



SMG Reg Watch

March 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

Kentucky regulation writers slow down when the General Assembly is in town. No agency wants to incur the wrath of a Legislator while they are in town. It looks like they definitely took March off because there is nothing to update.

EPA, however, is not slowing down. They recently announced they will focus on retailers. EPA has issued a notice which typically signals the beginning of a process to begin some form of rulemaking. EPA is seeking information on the following issues: Where and when a hazardous waste determination must be made; episodic generation; reverse logistics and hazardous waste management programs. This

Notice of Data Availability was issued February 14 and invites comment on specific issues and suggests answers to questions that the retail industry has raised about the challenges they face in complying with the Resource Conservation and Recovery Act (RCRA) hazardous waste policies, guidance and regulations.

EPA released in March a publication entitled "Greening CSO (Combined Sewer Overflow) Plans" which should assist Cities, sewer authorities and the private sector with green infrastructure approaches.

OSHA has generated a list of the top 10 most frequently cited OSHA Standards in Fiscal Year 2013 (October 1, 2012-September 30, 2013). It can be found at www.osha.gov/pls/imis/citedstandard.html.

On the federal legislative side of things - March 4, 2014, marked the date that the U.S. House of Representative passed H.R. 2116. The bill establishes a new voluntary efficiency standard for tenants in commercial buildings. It is being referred to as the, "Better Buildings Act. It establishes requirements for the federal government to set efficiency goals for its data centers and requires U.S. Dept. of Energy study energy efficiency approaches for tenant occupied spaces. The bill establishes a new "Tenant Star" program similar to the existing Energy Star energy efficiency certification program.

Ohio legislators may be preparing a bill that would freeze the state's renewable energy and energy efficiency benchmarks. We reported in

2013 that Sen. Bill Seitz (R-Cincinnati) was going to hold hearings on this issue.

Watch out for the compliance deadline for boilers at small facilities all over the U.S. The National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial and Institutional Boilers at Area Sources for Hazardous Air Pollutants became effective March 21. This rule covers apartments, hotels, schools, medical centers municipal buildings and others, that burn oil, biomass or other solid and liquid non waste materials. Check out 40 CFR Part 63, Subpart JJJJJJ("6J").

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

- [E-Manifest: What is scheduled to happen in October 2015?](#)
- [The reporting deadline for EPCRA, Air and Hazardous Waste is March 1](#)
- [EPA has declared Coal Ash as "non hazardous"](#)
- There is a new bill - [the "Secret Science Reform Act of 2014"](#)
- [EPA has Issued a Significant New Use Rule under TSCA for Five Chemicals](#)
- [Comment period for 111\(d\) to close soon](#)
- [Floyds Fork to be a Seasonal Trout Fishery](#)
- There is a new [TRI Pollution Prevention Search Tool](#)

State Regulation Review

No update. Please see our weekly legislative report for Kentucky General Assembly updates. The legislative report can be found [here](#).

Federal Regulation Review

Air

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

Notice of extension of public comment period. The EPA is announcing that the period for providing public comments on the January 8, 2014, proposed "Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units" and on the February 26, 2014, notice of data availability soliciting comment on the provisions in the Energy Policy Act of 2005, is being extended by 60 days.

DATES: Comments. The public comment period for the proposed rule published January 8, 2014 (79 FR 1352) and the notice of data availability published on February 26, 2014 (79 FR 10750), is being extended by 60 days to May 9, 2014, in order to provide the public additional time to submit comments and supporting information.

EPA, [Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems](#)

Proposed rule: The EPA is proposing revisions and confidentiality determinations for the petroleum and natural gas systems source

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category and the general provisions of the Greenhouse Gas Reporting Rule. In particular, the EPA is proposing to revise certain calculation methods, amend certain monitoring and data reporting requirements, clarify certain terms and definitions, and correct certain technical and editorial errors that have been identified during the course of implementation. This action also proposes confidentiality determinations for new or substantially revised data elements contained in these proposed amendments, as well as proposes a revised confidentiality determination for one existing data element.

DATES: *Comments.* Comments must be received on or before April 24, 2014. *Public Hearing.* The EPA does not plan to conduct a public hearing unless requested.

[EPA, Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Commercial and Industrial Solid Waste Incineration \(CISWI\) Units \(Renewal\)](#)

Notice: The Environmental Protection Agency has submitted an information collection request (ICR), “NSPS for Commercial and Industrial Solid Waste Incineration (CISWI) Units (40 CFR part 60, Subpart CCCC) (Renewal)” (EPA ICR No. 2384.03, OMB Control No. 2060– 0662), 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 May 31, 2014. Public comments were previously requested via the **Federal Register** (78 *FR* 35023) on June 11, 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.

DATES: Additional comments may be submitted on or before April 17, 2014.

