

Young / Sommer LLC

ENVIRONMENTAL BREAKFAST CLUB REGULATORY SUMMARY

October 6, 2017

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Final Statutes, Regulations, Guidance and Cases

Citation	Summary	Implications	Schedule/Notes
TRANSITION			
<p>FEDERAL Trump Administration EPA Transition Developments: Compliance Extensions</p>	<p>In the past month, the Trump administration has extended the compliance deadlines for several environmental regulatory programs:</p> <ul style="list-style-type: none"> • Effluent limitations guidelines and standards for steam electric power generating sources. EPA postponed the dates for complying with the 2015 effluent limitations guidelines and pretreatment standards for flue gas desulfurization wastewater and bottom ash transport water discharged from existing facilities in the steam electric point source category. According to EPA, the additional time is necessary to reconsider the standards, which are set forth at 40 CFR Part 423. No extensions were granted from other requirements of the rule, including the effluent limitations guidelines and pretreatment standards for fly ash transport water, flue gas mercury control wastewater and gasification wastewater, and other requirements of the 2015 rule. 82 Fed. Reg. 43494 (Sept. 18, 2017). • Formaldehyde emission standards for composite wood products. EPA extended the compliance dates in 40 CFR Part 770, EPA’s December 2016 rule setting formaldehyde emission standards and other requirements for composite wood products. According to EPA, the extension is needed to provide regulated entities with time to ensure certified composite wood products enter the supply chain. Of particular note, EPA extended the manufactured-by date for emission standards, recordkeeping and labeling provisions one year to December 12, 2018, extended the import certification date until March 22, 2019 and the compliance date for producers of laminated products until March 22, 2024. 82 Fed. Reg. 44533 (Sept. 25, 2017). <p>The Federal Registers can be accessed at: www.gpo.gov/fdsys.</p>	<p>The effluent limitations guidelines and formaldehyde emission standard extensions are part of a broader effort by the Trump administration to reconsider recent Obama EPA rulemakings. In each case, EPA has extended the effective date or compliance dates of key rules to provide the administration with time to review and revise provisions before they take effect. At the same time, the administration has moved to stay pending judicial challenges until the reconsideration process is complete.</p>	

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TRANSITION			
<p>FEDERAL Trump Administration Transition Developments: Regulatory Reform</p>	<p>In the past month, the Trump administration has announced several initiatives to reform the regulatory process.</p> <ul style="list-style-type: none"> • Executive Order on Infrastructure Environmental Review/Permitting. In August, President Trump issued Executive Order 13807, which compels the federal government to take steps to establish discipline and accountability in the environmental review and permitting process for infrastructure projects. The order compels various government entities to: set goals/deadlines for completing environmental review and authorizing infrastructure projects; track each major infrastructure project; establish a scoring mechanism for assessing agency performance in meeting permitting goals; and assign a single federal agency to assume responsibility for navigating projects through the environmental review process. The order requires the Council on Environmental Quality (CEQ) to implement measures to enhance and modernize the federal environmental review process. As a follow-up, CEQ published an initial list of actions that include: establishing a framework for implementing “One Federal Decision;” revising, modifying or supplementing various guidance documents, reviewing existing regulations and issuing additional guidance to improve the environmental review process; and convening an interagency working group to assess key regulations, procedures, and policies, identify impediments to efficient and effective reviews of infrastructure projects, and establish procedures for a regular review and update of categorical exclusions. 82 Fed. Reg. 43226 (Sept. 14, 2017). • Smart Sectors program. In September, EPA announced the launch of its Smart Sectors program, which will reexamine how EPA engages with industry to reduce unnecessary regulatory burdens, create certainty and predictability, and improve the ability of EPA and industry to conduct long-term regulatory planning while protecting the environment and public health. EPA will designate a staff liaison with expertise in the industry sector to coordinate with industry and other stakeholders to find creative ways to reduce environmental impacts and regulatory burdens. Industry sectors initially identified for review include aerospace, agriculture, automotive, cement and concrete, chemical manufacturing, construction, electronics and technology, forestry and paper products, iron and steel, mining, oil and gas, ports and marine, and utilities and power generation. 82 Fed. Reg. 44783 (Sept. 26, 2017); 82 Fed. Reg. 45586 (Sept. 29, 2017) (correction). <p>The Federal Registers can be found at: www.gpo.gov/fdsys. The Executive Order can be found at: www.whitehouse.gov/the-press-office/2017/08/15/presidential-executive-order-establishing-discipline-and-accountability.</p>	<p>The recent Executive Order and Smart Sectors program announcement are part of a broader initiative by the Trump administration to reduce purported regulatory burdens. Perhaps the most notable such initiative is an earlier executive order requiring agencies to eliminate two regulations for every one regulation adopted. More generally, since taking office, the Trump administration has postponed or withdrawn dozens of regulations.</p>	

