

# Young / Sommer LLC

## ENVIRONMENTAL BREAKFAST CLUB REGULATORY SUMMARY

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Proposed Statutes, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
<p><b>AIR</b></p> <p>FEDERAL  <b>Reclassification of Major Sources as Area Sources under National Emission Standards for Hazardous Air Pollutants Program</b>                      40 CFR Part 63                      84 Fed. Reg. 36304                      (July 26, 2019)</p>	<p>EPA proposed amendments to the general provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation to implement its previous <b>repeal of the “once in, always in” (OIAI) policy</b>. Clean Air Act (CAA) § 112 establishes emission standards applicable to major and area sources of hazardous air pollutants (HAPs) in specific source categories. The major source standards apply to sources with the potential to emit (PTE) at least 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAPs. In 1995, EPA issued guidance declaring that sources could switch to area source status by capping emissions only until the first compliance date of the standard. Thereafter, sources were required to comply permanently with the applicable major source standard regardless of their emissions. Although EPA proposed to rescind the OIAI policy in 2007, the change was never finalized. In 2018, EPA issued guidance declaring that the OIAI policy violates the plain language of the CAA, pointing to the statutory definitions of “major source” and “area source,” which purportedly make clear that any major source that accepts permit conditions limiting its potential emissions below the major source thresholds is, by definition, an area source and no longer subject to major source standards under the NESHAP program. With the recent rulemaking, EPA is proposing to revise the general NESHAP regulations to formalize the change in policy. Key changes include:</p> <ul style="list-style-type: none"> <li>• Adding a new paragraph specifying that a major source can become an area source at any time by limiting its HAP PTE below the major source thresholds.</li> <li>• Revising the definition of PTE to remove the requirement that limits must be federally enforceable to address a court decision remanding the definition of PTE back to EPA for clarification on the issue. In place of federal enforceability, EPA is proposing to require that limits be “legally” and “practicably” enforceable as defined in the regulation.</li> <li>• Specifying compliance timeframes for sources that reclassify from major to area source status as well as for sources that convert from major to area source status and then revert back.</li> <li>• Requiring owners/operators to notify EPA electronically of any standards to which it becomes subject.</li> </ul> <p>The proposed rule can be found in the July 26, 2019 Federal Register at: <a href="http://www.govinfo.gov">www.govinfo.gov</a>.</p>	<p>The elimination of the OIAI policy is potentially of interest to any facility currently subject to a major source NESHAP. The 2018 memorandum allowed facilities to accept permit conditions that will reduce their potential HAP emissions below the 10 tpy/25 tpy major source thresholds and thus avoid regulation under applicable major source NESHAPs. The recently proposed regulations will codify the policy into law. EPA estimates that approximately half of the sources currently subject to a major source NESHAP could become area sources.</p> <p>Critics of the change argue that it will allow sources to evade the strict emission controls imposed on major sources, leading to increased pollution.</p>	<p>EPA is accepting comments on the proposed rule until <b>September 24, 2019</b>.</p>

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<b>AIR</b>			
<p>FEDERAL  <b>Prevention of Significant Deterioration and Nonattainment New Source Review Project Emissions Accounting</b>                      40 CFR Parts 51 and 52                      84 Fed. Reg. 39244                      (Aug. 9, 2019)</p>	<p>EPA proposed to <b>revise the rules governing how emission decreases are addressed when determining whether a project triggers new source review (NSR)</b>. Under the nonattainment NSR and prevention of significant deterioration programs (collectively, NSR), modifications at major facilities are considered significant for NSR purposes if increased emissions exceed specified thresholds. This review requires two steps. First, the applicant must determine if the project itself exceeds the significant emission increase threshold. If yes, the applicant must then conduct an emissions “netting” analysis to determine whether cumulative emission increases and decreases during the previous five years exceed the threshold. In the past, emission decreases associated with the project were not considered until Step 2, i.e., as part of the netting process. In March 2018, EPA issued a memorandum announcing that it had reinterpreted the regulations and concluded that emission decreases associated with the project under review should be considered during Step 1 of the NSR process. With the recent rulemaking, EPA is proposing various regulatory changes to clarify implementation of the “project emissions accounting” process. In particular, EPA is: (1) proposing to revise the regulations to clarify that project emissions accounting (consideration of both project increases and decreases during Step 1 of the process) is allowed for projects that involve a mixture of both new and modified units; (2) accepting comment on whether existing provisions requiring recordkeeping when a modification presents a “reasonable possibility” of a significant emission increase are sufficient to document the changes covered by the regulation; and (3) seeking comment on whether states must include the proposed changes in their programs to continue implementing PSD and nonattainment NSR.</p> <p>The proposed rule can be found in the August 9, 2019 Federal Register at: <a href="http://www.govinfo.gov">www.govinfo.gov</a>.</p>	<p>The draft revisions are potentially of interest to major air emissions sources that could trigger NSR if modified. By allowing facilities to consider project-related decreases during Step 1, EPA anticipates that more projects at major facilities will be able to avoid NSR during Step 1 under the federal NSR program.</p>	<p>EPA is accepting comments on the proposed regulations until <b>October 8, 2019</b>.</p> <p>DEC has adopted its own regulations implementing NSR. These regulations, which are set forth at 6 NYCRR Part 231, explicitly declare that when calculating “project emission potential,” the facility “must consider only the proposed emission increases.” 6 NYCRR § 231-4.1(b)(40). In light of this language, DEC will likely be required to revise its NSR regulations to implement the project emissions accounting change.</p>