WATER

[EPA, Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category](#)

Final rule: The Environmental Protection Agency (EPA) is finalizing changes to the effluent limitations guidelines and standards for the Construction and Development point source category. EPA is promulgating these changes pursuant to a settlement agreement to resolve litigation. This final rule withdraws the numeric discharge standards, which are currently stayed, and changes several of the non-numeric provisions of the existing rule.

DATES: This final rule is effective on May 5, 2014.

WASTE

HEALTH & SAFETY

[OSHA, Process Safety Management and Prevention of Major Chemical Accidents; Extension of Comment Period](#)

Request for information; extension of comment period. The Occupational Safety and Health Administration (OSHA) is extending the

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deadline for submitting comments on the Request for Information on Process Safety Management and Prevention of Major Chemical Accidents.

DATES: The comment due date for the proposed rule published in the **Federal Register** on December 9, 2013 (78 FR 73756) is extended. Comments must be submitted (postmarked, sent, or received) by March 31, 2014.

OTHER

EPA, [Records Related to OSHA's Construction Standard for Lead and Renovations of Public and Commercial Buildings; TSCA Section 21 Petition; Reasons for Agency Response](#)

Petition; reasons for Agency response. This document provides the reasons for EPA's response to a petition it received under the Toxic Substances Control Act (TSCA). The TSCA section 21 petition was received from the National Center for Healthy Housing, the International Union of Painters & Allied Trades, the Lead and Environmental Hazards Association, and the National Association of Lead and Healthy Homes Grantees (petitioners) on October 31, 2013. The petitioners requested EPA to promulgate a rule pursuant to TSCA section 8(d) requiring property managers, building owners, and contractors disturbing lead based paint in public and commercial buildings (P&CBs) to submit to EPA certain records related to the Occupational Safety and Health Administration's (OSHA's) construction standard for lead. After careful consideration, EPA denied the TSCA section 21 petition by

letter on January 28, 2014, for the reasons discussed in this document.

DATES: The EPA's response to this TSCA section 21 petition was signed on January 28, 2014.

EPA, [Electronic Reporting; Toxic Substances Control Act Notifications of Substantial Risk and for Your Information Submissions](#)

Notice: EPA is announcing that notifications of substantial risk under section 8(e) of the Toxic Substances Control Act (TSCA) and voluntary For Your Information (FYI) submissions may now be filed electronically using EPA's electronic document submission system, the Central Data Exchange (CDX). Use of this electronic reporting option will streamline and reduce the administrative costs and burdens of submitting paper-based notifications of substantial risks and FYI submissions.

EPA, [FY2014 Supplemental Funding for Brownfields Revolving Loan Fund \(RLF\) Grantees](#)

Notice of the availability of funds. The Environmental Protection Agency's (EPA) Office of Brownfields and Land Revitalization (OBLR) plans to make available approximately \$6 million to provide supplemental funds to Revolving Loan Fund capitalization grants previously awarded competitively under section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Brownfields Cleanup Revolving Loan Fund (BCRLF) pilots awarded under section 104(d)(1) of CERCLA that have not transitioned to section 104(k)(3) grants are not eligible to apply for these funds. EPA will consider awarding supplemental funding only to RLF

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grantees who have demonstrated an ability to deliver programmatic results by making at least one loan or subgrant. The award of these funds is based on the criteria described at CERCLA 104(k)(4)(A)(ii). The Agency is now accepting requests for supplemental funding from RLF grantees. Requests for funding must be submitted to the appropriate EPA Regional Brownfields Coordinator (listed below) by April 18, 2014. Funding requests for hazardous substances and/or petroleum funding will be accepted. Specific information on submitting a request for RLF supplemental funding is described below and additional information may be obtained by contacting the EPA Regional Brownfields Coordinator.

DATES: This action is effective March 19, 2014.

[EPA, Draft Revised EPA's Report on the Environment 2014](#)

Notice of public comment

period. The Environmental Protection Agency (EPA) is announcing a 30-day public comment period for the draft revised web-based, "EPA's Report on the Environment 2014" (ROE 2014). The ROE is a comprehensive source of scientific indicators that describe the trends in the nation's environmental and human health condition. ROE 2014 was prepared by the National Center for Environmental Assessment within EPA's Office of Research and Development, working in collaboration with EPA Program and Regional offices. The public comment period provides opportunities for all interested parties to comment on the draft ROE 2014. The draft

ROE will also be reviewed by the agency's independent Science Advisory Board (SAB) at a later date which will be announced in the **Federal Register**. When finalizing the draft ROE 2014, EPA intends to consider any public comments that EPA receives in accordance with this notice and intends to forward these comments to the SAB panel prior to their review. EPA is releasing the draft ROE 2014 for the purposes of public comment and peer review. This draft is not final as described in EPA's information quality guidelines, and it does not represent and should not be construed to represent Agency policy or views. The draft ROE 2014 Web site can be accessed at the following url: www.epa.gov/draftroe.

DATES: The 30 day public comment period begins March 27, 2014, and ends April 28, 2014. Technical comments should be in writing and must be received by EPA by April 28, 2014.

3/27/2014

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