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SOLID WASTE			
<p>NEW YORK STATE Solid Waste Management Revisions: Overview and General Provisions 6 NYCRR Part 360</p>	<p>DEC issued its revised solid waste regulations, which include a wholesale reorganization of the rule, together with updates to address technological developments and new waste management facilities and concerns. DEC repealed the existing regulations (which were concentrated in Part 360) and replaced them with Parts organized by broad subject. Part 360, General Requirements, contains provisions relevant to solid waste management facilities generally, including:</p> <ul style="list-style-type: none"> • Definitions. DEC relocated all definitions to Part 360 and added terms needed to implement new programs, deleted unnecessary terms and clarified others. Many of these definitions were significantly revised in response to public comment. • Beneficial use determinations (BUDs). DEC revised the BUD provision to add new predetermined BUDs, specifically exclude other uses from BUDs, and update the criteria and procedures for obtaining a BUD. In addition, all BUDs are now subject to an annual reporting requirement. The revised draft regulations also clarify that BUDs are potentially subject to the State Environmental Quality Review Act. The new BUD section includes specific criteria for navigational dredged material and gas storage and production brine. • Fill material. The original proposal added a new provision addressing “historic fill,” including criteria for onsite use, off-site use, and disposal. In response to comment, DEC replaced the term “historic fill” with “fill material,” which encompasses all types of soil and similar materials excavated during construction and maintenance. The regulation classifies fill based on the level of contamination and specifies how it can be used/reused. Of particular note, the new regulation allows use of non-hazardous materials within areas of similar characteristics on the same property without specific DEC approval. Following the second round of public comments, DEC made further changes/clarifications to the rules governing characterization and re-use of fill materials. • Exempt facilities. DEC revised the list of exempt facilities and added new exemptions for solid waste activities that have been found to be of minimal environmental concern. • Registrations. DEC proposed to limit registrations to five years and allow consideration of an applicant’s compliance history. The original draft regulations were further revised to require registration applications to include information relating to storage volume and throughput as well as a site plan. <p>The general provisions also address variances, financial assurance, and general permit application and operation standards, among other subjects.</p> <p>The revisions to the solid waste regulations can be found on DEC’s website at: www.dec.ny.gov/regulations/81768.html.</p>	<p>The rulemaking represents the first major overhaul of the solid waste regulations in more than 20 years and is potentially of interest to anyone engaged in solid waste management activities in New York.</p> <p>The rule includes extensive transition provisions, set forth at 6 NYCRR § 360.4. In response to public comments, DEC extended the timeframe to transition existing facilities to the new exemption, registration and permitting requirements.</p> <p>With respect to BUDs, all case-specific BUDs must now be renewed every five years. Previously approved BUDs that are not included on the new list of pre-determined BUDs and do not have specific expiration dates will expire unless a renewal petition is submitted to DEC within 180 days of the effective date of the rule. The BUD will remain in effect until DEC processes the renewal petition.</p>	<p>The new solid waste rules take effect November 4, 2017. The precise timeframes for compliance are spelled out in the regulations. Owners/operators of solid waste management facilities and holders of previously issued BUDs or facilities operating under an existing predetermined BUD should review the regulations carefully to identify their compliance obligations and determine compliance deadlines, if any.</p>

