



SMG Reg Watch

January 2014 / Scott R. Smith and Kori J. Andrews

Reg Watch is a periodic summary of regulations that we are currently tracking. The regulations we watch address energy, environmental, health, safety, educational issues relating to sustainability and public utilities.

This is not an all-encompassing list of all regulations being considered at the state or federal level. Contact me if you want to add additional issues, need copies of the proposed or final regulations or have questions about these or other regulations you've heard about.

DO YOU KNOW SOMEONE WHO WANTS TO RECEIVE THESE UPDATES?

Contact us at scottr.smith@smithmanage.com.

QUESTIONS, COMMENTS, ADDITIONAL INFORMATION

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Scott's Thoughts

Happy New Year! It's always good to put a year behind us so we can begin fresh with new ideas. 2014 however is already showing EPA's persistence on programs such as climate change and water. One example is that the President & EPA, persuaded their Science Advisory Board not to review the scientific and technical basis for EPA's proposed greenhouse gas NSPS rule, even though a memorandum released on November 12, 2013 from SAB Chairmen James Mihelcic stated, "The scientific and technical basis for carbon storage provisions is new science and the rulemaking would benefit from additional review". Mr. Mihelcic also stated at that time the peer review of the National Energy Technology Laboratory studies relied

upon by EPA appeared "inadequate" and that EPA did not conduct additional peer review. I see this as another example of the nation's environmental policy being driven by politics and not science.

The release of a chemical from 35,000 gallon above ground storage tank located in West Virginia will certainly get the attention of EPA and state regulators. Facilities should consider reviewing their risk management plans and review SPCC requirements and insure that ASTs and other facility equipment that stores or transports liquids meet the appropriate integrity requirements.

On a related issue, DOT issued a bulletin providing guidance to operators on how to prepare proper Response Plans. DOT's website has corrected versions of approved Response Plans.

Beginning the first week of February, the Kentucky Legislature will be in full swing. We will be providing a weekly review of the events of the 2014 Session in a separate newsletter.

Here are SMG's blog entries of note for January. Blog entries are linked to this Reg Watch:

- [OSHA Publishes Plans for 2014](#)
- [Carbon Capture and Sequestration \(CCS\) technologies final rule](#)
- [EPA Has Spoken – ASTM E1527-13](#)
- [EPA names new Regional Administrator](#)
- [APCD Louisville Plans Reorganization and Names new Executive Director](#)
- [GAO Calls For Water Regulations of Non-point Sources](#)

State Regulation Review

The following administrative regulations were reviewed and approved by the Administrative Regulation Review Subcommittee on December 10th, 2013:

[401 KAR 102:005](#). Definitions for 401 KAR Chapter 102.

[401 KAR 102:010](#). Brownfield Redevelopment Program.

[401 KAR 102:020](#). General requirements for a Property Management Plan for Brownfield Redevelopment Program.

Federal Regulation Review

Air

EPA, [Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units](#)

Proposed rule. On April 13, 2012, the EPA proposed a new source performance standard for emissions of carbon dioxide for new affected fossil fuel-fired electric utility generating units. The EPA received more than 2.5 million comments on the proposed rule. After consideration of information provided in those comments, as well as consideration of continuing changes in the electricity sector, the EPA determined that revisions in its proposed approach are warranted. Thus, in a separate action, the EPA is withdrawing the April 13, 2012, proposal, and, in this action, the EPA is proposing new standards of performance for

new affected fossil fuel fired electric utility steam generating units and stationary combustion turbines. This action proposes a separate standard of performance for fossil fuel-fired electric utility steam generating units and integrated gasification combined cycle units that burn coal, petroleum coke and other fossil fuels that is based on partial implementation of carbon capture and storage as the best system of emission reduction. This action also proposes standards for natural gas-fired stationary combustion turbines based on modern, efficient natural gas combined cycle technology as the best system of emission reduction. This action also includes related proposals concerning permitting fees under Clean Air Act Title V, the Greenhouse Gas Reporting Program, and the definition of the pollutant covered under the prevention of significant deterioration program.