Citation	Summary	Implications	Schedule/Notes
<b>AIR</b>			
<p>NEW YORK STATE <b>State Ambient Air Quality Standards</b> 6 NYCRR Part 257</p>	<p>DEC is proposing to <b>revise its state-specific ambient air quality standards</b> to eliminate duplicative standards and update testing methods. New York State adopted its own ambient air quality standards, many of which duplicate the federal standards and/or are out of date. Like the national ambient air quality standards, the state standards define what is considered acceptable ambient air quality for purposes of protecting public health and the environment. With this rulemaking, DEC is proposing to repeal the following state standards set forth at 6 NYCRR Part 257, most of which were adopted decades ago and are now out of date: 24-hour and annual standards for suspended particulates (PM<sub>10</sub>); carbon monoxide; photochemical oxidants (superseded by federal ozone standard); nonmethane hydrocarbons; nitrogen dioxide; and beryllium. DEC is retaining the following ambient air quality standards, which are unique to New York: 30, 60 and 90 day standards for suspended particulates less than 10 microns; fluorides (addresses deposition of fluoride compounds during primary aluminum manufacturing); and hydrogen sulfide (focused on landfills, sewage treatment plants and pulp mills). DEC also is proposing to update the methods for measuring suspended and settleable particulate, total fluorides and hydrogen sulfide. DEC is postponing repeal of the sulfur dioxide standards until EPA completes the process of designating nonattainment areas under the 2010 revisions to the standards.</p> <p>The proposed regulation can be found on DEC's website at: <a href="http://www.dec.ny.gov/regulations/117415.html">www.dec.ny.gov/regulations/117415.html</a>.</p>	<p>The proposed rule merely eliminates outdated provisions and so is unlikely to affect day-to-day permitting activities. The change will, however, eliminate any confusion concerning the potential applicability of the standards, many of which were adopted more than 40 years ago.</p>	<p>DEC is accepting comments on the proposed rule until <b>September 23, 2019</b>. A public hearing will be held on September 16, 2019 at 11:00 a.m. at DEC's Headquarters, 625 Broadway, Room 129, Albany</p>
<p>NEW YORK STATE <b>Reasonably Available Control Technology for Major Sources of Oxides of Nitrogen</b> 6 NYCRR Part 200 and Subpart 227-2</p>	<p>DEC is proposing to <b>revise its regulations establishing reasonably available control technology (RACT) requirements for major sources of nitrogen oxides (NOx)</b> to eliminate outdated requirements and make organizational changes. The regulations require stationary combustion sources such as boilers, turbines and engines at facilities that are major sources of NOx to implement specific NOx emission controls and comply with monitoring/testing, reporting and recordkeeping requirements. With this rulemaking, DEC is proposing to: (1) update 6 NYCRR 200.9 to include the most recent version of federal regulations; (2) delete references in 6 NYCRR Subpart 227-2 to provisions that have sunset (i.e., are no longer applicable) or are otherwise out-of-date. For example, DEC is proposing to eliminate a provision requiring owners/operators subject to the standard to submit a Title V permit application by July 1, 2012; and (3) consolidate all of the provisions relating to the compliance averaging period into the testing, monitoring and reporting requirements section.</p> <p>The proposed regulation can be found on DEC's website at: <a href="http://www.dec.ny.gov/regulations/117420.html">www.dec.ny.gov/regulations/117420.html</a>.</p>	<p>The rule is primarily of interest to major NOx emission sources that operate combustion installations and are therefore subject to Subpart 227-2.</p>	<p>See discussion above for public hearing/comment dates.</p> <p>DEC has classified the changes as a consensus rulemaking because it does not foresee any sensitive issues or negative comments.</p>

