showing that their air programs contain the basic SIP elements required by the Act to ensure that the state will continue to attain the NAAQS going forward. These elements include emission limits and other control measures, ambient air quality monitoring, enforcement, interstate and international pollution, and other requirements set forth in CAA § 110(a)(2), 42 USC § 7410(a)(2). DEC is accepting comment on its PM_{2.5} infrastructure SIP until **September 12, 2016**. The notice can be found in the August 10, 2016 Environmental Notice Bulletin at: www.dec.ny.gov/enb/20160810_not0.html.

Implications: The notice provides a useful overview of DEC’s approach to regulating fine particulate in New York.

Upcoming Deadlines

NOTE: This calendar contains items of general interest.

September 12, 2016: Deadline for submitting comments on DEC’s proposed PM_{2.5} infrastructure SIP. Notice of the proposed SIP can be found in the August 10, 2016 Environmental Notice Bulletin at www.dec.ny.gov/enb/20160810_not0.html.

September 13, 2016: Deadline for submitting comments on DEC’s proposed overhaul of the solid waste management regulations (extended from July 15, 2016). See DEC’s website at www.dec.ny.gov/regulations/81768.html for details.

September 26, 2016: Deadline for submitting comments on EPA’s proposed user fees for its electronic hazardous waste manifest system. See the July 26, 2016 Federal Register at www.gpo.gov/fdsys for details.

September 27, 2016: Deadline for submitting comments on PHMSA’s proposed rules requiring preparation of OSRPs for certain liquid petroleum oil trains. See the July 29, 2016 Federal Register at www.gpo.gov/fdsys for details.

September 30, 2016: Public hearing on DEC's proposed replacement rule regulating the burning of waste oils in combustion, incineration and process sources to be held at 1:00 p.m. at DEC Headquarters, 625 Broadway, Albany, Room 129A/B.

October 5, 2016: Deadline for submitting comments on DEC's proposed replacement rule regulating the burning of waste oils in combustion, incineration and process sources. See DEC's website at www.dec.ny.gov/regulations/107051.html for details.

October 24, 2016: Deadline for submitting comments on EPA's proposed revisions to Title V permit rules to clarify petition process. See the August 24, 2016 Federal Register at www.gpo.gov/fdsys for details.

November 1, 2016: Deadline for submitting comments on EPA's Clean Energy Incentive Program for incentivizing certain early emission reductions under the Clean Power Plan (extended from August 29, 2016). See the June 30, 2016 Federal Register at www.gpo.gov/fdsys for details.

December 7, 2016: Deadline for submitting comments on EPA's proposed rejection of a petition seeking to expand the definition of corrosive waste under the hazardous waste regulations (extended from June 10, 2016). See the April 11, 2016 Federal Register at www.gpo.gov/fdsys for details.