DATES: Comments. Comments must be received on or before March 10, 2014. Under the Paperwork Reduction Act (PRA), since the Office of Management and Budget (OMB) is required to make a decision concerning the information collection request between 30 and 60 days after January 8, 2014, a comment to the OMB is best assured of having its full effect if the OMB receives it by February 7, 2014.

EPA, [Notice of Availability of the Environmental Protection Agency's 2018 Emissions Modeling Platform](#)

Notice of data availability (NODA). The Environmental Protection Agency (EPA) is providing notice that the 2018 Emissions Modeling Platform data are available for public review and comment. The 2018 Emissions Modeling Platform consists of emission

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inventory data, supporting data used to develop the 2018 emission inventories, and methods and data that are used to process emission inventories representing the year 2018 into a form that can be used for air quality modeling. The platform, or portions of the data that make up the platform, may be used by the Office of Air and Radiation in several contexts, including the development of rules related to the transport of air pollution and the National Ambient Air Quality Standards. The EPA is requesting comment on the 2018 Emissions Modeling Platform, including the emission inventories, the supporting data, and the methods used to develop and process the 2018 emission inventories. A docket has been established to facilitate public review of the data and to track comments.

DATES: Comments must be received on or before June 30, 2014. Please refer to **SUPPLEMENTARY INFORMATION**, within the attached link, for additional information on submitting comments and on the provided data.

[EPA, Proposed Information Collection Request; Comment Request; Regulation of Fuels and Fuel Additives: Gasoline Volatility](#)

Notice: The Environmental Protection Agency is planning to submit an information collection request (ICR), Regulation of Fuels and Fuel Additives: Gasoline Volatility (EPA ICR No. 1367.10, OMB control No. 2060-0178), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed

information collection as described in the linked notice. This is a proposed extension of the ICR, which is currently approved through July 31, 2014. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before March 18, 2014.

[EPA, Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NOX Budget Trading Program To Reduce the Regional Transport of Ozone \(Renewal\)](#)

Notice: The Environmental Protection Agency has submitted an information collection request (ICR), "Information Collection Request Renewal for the NOX Budget Trading Program to Reduce the Regional Transport of Ozone" (EPA ICR No. 1857.06, OMB Control No. 2060-0445) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through February 28, 2014. Public comments were previously requested via the **Federal Register** (78 FR 57153) on September 17, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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DATES: Additional comments may be submitted on or before February 20, 2014.

EPA, [Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units](#)

Proposed rule; Notice of public hearing. The Environmental Protection Agency (EPA) published in the **Federal Register** on January 8, 2014, the proposed rule, “Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units.” The EPA is announcing a change in the date for the public hearing to be held for the proposed Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units.

DATES: The public hearing will be held on February 6, 2014.

EPA, [Release of Draft Documents Related to the Review of the National Ambient Air Quality Standards for Ozone](#)

Notice of availability and public comment period. On or about January 31, 2014, the Office of Air Quality Planning and Standards (OAQPS) will make available for public comment three draft documents prepared as part of the current review of the national ambient air quality standards (NAAQS) for Ozone (O3). Two are draft risk and exposure assessment documents: *Health Risk and Exposure Assessment for Ozone, Second External Review Draft* and *Welfare Risk and Exposure Assessment for Ozone, Second External Review Draft*, and the third is the draft policy assessment document: *Policy Assessment for*

the Review of the Ozone National Ambient Air Quality Standards, Second External Review Draft.

DATES: Comments on all documents should be submitted on or before March 24, 2014.

Water

EPA, [Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Clean Water Act Section 404 State-Assumed Programs \(Renewal\)](#)

Notice. The Environmental Protection Agency has submitted an information collection request (ICR), “Clean Water Act Section 404 State-Assumed Programs (Renewal)” to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through January 31, 2014. Public comments on the ICR renewal were requested via the **Federal Register** (78 FR 62629) published on October 22, 2013, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A full description of the ICR is given in the linked notice, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before February 28, 2014.

Health & Safety

OSHA, [Improve Tracking of Workplace Injuries and Illnesses](#)

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Proposed rule; extension of comment period.

OSHA is extending the comment period on the proposed rule entitled, "Improve Tracking of Workplace Injuries and Illnesses," which would amend the recordkeeping regulations to add requirements for the electronic submission of injury and illness records employers are already required to keep under OSHA's regulations for recording and reporting occupational injuries and illnesses.