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<b>REMEDATION</b>			
<p>FEDERAL  <b>Financial Responsibility Requirements under CERCLA § 108(b) for Facilities in the Electric Generation, Transmission and Distribution Industry</b>                      40 CFR Part 320                      84 Fed. Reg. 36535 (July 29, 2019)</p>	<p><b>EPA proposed not to impose financial responsibility requirements for facilities in the electric generation, transmission and distribution industry under Section 108(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).</b> Section 108(b) requires EPA to develop regulations that require certain classes of facilities to establish evidence of financial responsibility and provide for publication of a “priority notice” identifying the classes of facilities to be regulated first. The goal of the statute/regulation is to ensure that the costs associated with releases of hazardous substances from facilities, including response costs, health assessment costs, and natural resource damages, are borne by the responsible party, not the taxpayer. In response to litigation, EPA agreed to a schedule for issuing rulemakings on financial assurance requirements for the hard rock mining, chemical manufacturing, petroleum and coal products manufacturing, and electric power generation, transmission and distribution industries. With the recent rulemaking, EPA proposed that financial assurance under CERCLA § 108(b) is not necessary for the electric power generation, transmission and distribution industry. According to EPA: facilities in the industry are already subject to extensive environmental regulation; utilities are less likely to default on liabilities than other industries; past cleanups were driven largely by problems, such as coal combustion residuals, PCBs and asbestos, that are now less of a concern; and the industry has implemented various voluntary practices that reduce potential contamination. In light of these developments, EPA concluded that the degree and duration of risk posed by the industry does not warrant imposition of financial responsibility requirements under CERCLA § 108(b).</p> <p>The proposed finding can be found in the July 29, 2019 Federal Register at: <a href="http://www.govinfo.gov">www.govinfo.gov</a>.</p>	<p>The proposed finding is of greatest interest to owners/operators of electric utility generation, transmission and distribution facilities. If adopted, it means EPA would not require sources in the industry to provide financial assurance to cover the costs of possible future remediation. The finding does not limit EPA’s ability to take a response or enforcement action under CERCLA and require financial responsibility as part of such an action.</p>	<p>EPA is accepting comments on the proposed finding until <b>September 27, 2019</b>.</p>

Citation	Summary	Implications	Schedule/Notes
<b>WATER</b>			
<p>NEW YORK STATE  <b>Draft State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity</b>                      GP-0-20-001</p>	<p>DEC is accepting comment on draft <b>State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity</b> (GP-0-20-001), which will replace existing SPDES General Permit GP-0-15-002. The Construction General Permit regulates stormwater discharges from certain construction activities (typically those involving the disturbance of one acre or more of land). Individuals seeking coverage under the permit must submit a Notice of Intent (NOI) form to DEC and prepare a site-specific stormwater pollution prevention plan (SWPPP). The permittee must comply with the requirements of the general permit as well as its site-specific SWPPP unless DEC requires an individual SPDES permit. Depending on the type of project, the permit may cover both construction and post-construction stormwater management. Key changes include:</p> <ul style="list-style-type: none"> <li>• Updating the permit to comply with federal emission guidelines for stormwater discharges from construction activities. In particular, DEC is proposing to require controls to address peak flow rates and total stormwater volume and add provisions for minimizing dust.</li> <li>• Revising the list of activities that are ineligible for coverage under the general permit to include certain additional activities on steep slopes.</li> <li>• Consistent with federal law, requiring NOIs to be submitted electronically beginning December 21, 2020.</li> <li>• Specifying that the owner/operator must notify the regulated traditional land use control municipal separate storm sewer (MS4) in writing of any change in ownership or operation of a construction activity.</li> <li>• Clarifying that the owner/operator must amend the SWPPP and construction drawings to document final construction conditions.</li> <li>• Revising the definitions of “qualified inspector” and “trained contractor” to include individuals that hold a current New York State Erosion and Sediment Control Certificate issued following completion of a program developed by the New York State Department of Agriculture and Markets with assistance from members of the New York State Conservation District Employees Association.</li> <li>• Updating the lists in Appendix B of activities required to have specific SWPPP components. Table 1 identifies those activities that require erosion and sediment controls only while Table 2 identifies those that also require post-construction stormwater management practices.</li> </ul> <p>The draft permit can be found on DEC’s website at:  <a href="http://www.dec.ny.gov/chemical/41392.html">www.dec.ny.gov/chemical/41392.html</a>.</p>	<p>The General Construction Permit is primarily of interest to individuals undertaking construction projects that will result in the disturbance of one acre or more of land (less in certain watersheds or if DEC determines that stormwater discharges have the potential to contribute to a violation of water quality standards or a significant contribution of pollutants to surface waters of the State).</p>	<p>DEC is accepting comments on draft General Stormwater Permit GP-0-20-001 until <b>August 30, 2019</b>.</p>

