ENVIRONMENTAL BREAKFAST CLUB
REGULATORY SUMMARY

September 7, 2018

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Final Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
SOLID WASTE			
FEDERAL **Revisions to Solid Waste Management Requirements for Disposal of Coal Combustion Residuals from Electric Utilities** 40 CFR Part 257 83 Fed. Reg. 36435 (July 30, 2018)	EPA **revised its 2015 rule regulating the disposal of coal combustion residuals (CCR) (i.e., coal ash) from utilities as solid waste** to establish alternative performance standards and make other changes. EPA adopted the regulations in the wake of the catastrophic failure of several coal ash impoundments as well as more general concerns about environmental contamination relating to CCR storage and disposal in surface impoundments and landfills. The rule contains structural integrity design standards and requires periodic stability assessments and inspections; requires installation of groundwater monitoring wells, periodic sampling, locational restrictions and other provisions to protect groundwater; establishes operating criteria to limit contamination associated with day-to-day operation of CCR units; and establishes closure standards and procedures. In 2016, EPA amended the Resource Conservation and Recovery Act to establish a permitting scheme comparable to that for municipal solid waste landfills that allows states to apply to EPA for approval to operate a permit program to implement the CCR rule; as part of that program, states may include alternative standards that are at least as protective as the CCR regulations. With the recent rulemaking, EPA: (1) adopted two of six proposed alternative performance standards, (allowing states to suspend groundwater monitoring if there is evidence that there is no potential for migration and to certify that certain regulatory requirements have been met in lieu of exclusive reliance on a professional engineer); (2) extended the deadline by which owners/operators must cease placement of waste in existing CCR surface impoundments closing for cause in certain limited circumstances; (3) declined to revise the deadlines for existing CCR surface impoundments to complete certain compliance demonstrations and thus avoid triggering closure requirements while extending the closure for cause deadline; (4) adopted new health-based levels as the groundwater protection standards for four contaminants without a designated maximum contaminant level; and (5) authorized issuance of a waiver of groundwater monitoring requirements if certain conditions are met. The revisions to the CCR rule can be found in the July 30, 2018 Federal Register at: www.gpo.gov/fdsys.	The rule is primarily of interest to owners/operators of coal-fired utilities. At the time EPA adopted the rule, it estimated that approximately 40% of CCR is beneficially used in various ways, including as an ingredient in concrete and wallboard. The remaining CCR is disposed in hundreds of large on-site landfills and surface impoundments. Over the years, several CCR impoundments have failed, causing extensive damage; more generally, CCR storage and disposal has been linked to ground and surface water contamination and complaints about fugitive dust. The changes to the CCR rule responded to legislation compelling EPA to allow certain alternative performance standards and addressed issues that have arisen since the rule was adopted.	The final rule took effect August 29, 2018. Provisions from the proposed rule not addressed in the recent rulemaking will be addressed in a subsequent action.