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SOLID WASTE			
<p>NEW YORK STATE Material Recovery Facilities 6 NYCRR Part 361</p>	<p>DEC has established 6 NYCRR Part 361, Material Recovery Facilities, containing the rules governing recycling.</p> <ul style="list-style-type: none"> • Subpart 361-1, Recyclables Handling and Recovery Facilities. This section covers facilities that handle traditional recyclables, such as glass and paper. DEC is now requiring a permit for facilities handling 250 tons per day (tpd) or more of recyclables. • Subpart 361-2, Land Application and Associated Storage Facilities; Subpart 361-3, Composting and Other Organics Recycling Facilities. DEC revised the land application regulations to exempt certain small-scale food scrap composting operations. Following public comment, DEC revised subpart 361-3 to establish separate requirements for different types of organics recycling and add criteria for managing digestate from anaerobic digestion facilities. • Subpart 361-4, Mulch Processing Facilities. DEC concluded that large-scale mulch processing/storage facilities pose an environmental concern and should be regulated while smaller facilities are exempt. In response to public comment, DEC increased the allowable pile size of unprocessed material and reduced the allowable minimum distance between piles except on Long Island. • Subpart 361-5, Construction and Demolition (C&D) Debris Handling and Recovery Facilities. Key changes include: requiring facilities receiving less than 500 tpd of specific types of C&D debris to register (larger facilities require a permit); requiring facilities accepting mixed C&D debris to receive, store and process the materials inside; expanding C&D debris tracking requirements; and limiting the allowable time and volume of C&D storage. In response to public comments, DEC modified the criteria for pile size, distance between piles and property setbacks, allowing larger piles located closer together. • Subpart 361-6, Waste Tire Handling and Recovery Facilities. This new provision requires facilities that store, handle, or process waste tires to register or obtain a permit. • Subpart 361-7, Metal Processing and Vehicle Dismantling Facilities. This new subpart requires larger scrap metal processors and vehicle dismantling facilities to register with DEC and incorporates/clarifies the requirements of 2006 Vehicle Dismantler Law. <p>DEC also adopted standards for used cooking oil and yellow grease processing facilities (Subpart 361-8) and navigational dredged material handling and recovery facilities (Subpart 361-9).</p>	<p>The new rule is potentially of interest to anyone engaged in one of the nine material recovery activities subject to the standards spelled out in Part 361. Although several of these activities are already regulated under New York’s solid waste regulations, the standards for mulch processing, metal processing and vehicle dismantling, used cooking oil and yellow grease processing, and navigational dredged material handling and recovery are new. Also, DEC is requiring permits rather than registrations for certain waste tire handling facilities and large recyclable handling and recovery facilities and requiring registrations for certain types of C&D processing facilities that were formerly exempt.</p>	<p>See discussion of 6 NYCRR Part 360 above.</p>