## Other Recent Developments (Final)

### GENERAL

FEDERAL: Following a public comment period, EPA issued **guidance addressing the relationship between EPA and the states on environmental enforcement and compliance**. The guidance—entitled *Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work*—sets out expectations and procedures for enhancing effective partnerships in civil enforcement and compliance assurance work between EPA and delegated states. The document addresses the following subjects: (1) periodic joint work planning, including joint planning participants, strategic planning, joint inspection planning, and joint enforcement planning; (2) roles of EPA and the states in implementing authorized programs; and (3) the process for elevating disputes. Of perhaps greatest note, the memorandum declares that EPA “will generally defer to a state as the primary implementer of inspections and enforcement in authorized programs,” except in specific situations spelled out in the memorandum (e.g., violations that are part of a National Compliance Initiative, emergency situations or situations in which there is substantial risk to human health or the environment, situations where state lacks adequate equipment, resources or expertise, significant noncompliance that the state has failed to address, etc.). Where the EPA region and state disagree on a particular enforcement matter, the matter will be elevated according to procedures spelled out in the guidance. Notice of the final guidance was published in the July 19, 2019 Federal Register at: [www.govinfo.gov](http://www.govinfo.gov); it can be found at: [www.epa.gov/sites/production/files/2019-07/documents/memoenhancingeffectivepartnerships.pdf](http://www.epa.gov/sites/production/files/2019-07/documents/memoenhancingeffectivepartnerships.pdf).

Implications: The guidance marks a change in the relationship between EPA and the states on environmental enforcement matters and is of general interest to any facility with a federally delegated permit that is enforceable by EPA.

NEW YORK STATE: DEC recently launched its new **DECinfo Locator**, an interactive map that provides access to DEC documents and public data about recreational resources and environmental matters. The mapping application generates results specific to locations across the state, including water and air permits, enforcement actions, State Superfund and Brownfield sites, petroleum and chemical bulk storage facilities, oil and gas wells, mines, potential environmental justice areas, and Climate Smart Communities. Users can also obtain information about recreational resources such as hiking, cross-country skiing and mountain biking trails, boat launches, wildlife management facilities and other resources. The DECinfo Locator can be found at: [www.dec.ny.gov/pubs/109457.html](http://www.dec.ny.gov/pubs/109457.html).

Implications: The locator may be useful to anyone seeking information about the environmental concerns associated with a particular location in the State.

## Other Recent Developments (Proposed)

### AIR

FEDERAL: EPA proposed **the results of its residual risk/periodic technology review of the NESHAP for municipal solid waste (MSW) landfills**. The MSW landfill NESHAP, set forth at 40 CFR Part 63, subpart AAAA, regulates HAP emissions from MSW landfills that are either major or area sources provided certain criteria relating to waste acceptance, design capacity and emissions are met. Landfills subject to the standard must install and operate a landfill gas collection and control system as specified in the original New Source Performance Standard (NSPS) for MSW landfills. Under 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. 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 a result, EPA proposed no revisions to the NESHAP's numerical limits. However, EPA proposed various other changes, including: streamlining the MSW landfill NESHAP by incorporating requirements from the updated MSW landfill NSPS into the NESHAP; updating the operational standards for gas collection systems; clarifying the circumstances under which landfill owners/operators must implement corrective action as well as the corrective action process; updating the provisions relating to startup, shutdown and malfunction consistent with judicial rulings; and requiring electronic submission of required performance test results and other reports. EPA is accepting comments on the proposed rule until **September 12, 2019**; it can be found in the July 29, 2019 Federal Register at: [www.govinfo.gov](http://www.govinfo.gov).