Citation	Summary	Implications	Schedule/Notes
ENVIRONMENTAL REVIEW			
NEW YORK STATE **Revisions to State Environmental Quality Review Act Regulations** 6 NYCRR Part 617	DEC revised **the State Environmental Quality Review Act (SEQRA) regulations**, set forth at 6 NYCRR Part 617, to update the SEQRA process by expanding the list of actions that do not require SEQRA review and updating and streamlining the SEQRA process. Key revisions include: • ***Adding definition*** of green infrastructure and revising the definitions of critical environmental area, scoping and Type II action. • ***Expanding the list of Type II actions*** (i.e., actions that never require an environmental impact statement [EIS]) to reflect experience with the SEQRA review process and encourage environmentally sound projects, including green infrastructure retrofits, certain solar energy projects, renovation and reuse of existing structures, installation of anaerobic digesters at publicly owned landfills, and sale/conveyance of certain real property by public auction, among other actions. • ***Revising the list of Type I actions*** (i.e., actions deemed more likely to require an EIS) to reduce certain thresholds for residential subdivisions, add a new threshold for parking spaces in association with nonresidential facilities in smaller communities, and revise the criteria for projects involving unlisted actions within or substantially contiguous to a historic resource or projects involving structures determined to be eligible for listing on the State Register of Historic Places. • ***Revising the scoping provisions*** to require scoping for all EISs; require an explanation of why issues were not included in the final written scope; and specify that issues raised after completion of the final scope must be addressed in the draft EIS (DEIS) or attached as an appendix to the DEIS. • ***Revising the rules addressing preparation of the EIS*** to require determinations of adequacy of a resubmitted DEIS be based solely on the previous written list of deficiencies provided by the lead agency unless changes are proposed for the project, there is newly discovered information, or a change in project-related circumstances; require EISs to address measures to avoid or reduce an action's impact on climate change and associated impacts due to the effects of climate change such as sea level rise and flooding; and facilitate electronic posting of EISs. The regulations can be found on DEC's website at: www.dec.ny.gov/permits/83389.html.	The SEQRA process has been widely criticized for being too complicated and taking too long. The revisions to the SEQRA regulations are intended to streamline the review process by updating the list of Type I and Type II actions to better target projects for environmental review and focusing on those issues that have the potential to result in a significant adverse environmental impact through mandatory scoping and other changes. In response to public comment, DEC revised the original draft regulations to: drop small subdivisions, in-fill development in municipal centers, and co-location of cellular antennas from the proposed list of additional Type II actions; revise the proposed Type II designation for reuse of existing buildings; modify other proposed Type II listings; delete proposed definitions based on the decision to drop certain Type II actions; modify the existing SEQRA regulations to require a project sponsor to include any late-filed comments on the EIS as an appendix to the draft; and make other changes.	The proposed regulations take effect January 1, 2019. The revisions follow several other important SEQRA developments, including updated Environmental Assessment Forms (with workbooks) and a spatial data platform known as the EAF mapper.

Proposed Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
CLIMATE CHANGE			
FEDERAL **Proposed Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations; Revisions to New Source Review Program** 40 CFR Parts 51, 52 and 60 83 Fed. Reg. 44746 (Aug. 31, 2018)	EPA proposed **guidelines to limit greenhouse gas (GHG) emissions from existing power plants** to replace the Obama Administration's controversial Clean Power Plan (CPP). EPA adopted the CPP under the Clean Air Act's (CAA) § 111(d), 42 USC § 7411(d) New Source Performance Standards (NSPS) program, which requires EPA to set emission guidelines for existing sources based on the "best system of emission reduction" (BSER) and implement them via state plans. The CPP established overall GHG reduction goals and allowed states to implement programs to meet statewide goals that relied on GHG reduction measures, such as renewable energy initiatives, implemented at sources other than regulated power plants. The Trump administration EPA proposed to repeal the CPP based on its conclusion that these types of measures were not, in fact, authorized under CAA § 111(d). With the Affordable Clean Energy (ACE) rule, EPA is proposing to determine that BSER for GHG emissions from existing coal-fired power plants is heat rate (i.e., efficiency) improvements that can be applied at the source. The regulation identifies various "candidate technologies" that states can use—together with site-specific factors such as the remaining useful life of the unit—to establish standards of performance. These standards together constitute the state's plan, which EPA will review to determine whether it constitutes BSER. EPA also is proposing general revisions to the CAA § 111(d) implementing regulations to extend the deadlines for submitting and processing state plans and make other procedural changes. In addition, EPA is proposing to revise the rules governing New Source Review (NSR) applicability to incorporate an hourly emission rate component for major electric generating units. Currently, whether a modification triggers NSR is determined by assessing whether the planned change will result in an increase in annual emissions. Under EPA's proposal, states would have the option of allowing units to first assess whether the change would result in an increase in hourly emissions. If no, the change would not trigger NSR. If yes, the facility would then be required to assess whether the change would result in an increase in annual emissions that exceeds the NSR significance threshold. The proposed ACE rule can be found in the August 31, 2018 Federal Register at: www.gpo.gov/fdsys.	The proposed ACE rule is directly of interest to owners/operators of existing coal-fired power plants. According to EPA, the ACE rule complies with the CAA because it limits BSER to GHG emission reductions achievable at the unit. The court deferred action on adopting GHG emission guidelines for natural gas-fired stationary combined cycle units on the ground that it lacked information about available options for making heat rate improvements, although the agency is soliciting feedback on available systems of emission reduction for these units. With respect to the proposed NSR revisions, EPA expressed concern that the costs associated with implementing the efficiency improvements required to comply with state plans adopted under the ACE rule could prompt facilities to close existing facilities prior to the end of their useful life. The change—if adopted by a state—would enable facilities to avoid triggering NSR if they can show that the proposed change would not increase the hourly emission rate of the unit. EPA is seeking comment on several options for measuring hourly emissions.	EPA is accepting comments on the proposed ACE rule until **October 30, 2018**. .