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SOLID WASTE			
<p>NEW YORK STATE Landfills 6 NYCRR Part 363</p>	<p>DEC made various changes to the standards governing landfills as part of its overhaul of the solid waste regulations. These changes address virtually every aspect of landfill operation, including landfill gas collection, postclosure/custodial care, land clearing debris, C&D debris landfills, exempt disposal activities and monitoring/technology changes. Key provisions include:</p> <ul style="list-style-type: none"> • Landfill gas collection. New landfills must be equipped with horizontal gas collection systems (rather than active gas collection systems as originally proposed). In addition, owners/operators must submit a landfill gas reduction plan. • Post-closure/custodial care. The regulations clarify the responsibilities of landfill owners after closure. Post-closure care activities (leachate collection and treatment, landfill cover maintenance and repair, monitoring, and inspections) must be conducted until the owner/operator can demonstrate to DEC that the potential threat has been reduced to a level that justifies reductions in monitoring/maintenance. Thereafter, the operator must undertake custodial care activities. The owner must maintain financial assurance to ensure that post-closure and custodial care activities continue. • Land clearing debris. The regulation limits the current exemption for land clearing debris to one acre or less. No exemption is available on Long Island. • C&D debris landfills. The regulation requires a single composite liner with leachate collection for all C&D debris landfills, regardless of size. • Exempt disposal activities. DEC limited the exemption for disposal of materials such as uncontaminated concrete, asphalt pavement, brick, glass, soil and rock to 5,000 cubic yards. The exemption is not available on Long Island. In response to public comment, DEC added an exemption for disposal of recognizable, uncontaminated concrete, asphalt pavement, brick, general fill, limited use fill, glass and rock generated by state or municipal highway projects or projects on highway rights-of-way or other municipally-owned properties. • Monitoring/technology changes. DEC made numerous changes to the groundwater monitoring, operation, siting, and design requirements for landfills, including the standards for liners, covers, and leachate collection and removal. Of particular note, landfills must now install and operate fixed radiation detection units. 	<p>The regulation is primarily of interest to owners/operators of solid waste landfills. By its terms, the rule applies to new landfills, active and inactive existing landfills, vertical expansions of existing landfills, and landfills undergoing subsequent development.</p>	<p>See discussion of 6 NYCRR Part 360 above for the schedule.</p>

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SOLID WASTE			
<p>NEW YORK STATE Waste Transporters 6 NYCRR Part 364</p>	<p>Subpart 364, Waste Transporters, has been revised to conform to the changes in the other Parts and focus on waste streams that pose a problem or concern. Key changes include: (1) relocating all non-transportation-related medical waste provisions to the new Part 365; (2) adding exemptions for electronics destined for recovery, elemental mercury and dental amalgam from dental facilities destined for mercury recovery, and regulated medical waste (RMW) transported by emergency rescue vehicles and clarifying other exemptions; (3) increasing the exemption for small loads of most waste from 500 to 2000 pounds; (4) establishing registration requirements for certain waste transportation activities, including the self-transport of small quantities of certain waste streams (RMW, source-separated household hazardous waste, commercial solid waste, commercially-generated C&D debris or fill material, and sharps from household medical waste collection facilities); and (5) requiring waste tracking documentation for certain C&D debris, drilling and production waste, and fill material. In response to public comments, DEC added an exemption for transportation of regulated wastes by public utilities, public railroad services, and public transportation agencies and their contractors. DEC also significantly revised the proposed rules regarding waste tracking, including requiring enhanced tracking for fill leaving New York City.</p>	<p>The changes to the Part 364 waste transporter rules establish exemptions for certain waste streams going for reclamation, increase the threshold for exempting loads of most common wastes from 500 to 2000 pounds, and establish registration and waste tracking requirements for certain transportation activities.</p>	<p>See discussion of 6 NYCRR Part 360 above for the schedule.</p>