Implications: EPA estimates that as of 2014 there were between 664 and 709 MSW landfills subject to the collection and control requirements of the MSW landfill NESHAP.

FEDERAL: EPA proposed to allocate allowances for specific hydrochlorofluorocarbons (HCFCs) for the years 2020 through 2029 and otherwise **revise and update requirements under the program for controlling production and consumption of ozone-depleting substances (ODS)**. Title VI of the CAA required EPA to establish a program to limit the production and consumption of ODS, including HCFCs, for purposes of preventing depletion of the stratospheric ozone layer. In accordance with its treaty obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer, EPA adopted a program to gradually phase out production and consumption of HCFCs, beginning with those substances with the greatest ozone depletion potential. With the recent rulemaking, EPA is proposing to allocate annual production and consumption allowances for HCFC-123 and HCFC-124 for the years 2020 through 2029 to be used for servicing certain equipment manufactured before 2020. In addition, EPA is proposing to: add servicing of fire suppression equipment to the list of authorized uses of HCFC-123 and HCFC-124 and revise certain labeling requirements consistent with this change; require certain documents to be submitted to EPA electronically through the agency's Central Data Exchange system; delete outdated reporting and recordkeeping requirements; clarify certain provisions relating to the sale of quarantine and preshipment methyl



bromide, a fumigant used to control pests in agriculture and shipping; and revise provisions relating to the import of ODS. EPA is accepting comments on the proposed rule until **September 30, 2019**; it can be found in the August 14, 2019 Federal Register at: [www.govinfo.gov](http://www.govinfo.gov).

Implications: The proposed rule is primarily of interest to the manufacturers, importers and users of the HCFCs and other ODS referenced in the proposed rule.

## CLIMATE CHANGE

FEDERAL: EPA proposed **renewable fuel standards (RFS) for gasoline and diesel transportation fuel produced or imported for 2020**. 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 that is transferred along with the fuel. Refiners and importers subject to the RFS program must have sufficient RFS credits to meet their obligations under the program. With the current rulemaking, EPA proposed to establish the volume standards for the four types of fuel subject to the RFS program for the year 2020 (2021 for biomass-based diesel) at levels below those mandated by the CAA. According to EPA, constraints in the fuel market—most notably, the continued failure to produce the statutory quantities of cellulosic biofuel—make it impossible to supply the increasing volumes of renewable fuel mandated by the Act. EPA therefore exercised its waiver authority to set standards below those specified in the CAA. As part of the rulemaking, EPA also proposing to adopt various changes to the RFS regulations first proposed in 2016. These changes include new fuel pathways (i.e., new fuels qualifying for regulation under the RFS program) and changes designed to streamline/clarify the existing regulations. EPA is accepting comments on the proposed rule until **August 30, 2018**; it can be found in the July 29, 2019 Federal Register at: [www.govinfo.gov](http://www.govinfo.gov).

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

## CHEMICALS

FEDERAL: EPA is proposing a rule to address certain **persistent, bioaccumulative and toxic (PBT) chemicals under the Toxic Substances Control Act (TSCA)**. Section 6(a) of TSCA authorizes EPA to restrict the manufacturing, processing or distribution in commerce of chemicals that pose a serious risk to human health or the environment. Section 6(h) specifically requires EPA to issue a proposed rule under Section 6(a) for certain PBT chemical substances identified in EPA's 2014 update to its TSCA work plan, which outlines the agency's regulatory priorities. With the recent rulemaking, EPA is proposing to restrict or prohibit certain activities relating to four PBT chemicals: decabromodiphenyl ether (Deca BDE, Chemical Abstracts Registry Service Number [CASRN] 1163-19-5); phenol, isopropylated phosphate (3:1) (PIP [3:1]; CASRN 68937-41-7), 2,4,6-tris(tert-butyl)phenol (2,4,6-TTBP; CASRN 732-26-3); and pentachlorothiophenol (PCTP; CASRN 133-49-3). With respect to hexachlorobutadiene (HCBd; CASRN 87-68-3), EPA evaluated the conditions of use of the substance and proposed no action since the exposures are already regulated under other environmental laws.