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CLIMATE CHANGE			
FEDERAL **The Safer Affordable Fuel-Efficient (SAFE) Vehicle Rule for Model Year 2021-2026 Passenger Cars and Light Trucks** 49 CFR Parts 523, 531, 533, 536, and 537; 40 CFR Parts 85 and 86 83 Fed. Reg. 42986 (Aug. 24, 2018)	EPA and the National Highway Traffic Safety Administration are accepting comments on a proposal to **roll back federal fuel economy and GHG emission standards for model year 2021-2026 passenger cars and light-duty trucks**. In 2012, the agencies adopted GHG and corporate average fuel economy (CAFÉ) standards applicable to model year 2017-2025 light-duty vehicles. The rule required the agencies to conduct a mid-term evaluation to confirm that the standards for model years 2022-2025 were still appropriate and achievable. With a few days left in the Obama administration, EPA announced the results of its mid-term evaluation, declaring that the GHG standards in the 2012 rule for 2022-2025 model year vehicles were feasible at reasonable cost using existing and emerging technologies. The Trump administration reconsidered the finding and concluded that the standards were too stringent, leading EPA to propose new CAFÉ and GHG emission standards for passenger cars and light-duty trucks. Under that proposal: • The CAFÉ and GHG emission standards would increase through model year 2020 as planned and then remain fixed from 2021 through 2026. • EPA would continue to allow manufacturers to make adjustments for air conditioning efficiency and off-cycle provisions but would phase out provisions granting credits for use of refrigerants with a low global warming potential and/or the use of technologies that reduce refrigerant leaks (as well as optional offsets for nitrous oxide and methane emissions). • EPA would rescind the waiver granted to California that is necessary for the state to continue implementing the existing, stricter GHG emission standards. • EPA is accepting comment on alternatives that call for increasing GHG emissions standards from 0.5% to 2.0% per year for passenger cars and from 0.5% to 3.0% for light-duty trucks and reflect different approaches to addressing credits relating to air conditioning. EPA's proposed rule can be found in the August 24, 2018 Federal Register at: www.gpo.gov/fdsys.	The rule is of interest to manufacturers of passenger cars and light-duty trucks as well as to potential purchasers of those vehicles. In support of its proposal to retain the existing CAFÉ/GHG standards as of model year 2020, the agencies argued that technologies have not evolved as expected. As a result, the costs of achieving the required fuel economy gains are more expensive than anticipated. Moreover, lower than expected gasoline prices have led to a shift in consumer preferences away from passenger cars, reducing overall average fuel economy and increasing the overall fleet GHG emission rate. According to the agencies, the proposed rule will reduce vehicle costs and provide safety benefits (resulting in fewer deaths from vehicle accidents) while at the same time having a negligible impact on air quality and climate change. California previously announced its desire to retain the existing, stricter GHG emission standards and is expected to challenge any decision to withdraw the previous waiver granted by EPA. New York and other states that have adopted the California standards will likely join that challenge.	EPA is accepting comments on the proposed rule until **October 23, 2018**.