DATES: The comment period for the proposed rule published November 8, 2013, at 78 FR 67254, is extended. Comments must be submitted (postmarked, sent or received) by March 8, 2014.

OSHA, Occupational Exposure to Crystalline Silica; Extension of Comment Period**Proposed rule; extension of comment period.**

The Occupational Safety and Health Administration (OSHA) is extending the deadline for submitting comments and written testimony on the Notice of Proposed Rulemaking (NPRM) on Occupational Exposure to Crystalline Silica.

DATES: The comment period for the proposed rule published September 12, 2013 (78 FR 56274), extended on October 31, 2013 (78 FR 65242), is further extended. Comments and written testimony on the NPRM must be submitted (postmarked, sent, or received) by Tuesday, February 11, 2014.

EPA, Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Reporting and Recordkeeping for Asbestos Abatement Worker Protection

Notice: The Environmental Protection Agency has submitted a new information collection request (ICR), "Reporting and Recordkeeping for Asbestos Abatement Worker Protection" (EPA ICR No. 1246.12, OMB Control No. 2070-0072) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Public comments were previously requested via the **Federal Register** (78 FR 48431) on August 8, 2013, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A full description of the ICR is given in the linked notice, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before March 3, 2014.

Other**EPA, Petition to Add the Oil and Gas Extraction Industry, Standard Industrial Classification Code 13, to the List of Facilities Required To Report Under the Toxics Release Inventory; Notice of Receipt of Petition**

Notice of receipt of petition. The Environmental Integrity Project (EIP) and sixteen other organizations submitted a petition to the Environmental Protection Agency (EPA), dated October 24, 2012, requesting that EPA add the Oil and Gas Extraction sector, Standard Industrial Classification (SIC) code 13, to the scope of sectors covered by the Toxics Release Inventory (TRI) under section 313 of the Emergency Planning and Community Right-To-

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Know Act (EPCRA). The petition also requests that EPA publish the petition in the **Federal Register**. The linked **Federal Register** Notice provides notice of receipt of this petition, along with the Docket Identification Number that can be used to view the petition and related documents. EPA is not soliciting public comment regarding this notice.

EPA, [Fall 2013 Regulatory Agenda](#)

Semiannual regulatory flexibility agenda and semiannual regulatory agenda. The Environmental Protection Agency (EPA) publishes the semiannual regulatory agenda online (the e-Agenda) at <http://www.reginfo.gov> and at www.regulations.gov to update the public about:

- Regulations and major policies currently under development,
- Reviews of existing regulations and major policies, and
- Rules and major policymakings completed or canceled since the last agenda.

USF&W, [Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Leavenworthia exigua* var. *laciniata*](#)

Proposed rule; reopening of comment period. The U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the May 24, 2013, proposed designation of critical habitat for *Leavenworthia exigua* var. *laciniata* (Kentucky glade cress) under the Endangered Species Act of 1973, as amended (Act). The Service also announce the availability of a draft economic analysis (DEA) of

the proposed designation and an amended required determinations section of the proposal. For this action, the Service's DEA consists of an incremental effects memorandum considering the probable incremental economic impacts that may result from the proposed designation of critical habitat and a screening analysis of the probable effects of the designation of critical habitat for the Kentucky glade cress. The Service is reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated DEA, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in the Service's determination on this rulemaking action.

DATES: The comment period for the proposed rule published May 24, 2013, at 78 FR 31479, is reopened. The Service will consider comments received or postmarked on or before February 6, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, in the linked notice) must be received by 11:59 p.m. Eastern Time on the closing date.

EPA, [Seventy-Third Report of the TSCA Interagency Testing Committee to the Administrator of the Environmental Protection Agency; Receipt of Report and Request for Comments](#)

Notice: The Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC) transmitted its 73rd ITC Report to the EPA Administrator on December 31, 2013. In the 73rd ITC Report, which is included with this

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notice, the ITC is revising the *Priority Testing List* by removing five High Production Volume (HPV) Challenge Program orphan chemicals because they were included in a HPV Challenge Program submission or did not meet the ≥ 1 million lb criterion for the HPV Challenge Program.

DATES: Comments must be received on or before February 24, 2014.

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