EPA is accepting comments on the proposed rule until **September 27, 2019**; it can be found in the July 29, 2019 Federal Register at: [www.govinfo.gov](http://www.govinfo.gov).

Implications: The proposed rule is primarily of interest to companies that use the PBT chemicals covered by the rule.

## SOLID WASTE

FEDERAL: EPA **revised its 2015 rule regulating the disposal of coal combustion residuals (CCR) (i.e., coal ash) from utilities as solid waste** to make changes in response to stakeholder input and address provisions of the rule remanded back to EPA by a federal court. EPA adopted the regulations in 2015 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 2018, EPA revised the regulations to establish alternative performance standards and make other changes. With the recent rulemaking, EPA is proposing to replace the current tonnage threshold with new location-based criteria for addressing unencapsulated coal ash that will be placed on land and beneficially used in non-roadway applications. EPA also is proposing to establish the same standards for temporary storage piles located on-site (at an electric utility or independent power producer site) and off-site (at a beneficial use site). EPA is accepting comments on these and other changes to the CCR regulations until **October 15, 2019**; the proposed rule can be found in the August 14, 2019 Federal Register at: [www.govinfo.gov](http://www.govinfo.gov). According to EPA, the proposal is the first of three planned revisions to the CCR rule to address matters raised in litigation, legislation, petitions for reconsideration and rule implementation.

Implications: The rule is primarily of interest to facilities that generate coal ash or store it for beneficial reuse.

## WATER

NEW YORK STATE: DEC has made available for comment a **draft general permit addressing vegetation management on utility rights-of-way in state regulated wetlands**. DEC General Permit GP-0-19-002, Utility Rights-of-Way (ROWs) – Vegetation Management, addresses utility company management of vegetation in existing utility rights-of-way by selective pruning, mowing, and cutting of vegetation and the application of registered pesticides in State-regulated wetlands, regulated wetland adjacent areas and tidal wetlands. The permit requires submission of (and adherence to) an Annual Vegetation Management Proposal and Schedule (AVMP), which addresses what ROWs will be treated and when, the location of wetlands within or adjacent to the ROWs, what methods will be used, and other key information. In addition, the utilities must provide DEC with annual post treatment reports describing the work that was done. The permit contains numerous conditions governing work in ROWs, including extensive provisions addressing pesticide use. DEC is accepting comments on the draft general permit until **September 6, 2019**; it can be found on DEC's website at: [www.dec.ny.gov/permits/6061.html](http://www.dec.ny.gov/permits/6061.html).

Implications: The general permit is primarily of interest to utilities required to undertake ROW maintenance.

## OTHER

**FEDERAL**: The Pipeline and Hazardous Materials Safety Administration (PHMSA) **proposed changes to the hazardous material transportation regulations in response to various petitions for rulemaking submitted by the regulated community**. The proposed changes are purportedly intended to reduce regulatory burdens while maintaining or enhancing the existing level of safety. A partial list of proposed changes includes: prohibiting the use of rail tank cars with shells or heads constructed of non-normalized steel for transportation of poisonous by inhalation (PIH) materials; harmonizing the existing regulations with the UN Model Regulations by allowing shipment of limited quantities of hydrogen peroxide in accordance with certain packaging exceptions; revising provisions relating to the size of markings on portable tanks with a capacity of 1,000 gallons or less; revising the regulations governing reconditioned metal drums to require that labels be “substantially” removed rather than removed; extending the limited quantity exception to additional hazardous materials consistent with UN Model Regulations to simplify import of certain chemicals; continuing to allow the use of portable and mobile refrigerator systems commonly used in the produce industry that were placed into service before 1991 and meet a specific service pressure specification; phasing out the use of non-HM-246 rail cars for transporting PIH materials; and allowing use of the lab pack exception under the Resource Conservation and Recovery Act (RCRA) to ship non-RCRA waste. The PHMSA is accepting comments on the proposed rule until **October 15, 2019**; it can be found in the August 14, 2019 Federal Register at: [www.govinfo.gov](http://www.govinfo.gov).