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SOLID WASTE			
<p>NEW YORK STATE Miscellaneous Solid Waste Rule Changes, Including: Combustion, Thermal Treatment, Transfer and Collection Facilities; Regulated Medical Waste and Other Infectious Wastes; Local Solid Waste Management Planning; State Assistance Projects; and Used Oil 6 NYCRR Parts 362, 365, 366, 369, 374-2</p>	<p>Changes to the solid waste regulations in addition to those applicable to material recovery facilities, landfills and waste transportation are discussed below.</p> <ul style="list-style-type: none"> • Part 362, Combustion, Thermal Treatment, Transfer and Collection Facilities. Subpart 362 contains standards for the following waste management facilities: combustion and thermal treatment facilities (subpart 362-1), municipal solid waste (MSW) processing facilities (e.g., post-collection MSW processing/separation) (subpart 362-2); transfer facilities (subpart 362-3); and household hazardous waste collection facilities and events (subpart 362-4). DEC did not significantly revise this rule following the public comment period. • Part 365, Regulated Medical Waste and Other Infectious Wastes. The regulation consolidates all of the requirements for RMW treatment, storage and transfer facilities into new subpart 365-2 and establishes new subparts addressing RMW generators (subpart 365-1), and other infectious wastes (subpart 365-3). • Part 366, Local Solid Waste Management Planning (LSWMP). DEC clarified the role of the public in LSWMP preparation and approval as well as the requirements for LSWMP updates, modifications, and biennial compliance reports. DEC also revised the LSWMP approval process, including authorizing default approval if DEC fails timely to act. • Part 369, State Assistance Projects. DEC consolidated the State’s solid waste management assistance programs into Part 369. • Subpart 374-2, Used Oil. DEC consolidated all of the requirements relating to used oil into 6 NYCRR subpart 374-2 and added a new section 374-2.10 containing the permitting and registration provisions for these facilities. 	<p>The rulemaking focused on revising and updating the existing Part 360 solid waste management regulations. They do not cover recent product stewardship laws. Per DEC’s 2017 Regulatory Agenda, the Department plans to revise 6 NYCRR Part 368, which will be renamed Product Stewardship and Labeling, to conform the State’s recycling emblem regulations with national labeling guidelines and implement the State’s electronic waste recycling law as well as the State’s mercury-added consumer products law.</p>	<p>See discussion of 6 NYCRR Part 360 above for the schedule.</p>

Proposed States, Regulations and Guidance

Citation	Summary	Implications	Schedule/Notes
TRANSITION			
<p>FEDERAL Draft FY 2018-2022 EPA Strategic Plan: Public Review Draft (Oct. 2, 2017)</p>	<p>EPA is accepting comments on its <i>Draft FY 2018-2022 EPA Strategic Plan</i>, which outlines the agency’s broad goals, strategic objectives and measures for the next four years. The plan identifies three broad goals, each of which is accompanied by a series of objectives, to be implemented via strategic measures/strategies for achieving the objectives.</p> <ul style="list-style-type: none"> • Goal 1—Core Mission: Deliver real results to provide Americans with clean air, land and water. EPA proposes to focus on the agency’s core mission areas—land, air and water—as well as chemicals. The four objectives accompanying this goal are: (1) improve air quality (work with states to accurately measure air quality and ensure that more Americans are living and working in areas that meet high air quality standards); (2) provide for clean and safe water (ensure waters are clean through improved water infrastructure and, in partnership with states and tribes, sustainably manage programs to support drinking water, aquatic ecosystems, and recreational, economic and subsistence activities); (3) revitalize land and prevent contamination (provide better leadership and management to properly clean up contaminated sites and revitalize and return the land back to communities); and (4) ensure safety of chemicals in the marketplace by reviewing existing chemicals and pesticides for the potential risks. • Goal 2—Cooperative Federalism: Rebalance power between Washington and the states to create tangible environmental results for the American people. This goal calls for EPA to adapt its practices to reduce duplication of effort with authorized states and tailor its oversight of delegated programs. The identified objectives are: (1) enhance shared accountability (improve environmental protection through joint governance and compliance assistance among state, tribal, local and federal partners); and (2) increase transparency and public participation (listen to and collaborate with impacted stakeholders and provide effective platforms for public participation and meaningful engagement). • Goal 3—Rule of Law and Process: Administer the law, as Congress intended, to refocus the Agency on its statutory obligations under the law. With this goal, EPA is emphasizing creating consistency/certainty for the regulated community and improving agency efficiency. The objectives include: (1) compliance with the law (enforce environmental laws to correct noncompliance and promote cleanup of contaminated sites); (2) create consistency and certainty (outline exactly what is expected of the regulated community to ensure good stewardship and positive environmental outcomes); (3) prioritize robust science (refocus EPA’s research and scientific analysis to inform policy-making); and (4) streamline and modernize (issue permits more quickly and modernize permitting and reporting systems). <p>Information about the draft strategic plan can be found in the October 5, 2017 Federal Register at: www.gpo.gov/fdsys.</p>	<p>The draft strategic plan reflects EPA Administrator Scott Pruitt’s earlier declaration that he intended to return EPA to its core missions of protecting air, land and water. This objective was reflected in the Trump administration EPA budget which significantly cut or eliminated programs not directly linked to these “core” missions, including certain popular programs targeted at particular regions (such as the Great Lakes and Chesapeake Bay). The strategic plan contains no discussion of climate change, which is consistent with other Trump administration actions, including the decision to withdraw from the Paris Agreement as well as the temporary elimination of the climate change page from EPA’s website.</p>	<p>EPA is accepting comments on the draft strategic plan until October 31, 2017.</p>