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WATER			
FEDERAL **Supplemental Proposed Rulemaking on Recodification of EPA and Army Corps Definition of "Waters of the United States"** 33 CFR Part 328; 40 CFR Parts 110, 112 et al. 83 Fed. Reg. 32227 (July 12, 2018)	EPA and the U.S. Army Corps of Engineers (ACOE) published a supplemental notice of proposed rulemaking **clarifying and seeking additional comment on its July 2017 proposal to rescind the 2015 joint rule redefining the term "waters of the United States.**" The Clean Water Act (CWA) prohibits the discharge of pollutants into "navigable waters" except in compliance with specific CWA requirements. Navigable waters, in turn, is defined as "waters of the United States." Over the years, many questions have arisen about the scope of CWA jurisdiction in light of this definition. These developments culminated in a controversial 2015 rulemaking defining the term "waters of the United States" to include specific categories of jurisdictional waters and allowing other waters to be included on a case-by-case basis. The controversial rule was stayed by a federal appellate court shortly after it was enacted. In July 2017, EPA and the ACOE proposed to formally repeal the 2015 rule and recodify the pre-2015 rule that was in effect because of the stay. Per the notice, the agencies proposed to "apply the definition of 'waters of the United States' as it is currently being implemented . . . informed by applicable agency guidance documents and consistent with Supreme Court decisions and long-standing practice." According to the agencies, there was some confusion among the public concerning whether the July 2017 rulemaking was intended to implement a temporary or permanent repeal of the 2015 rule; in addition, many interpreted the notice of the 2015 rule as restricting the public's ability to comment on the legal and policy reasons for and against repeal. To rectify these and other problems, the agencies published the proposed supplemental rule to clarify that they intended to permanently repeal the 2015 rule and recodify the regulations currently being implemented (i.e., the pre-2015 rule) and seek comment from the public on that proposal. The supplemental proposal can be found in the July 12, 2018 Federal Register at: www.gpo.gov/fdsys.	The definition of "waters of the United States" implicates virtually all CWA programs, including ACOE § 404 permits, National/State Pollutant Discharge Elimination System wastewater discharge permits, and CWA § 401 water quality certifications. Although the 2015 rule was intended to clarify the scope of the CWA, representatives of a variety of industries, including agriculture, oil and gas, and residential development, strongly objected to the change, arguing that it significantly expanded the agencies' jurisdiction. In February 2017, President Trump issued an executive order directing the agencies to review the 2015 rule for consistency with certain policies and propose rescission, if appropriate.	The deadline for submitting comments on the supplemental notice of proposed rulemaking has closed.

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WATER			
NEW YORK STATE **CWA SPDES General Permit for Concentrated Animal Feeding Operations** Permit No. GP-0-19-001	DEC **proposed a revised general permit under the State Pollutant Discharge Elimination System (SPDES) program to address wastewater associated with concentrated animal feeding operations (CAFOs)**. The revisions are necessary to address an April 23, 2018 court decision which concluded that the current permit did not provide an opportunity for public comment on mandatory nutrient management plans (NMPs) and so violated the CWA. Under the CWA, CAFO permits are required for large-scale animal farming operations that discharge waste to surface waters. Owners/operators of CAFOs must prepare NMPs, submit a notice of intent (NOI) to DEC seeking coverage under the applicable general permit, and comply with their plans and with the terms and conditions of the general permit. The NMPs cover all areas under the control of the CAFO where nutrient sources are produced, land applied or stored on or for use by the CAFO and must contain detailed best management practices (BMPs) to ensure proper management of manure and mortalities, divert clean water from production areas, prevent direct contact of confined animals with surface water, ensure that chemicals are properly managed, identify practices to control runoff, and implement numerous other measures. Currently, DEC has two general permits for CAFOs—one for facilities that discharge nutrients to surface waters and therefore are regulated under the CWA (GP-0-16-002) and one for facilities that do not discharge and so are regulated solely by DEC (GP-0-16-001). In April 2018, a state court concluded that GP-0-16-002 violated the CWA because the plan explaining how the CAFO will comply with the law is not made available for public comment. With the proposed new GP-0-19-001, NMPs for CWA CAFOs must be reviewed and approved by DEC and publicly noticed. Subsequent to obtaining coverage under the general permit, revisions to the NMP must be submitted to DEC and any substantial changes made available for public comment. DEC is continuing to allow CAFOs that do not discharge wastewater to seek coverage under GP-0-16-001, the so-called "ECL General Permit." The revised draft CAFO general permit and related materials can be found on DEC's website at: www.dec.ny.gov/permits/55373.html.	Coverage under the general permit is required for large, medium and small CAFOs as defined in the permits. The classification depends largely on the number and type of animal. For example, a large veal calf CAFO houses 1,000 or more veal calves while a medium CAFO houses 300 to 999 veal calves. Small CAFOs require coverage under the general permits only if specifically designated by the Department using criteria spelled out in the permit (number of animals, amount of waste, potential for discharge, etc.). Coverage under the new general permit is required for CAFOs that discharge nutrients to surface waters. CAFOs that do not discharge wastewaters may remain subject to the existing ECL General Permit.	DEC is accepting comments on the proposed general permit until **October 5, 2018**. CAFOs covered under CWA CAFO permit GP-0-16-002 must submit a complete NOI and farm-specific NMP at least 60 days before July 8, 2019 when the existing permit is scheduled to expire. If a CAFO with coverage under GP-0-16-002 meets the conditions of ECL General Permit GP-0-16-001 and wants to transition to coverage under the permit, the CAFO must follow the procedures spelled out in GP-0-16-001 to obtain coverage.