Implications: The proposed rule is potentially of interest to companies that ship materials regulated under the PHMSA’s hazardous material transportation program.

## Upcoming Deadlines

**NOTE**: This calendar contains items of general interest.

**August 19, 2019**: Deadline for submitting information in response to OSHA’s RFI concerning possible changes to the lockout/tagout standard. See the May 20, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**August 19, 2019**: Public hearing on proposed amendments to hazardous waste regulations to be held at 1:00 p.m. at DEC Headquarters, 625 Broadway, Room 129, Albany.

**August 26, 2019**: Deadline for submitting comments on EPA’s proposed drinking water regulation and maximum contaminant level goal for perchlorate. See the June 26, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**August 26, 2019:** Deadline for submitting comments on DEC's proposed amendments to the hazardous waste regulations. See DEC's website at [www.dec.ny.gov/regulations/100424.html](http://www.dec.ny.gov/regulations/100424.html) for details.

**August 26, 2019:** Deadline for submitting comments on the CEQ's Draft *National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions* (extended from July 26, 2019). See the June 26, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**August 30, 2018:** Deadline for submitting comments on EPA's proposed RFS percentage standards for 2020 (2021 for biomass-based diesel). See the July 29, 2019 Federal Register at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys) for details.

**August 30, 2018:** Deadline for submitting comments regarding DEC's Draft SPDES General Permit for Stormwater Discharges from Construction Activities. See DEC's website at [www.dec.ny.gov/chemical/41392.html](http://www.dec.ny.gov/chemical/41392.html) for details.

**September 6, 2019:** Deadline for submitting comments on DEC's Draft General Permit: Utility Rights-of-Way – Vegetation Management. See DEC's website at [www.dec.ny.gov/permits/6061.html](http://www.dec.ny.gov/permits/6061.html) for details.

**September 12, 2019:** Deadline for submitting comments on EPA's proposed residual risk/periodic technology review findings for the municipal solid waste landfill NESHAP. See the July 29, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**September 16, 2019:** Public hearing on proposed amendments to DEC's ambient air quality standards and RACT requirements for stationary combustion installations at major NO<sub>x</sub> sources to be held at 11:00 a.m. at DEC Headquarters, 625 Broadway, Room 129, Albany.

**September 23, 2019:** Deadline for submitting comments on DEC's proposed amendments to the State's ambient air quality standards and RACT requirements for stationary combustion installations at major NO<sub>x</sub> sources. See DEC's website at [www.dec.ny.gov/regulations/117415.html](http://www.dec.ny.gov/regulations/117415.html) and [www.dec.ny.gov/regulations/117420.html](http://www.dec.ny.gov/regulations/117420.html).

**September 24, 2019:** Deadline for submitting comments on EPA's proposed rule addressing the reclassification of major sources as area sources under the NESHAP program. See the July 26, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**September 27, 2019:** Deadline for submitting comments on EPA's decision not to impose financial responsibility requirements on the electric power generation, transmission and distribution industry under CERCLA § 108(b). See the July 29, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**September 27, 2019:** Deadline for submitting comments on EPA's proposed standards for certain PBT chemicals under TSCA. See the July 29, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**September 27, 2019:** Deadline for submitting data in support of DEC's compilation of list of impaired waters under CWA § 303(d). See DEC's website at [www.dec.ny.gov/chemical/31290.html](http://www.dec.ny.gov/chemical/31290.html) for details.

**September 30, 2019:** Deadline for submitting comments on EPA's proposed revisions to the rules governing the manufacture and consumption of certain HCFCs and other ozone depleting substances. See the August 14, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**October 8, 2019:** Deadline for submitting comments on OGS's green procurement specifications for adhesives, lubricants, computers and displays, and floor coverings. See <https://ogs.ny.gov/greenny/executive-order-4-tentatively-approved-specifications> for details.

**October 8, 2019:** Deadline for submitting comments on EPA's proposed revisions to the rules governing NSR applicability. See the August 9, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**October 15, 2019:** Deadline for submitting comments on the PHMSA's proposed revisions to the hazardous material transportation rule in response to various petitions for rulemaking. See the August 14, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.

**October 15, 2019:** Deadline for submitting comments on EPA's proposed revisions to the rules governing management of coal combustion residuals. See the August 14, 2019 Federal Register at [www.govinfo.gov](http://www.govinfo.gov) for details.