Other Recent Developments (Final)

AIR

FEDERAL: EPA adopted a **direct final rule clarifying that small cans of non-exempt substitute refrigerants without self-sealing valves can continue to be sold for use in motor vehicle air conditioners (MVACs)** through December 31, 2017. In November 2016, EPA adopted a comprehensive rule extending the requirements for air conditioning/refrigeration repair to substitute refrigerants (i.e., refrigerants other than chlorofluorocarbons and hydrochlorofluorocarbons). Among other things, the rule prohibits the sale of refrigerants, including most substitute refrigerants, to individuals who are not certified technicians. However, the regulation allows the sale of small cans of refrigerant (two pounds or less) of non-exempt substitute refrigerants to non-certified individuals for the servicing of MVACs provided the cans have a self-sealing valve. In adopting this provision, EPA did not expressly authorize the sale of the remaining stocks of noncompliant small refrigerant cans. With the recent rulemaking, EPA revised the regulation to authorize the sale of small cans without self-sealing valves to uncertified individuals provided the cans were manufactured or imported before January 1, 2018. The direct final rule will take effect December 27, 2017 unless EPA receives adverse comments by **October 30, 2017**. The direct final rule and proposed rulemaking can be found in the September 28, 2017 Federal Register at: www.gpo.gov/fdsys.

Implications: The rule is primarily of interest to manufacturers/sellers of small cans of substitute refrigerant that can be used in MVACs and to individuals servicing their own vehicles using these products.

REMEDIATION

FEDERAL: EPA **amended its all appropriate inquiries rule** to reference ASTM International's Standard E2247-16, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property*. In 2005, EPA issued a rule setting standards for conducting "all appropriate inquiries" into prior ownership and use of property for purposes of allowing site owners/purchasers to qualify for liability protections under the federal Superfund program. The rule established a procedure for demonstrating all appropriate inquiries and allowed use of certain ASTM standards in lieu of following the requirements in the final rule. In the years since, EPA has revised the regulation on several occasions to incorporate the most recent relevant ASTM standards. With the recent rulemaking, EPA is incorporating the current ASTM standard for assessing relatively large tracts of rural property or forestlands. The rule takes effect **March 14, 2018**; it can be found in the September 15, 2017 Federal Register at: www.gpo.gov/fdsys.

Implications: The rule is of interest to anyone involved in purchasing potential brownfield sites in rural areas.

Recent Developments (Proposed)

AIR

FEDERAL: EPA **proposed the results of its review of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for portland cement manufacturing facilities** following a residual risk/periodic technology review. 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 is proposing revisions to clarify monitoring, testing and recordkeeping and reporting requirements and correct typographical errors. Because the NESHAP was last revised in 2015-2016, the number of changes is comparatively minor. EPA is accepting comments on its proposed findings until **November 6, 2017**; the rulemaking can be found in the September 21, 2017 Federal Register at: www.gpo.gov/fdsys.