Other Recent Developments (Final)

AIR

FEDERAL: EPA **completed its residual risk/periodic technology review of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for portland cement manufacturing facilities**. Under Clean Air Act (CAA) § 112, EPA must assess whether any residual risk remains after imposing technology-based NESHAPs and revise the standard as necessary. EPA also must conduct a periodic review of the technology underlying the NESHAP to confirm that the standard remains current. The NESHAP, set forth at 40 CFR Part 63, subpart LLL, applies to major and area sources that manufacture portland cement. After reviewing the existing standard, EPA concluded that the risks remaining after application of the NESHAP were acceptable and that the standard protects public health with an ample margin of safety. EPA also found that there were no cost-effective developments in practices, processes or control technologies and that no changes in the NESHAP were necessary to address technological improvements. As part of the rulemaking, EPA clarified monitoring, testing, recordkeeping and reporting requirements and corrected typographical errors. Because the NESHAP was last revised in 2015-2016, the number of changes is comparatively minor. The rulemaking took effect July 25, 2018 and can be found in the Federal Register issued on that date at: www.gpo.gov/fdsys.

Implications: The rule is primarily of interest to owners/operators of portland cement manufacturing plants; it does not apply to cement plants that burn hazardous or solid waste as fuel.

NEW YORK STATE: DEC announced its new **Clean Transportation NY program** funded by the State's share of the settlement with Volkswagen of claims that the company installed software in certain diesel-powered vehicles that allowed the vehicles to meet emission standards under test conditions but not during actual operation. As part of the multi-billion dollar settlement, VW has agreed to pay $2.7 billion into an environmental trust fund to be distributed among the states to pay for mitigation projects designed to offset excess emissions associated with the noncompliant vehicles. Under the recently announced plan, New York's $127.7 million share of the settlement will be invested primarily in projects to encourage electrification of the State's transportation system, including expansion of the State's vehicle charging infrastructure and providing funds for replacing or repowering heavy-duty trucks (including local freight and port drayage trucks), buses, and other large-scale mobile vehicles/equipment. The State plans to prioritize projects in areas most affected by diesel emissions, including environmental justice communities. Information about the settlement can be found on DEC's website at: www.dec.ny.gov/chemical/109784.html.

Implications: The announcement is primarily of interest to owners/operators of large diesel vehicles/equipment who could potentially benefit from the mitigation program.

OCCUPATIONAL SAFETY AND HEALTH

FEDERAL: The Occupational Safety and Health Administration (OSHA) **extended the deadline for complying with certain requirements of the general industry beryllium standard** to provide the agency with time to propose revisions to the regulations. In January 2017, EPA lowered the permissible exposure limit (PEL) for beryllium and adopted other ancillary standards in the face of increasing evidence of the cancer and other health risks associated with beryllium exposure. The rule extends to December 12, 2018 the compliance date for "ancillary" provisions of the beryllium standard related to methods of compliance, beryllium work areas, personal protective clothing and equipment, hygiene areas and practices, housekeeping, communication of hazards and recordkeeping. According to OSHA, the extension provides time for the agency to prepare a notice of proposed rulemaking to clarify certain provisions of the standard in accordance with a settlement agreement entered into with stakeholders. The rule does not extend the compliance date for the PEL, exposure assessment, respiratory protection, medical surveillance or medical removal protection provisions, which OSHA began enforcing on May 11, 2018; it also does not affect the March 11, 2019 compliance deadline for provisions on change rooms and showers or the March 10, 2020 compliance date required for implementing certain engineering controls. The extension can be found in the August 9, 2018 Federal Register at: www.gpo.gov/fdsys.

Implications: The extension is primarily of interest to employers that are subject to the general industry beryllium standards (e.g., aluminum refining and coal-fired power plants).

OTHER

NEW YORK STATE: DEC **repealed its existing restrictions on the movement of ash wood, logs, firewood, nursery stock and wood chips adopted several years ago to prevent the spread of the invasive emerald ash borer** (EAB). After the EAB was discovered in Cattaraugus County in 2009, a quarantine was established covering Cattaraugus and adjacent Chautauqua counties pursuant to federal quarantine protocol. Between 2009 and 2015, the quarantine area was expanded four times as the EAB spread. In 2015, New York adopted 6 NYCRR § 192.7 to establish 14 restricted zones. Despite these measures, the EAB has continued to spread and is now found in the majority of the State. In light of these developments, DEC repealed 6 NYCRR § 192.7 after concluding that the benefits of continuing to maintain a EAB restricted zone are far outweighed by the costs to state government and industry of continuing to maintain a restricted zone and the benefits that will accrue to the forest product industry of being allowed to harvest ash trees before they are destroyed by the EAB. The movement of the EAB will continue to be subject to 6 NYCRR Part 575, Prohibited and Regulated Invasive Species, which exempts the possession, sale, importation, purchase, transportation, or introduction of invasive species if it is incidental or unknowing and was not due to a failure to take "reasonable precautions." In the case of the EAB, reasonable precautions include widely accepted best management practices spelled out on the DEC website and elsewhere. Notice of the final rule can be found in the July 25, 2018 State Register at: https://docs.dos.ny.gov/info/register/2018/july25/toc.html.

Implications: The rescission is primarily of interest to the forest products industry.

Other Recent Developments (Proposed)

AIR

FEDERAL: EPA **proposed revisions to the clay ceramic manufacturing NESHAP** in response to a petition for reconsideration. The clay ceramics manufacturing standard, set forth at 40 CFR Part 63, subpart KKKKK, applies to major sources that manufacture pressed floor tile, pressed wall tile and other pressed tile as well as sanitaryware such as toilets and sinks. The standard was originally adopted in 2003 and revised in 2015 after being vacated by a federal court. The current rule includes emission limits for acid gases, mercury, particulate matter (as a surrogate for non-mercury metals), and dioxins/furans (D/F). The precise standards depend on the type of equipment (roller kiln, tunnel kiln, dryer, glaze line, etc.). To demonstrate compliance, EPA requires initial and repeat five-year performance testing for regulated pollutants, continuous operating parameter monitoring, and daily visible emission (VE) checks. Certain facilities equipped with fabric filters can demonstrate compliance using a bag leak detection system instead of daily VE checks. In response to a petition for reconsideration, EPA is proposing various changes to the rule, including: revising the temperature monitoring methodology used to demonstrate continuous compliance with the D/F emission limits for certain sources; providing an alternative to the monitoring requirements for VE from tunnel kiln exhaust stacks; and amending the requirements for weekly inspections of system ductwork and control device equipment for water curtain spray booths. EPA is accepting comment on these and other proposed changes/corrections until **October 4, 2018**; the proposed rule can be found in the August 20, 2018 Federal Register at: www.gpo.gov/fdsys.

Implications: The proposed changes are primarily of interest to major sources in the clay ceramic manufacturing source category.

SOLID WASTE

NEW YORK STATE: DEC announced a **new strategy to address the environmental impacts of composting and mulching operations at waste management facilities on Long Island** following a series of studies raising potential concerns about the environmental impact of these facilities. The most recent study—entitled *Vegetative Organic Waste Management Facility Research Nassau and Suffolk Counties, New York*—examined the impact of mulch processing on groundwater. Researchers conducted field studies of vertical groundwater, surface water, and mulch percolate as well as mulch pilot tests. The report concluded, among other things, that while wood mulch contains metals, they do not occur at levels that are likely to cause groundwater impacts. However, water that contacts mulch transports carbon, which leads to biogeochemical processes that result in changes to groundwater, including increases in certain metals. The study also concluded that stormwater primarily flows off the sides of mulch piles and that the primary management problem appears to be ponding of stormwater at the base of the pile, which can create anoxic conditions leading to odors. Although DEC's recently revised solid waste regulations include extensive new provisions regulating composting and mulching. DEC's recent press released announced the Department's intention to strengthen the groundwater protection requirements for such sites. The press release, which includes links to the recent study, can be found at www.dec.ny.gov/press/114291.html.

Implications: The announcement is primarily of interest to owners/operators of composting and mulching facilities on Long Island.