Implications: The proposed 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. 0

FEDERAL/NEW YORK STATE: EPA is accepting comment on its proposal to **approve New York's recent state implementation plan (SIP) submissions implementing reasonably available control technology (RACT)** for the 2008 8-hour national ambient air quality standards (NAAQS) for ozone. EPA adopted a stricter ozone standard in 2008 compelling states with ozone nonattainment areas to submit revised SIPs clarifying whether their existing RACT standards meet the requirements for nitrogen oxides and volatile organic compounds (VOCs)—the two ozone precursor pollutants. With the recent rulemaking, EPA proposed to find that, with the exception of VOC emissions from industrial cleaning solvents, New York has implemented RACT controls statewide for all source categories for which standards were required. Accordingly, EPA conditionally approved DEC's SIP submission subject to the State's commitment to submit revisions to 6 NYCRR Part 226, Solvent Metal Cleaning Processes, consistent with EPA's control techniques guidance document for that source category. In addition, EPA is separately reviewing source-specific RACT determinations made by DEC and approved by EPA. As part of the rulemaking, EPA encouraged DEC to strengthen its SIP by adopting stricter limits or pursuing other measures relating to downstate municipal waste combustors, certain simple cycle combustion turbines, oil and natural gas production sources, and distributed generation sources. DEC is accepting comment on the proposed conditional approval until **October 16, 2017**; it can be found in the September 14, 2017 Federal Register at: www.gpo.gov/fdsys.

Implications: The incorporation of the RACT changes into New York's SIP will mean that the various rules covered by the approval are enforceable by EPA as well as DEC.

CLIMATE CHANGE

FEDERAL: EPA published a notice **summarizing additional data and providing an opportunity for comment on potential options for reducing the 2018 volume levels under the renewable fuel standards (RFS) program** as well as the 2019 volume levels for biomass-based diesel. In July, EPA proposed to establish the volume standards for the four types of fuel subject to the RFS program for the year 2018 (2019 for biomass-based diesel) at levels below those mandated by the CAA. At the time, EPA argued that various circumstances make it impossible to accommodate the increasing volumes of renewable fuel mandated by the Act. With the recent notice, EPA presented additional data on production, imports and cost of renewable fuel which suggest that additional reductions in volume standards for 2018 total renewable fuel and advanced biofuel and 2019 biomass-based diesel may be appropriate. EPA also is taking comment on whether to reduce the biomass-based diesel threshold for 2018 (which was set in 2016). EPA is accepting comments on the notice until **October 19, 2017**; it can be found in the October 4, 2017 Federal Register at: www.gpo.gov/fdsys.

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

Upcoming Deadlines

NOTE: This calendar contains items of general interest.

October 13, 2017: Deadline for submitting comments on EPA's proposed revisions to the NESHAP for wool fiberglass manufacturing. See the August 29, 2017 Federal Register at www.gpo.gov/fdsys for details.

October 16, 2017: Deadline for submitting comments on EPA's proposal to conditionally approve New York's SIP revisions implementing RACT requirements for the 2008 8-hour ozone NAAQS. See the September 14, 2017 Federal Register at www.gpo.gov/fdsys.

October 19, 2017: Deadline for submitting comments regarding EPA's request for further comment on the data and potential options for reductions in the proposed renewable fuel volume levels under the RFS program. See the October 4, 2017 Federal Register at www.gpo.gov/fdsys for details.

October 23, 2017: Deadline for submitting comments on EPA's proposed revisions to the NESHAP for amino/phenolic resins manufacturing. See the August 24, 2017 Federal Register at www.gpo.gov/fdsys for details.

October 30, 2017: Deadline for submitting adverse comments on EPA's direct final rule authorizing sales of remaining stocks of noncompliant small cans of refrigerant to uncertified individuals for use in MVACs. See the September 28, 2017 Federal Register at www.gpo.gov/fdsys for details.

October 31, 2017: Deadline for submitting comments on EPA's *Draft FY 2018-2022 Environmental Protection Agency Strategic Plan*. See the October 5, 2017 Federal Register at www.gpo.gov/fdsys for details.

November 6, 2017: Deadline for submitting comments on EPA's proposed residual risk/periodic technology review for the portland cement manufacturing NESHAP. See the September 21, 2017 Federal Register at www.gpo.gov/fdsys for details.

November 23, 2017: Deadline for submitting comments on EPA's notice of intent to establish voluntary criteria for radon credentialing organizations (extended from October 23, 2017). See the August 23, 2017 Federal Register at www.gpo.gov/fdsys for details.