OCCUPATIONAL SAFETY AND HEALTH

FEDERAL: OSHA **proposed to rescind a requirement that employers with 250 or more employees electronically submit OSHA Forms 300 and 301 to the agency**. In May 2016, OSHA adopted major changes to the rules governing tracking of injuries and illnesses set forth at 29 CFR Part 1904 to improve access to the information. Covered employers must complete Form 301 (Injury and Illness Incident Report) for each reportable injury/illness and record the incident on Form 300 (Log of Work-Related Injuries and Illnesses). Each year, employers use the information from these forms to complete Form 300A (Summary of Work-Related Injuries and Illnesses). With the May 2016 rulemaking, OSHA required establishments that must keep injury/illness records under Part 1904 with 250 or more employees to submit data from these records to OSHA on an annual basis. With the recent rulemaking, OSHA is proposing to drop the requirement to submit Forms 300 and 301 to the agency while continuing to require electronic submission of the 300A Summary of Work-Related Injuries and Illnesses form. According to OSHA, the change will protect worker privacy while reducing the burden on employers; information necessary to identify high hazard establishments for enforcement targeting can be obtained from Form 300A. OSHA is accepting comments on the proposed rule until **September 28, 2018**; it can be found in the July 30, 2018 Federal Register at: www.gpo.gov/fdsys.

Implications: The proposed rule is primarily of interest to employers required to electronically report injury/illness data under the May 2016 rule.

FEDERAL: The Occupational Safety and Health Review Commission (Commission) is seeking recommendations for **possible changes to the procedural rules governing challenges to OSHA citations and penalties**, which are set forth at 29 CFR Part 2200. According to the Commission, its rules have not been comprehensively revised since 2005. Since then, technological advances—including implementation of an E-filing system—have taken place that are not reflected in the regulations. More generally, the Commission has concluded that updates/changes to its procedures are warranted. With the recent advance notice of proposed rulemaking (ANPR), the Commission is seeking recommendations from the public on possible changes to Commission procedures. It is particularly interested in feedback on whether to: simplify rules for computing time; require E-filing and service (including whether to establish exceptions); broaden the definition of "affected employee;" eliminate the rule on staying final orders; and make other changes. The Commission is accepting recommendations until **October 9, 2018**; the ANPR can be found in the September 7, 2018 Federal Register at: www.gpo.gov/fdsys.

Implications: The ANPR is generally interest to employers regulated under OSHA who may receive OSHA citations.

Upcoming Deadlines

NOTE: This calendar contains items of general interest.

September 28, 2018: Deadline for submitting comments on OSHA's proposal to rescind the requirement for larger employers to submit workplace-related injury/illness Forms 300 and 301 to OSHA. See the July 30, 2018 Federal Register at www.gpo.gov/fdsys for details.

October 1, 2018: Deadline for submitting comments on OGS's draft green procurement specifications for various products purchased by State government. The draft specifications can be found at www.ogs.ny.gov/greenny/green-tentative.asp.

October 4, 2018: Deadline for submitting comments on EPA's proposed amendments to the clay ceramics manufacturing NESHAP. See the August 20, 2018 Federal Register at www.gpo.gov/fdsys for details.

October 5, 2018: Deadline for submitting comments on DEC's proposed new General Permit GP-0-19-001 covering nutrient discharges from federally-regulated CAFOs. See DEC's website at www.dec.ny.gov/permits/55373.html for details.

October 9, 2018: Deadline for submitting recommendations on possible changes to Occupational Safety and Health Review Commission rules of procedure. See the September 7, 2018 Federal Register at www.gpo.gov/fdsys for details.

October 23, 2018: Deadline for submitting comments on proposed revisions to the federal fuel economy and GHG emission standards for model year 2021-2026 passenger cars and light-duty trucks. See the August 24, 2018 Federal Register at www.gpo.gov/fdsys for details.

October 24, 2018: Deadline for submitting comments on EPA's request for information to facilitate the CASAC's consideration of non-environmental adverse impacts that may result from strategies for attaining/maintaining the NAAQS. See the June 26, 2018 Federal Register at www.gpo.gov/fdsys for details.

October 30, 2018: Deadline for submitting comments on EPA's proposed ACE rule establishing GHG emission guidelines to replace the Clean Power Plan and a new option for assessing NSR applicability for electric generating units. See the August 30, 2018 Federal Register at www.gpo.gov/fdsys for details.