



SMG Reg Watch

May 2013 / 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

We typically think of summertime is a time to kick back and take a deep breath because another legislative session is behind us and regulators seem to be in some form of hiatus. Definitely take advantage of the summer season but don't lose site of the fact that there will be plenty of action later this year. For example:

- The General Industrial Stormwater Permit is effective on June 1, 2013 and facilities will be expected to begin implementation. Please click [here](#) for more information on the permit.
- KDOW procedure for managing future TMDLs will begin to take shape as they finalize their Floyd's Fork project.
- KDOW is making a big push to finalize a number of expired permits. Check your permits and keep your ears open for these.

- There are a number of KPDES General Permits that will be out for Public Notice this summer. Please click [here](#) for a complete list from KDOW.

Enjoy your summer but use this time to anticipate the "fun" you will have later in 2013.

State Regulation Review

The following administrative regulations were deferred to the June 11, 2013, meeting of the Subcommittee:

**ENERGY AND ENVIRONMENT CABINET:
Department for Environmental Protection:
Division of Water: Water Quality Standards**

[401 KAR 10:030](#). Antidegradation policy implementation methodology. This administrative regulation establishes a methodology to implement the antidegradation policy contained in 401 KAR 10:029 by establishing procedures to control water pollution in waters affected by that policy.

Federal Regulation Review

EPA, [Greenhouse Gas Reporting Rule: Revision to Best Available Monitoring Method Request Submission Deadline for Petroleum and Natural Gas Systems Source Category](#).

Final Rule: The EPA is revising the deadline by which owners or operators of facilities subject to the petroleum and natural gas systems source category of the Greenhouse Gas Reporting Rule must submit requests for use of best available monitoring methods to the Administrator. This revision does not change any other requirements for owners or operators

as outlined in the best available monitoring method rule provisions.

DATES: This final rule is effective on May 31, 2013.

[USDA, Amendment to Notice of Funding Availability for the Rural Energy for America Program.](#)

Notice: The Rural Business-Cooperative Service (Agency) published a notice in the **Federal Register** of March 29, 2013, (78 FR Doc. 2013–07275) announcing the acceptance of applications for funds available under the Rural Energy for America Program (REAP) for Fiscal Year 2013. The Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113–6), provides additional funding for REAP. To provide the public additional opportunity to apply for these additional funds, this Notice extends the application period from April 30, 2013, to May 31, 2013, for renewable energy systems and energy efficiency improvement projects grants and grant and loan combination applications and for renewable energy system feasibility study applications. The Agency is also adding a provision to ensure consistency with the intent of 2 CFR 25.205. A separate notice will be published to amend the funding available under REAP.

[EPA, Notice of Final Action on Petition From Earthjustice To List Coal Mines as a Source Category and To Regulate Air Emissions From Coal Mines](#)

Denial of petition for rulemaking: On April 30, 2013, the Acting EPA Administrator, Bob Perciasepe, signed a letter denying a petition to add coal mines to the Clean Air Act (CAA)

section 111 list of stationary source categories. The agency denied the petition because the EPA must prioritize its actions in light of limited resources and ongoing budget uncertainties, and at this time, cannot commit to conducting the process to determine whether coal mines should be added to the list of categories under CAA 111(b)(1)(A). The letter explains in detail the EPA’s reasons for the denial.

[EPA, EPA Activities To Promote Environmental Justice in the Permit Application Process](#)

Notice of Availability: As part of its ongoing efforts under Plan EJ 2014 to integrate environmental justice into all of its programs, the Environmental Protection Agency (EPA) is publishing *Actions that EPA Regional Offices Are Taking to Promote Meaningful Engagement in the Permitting Process by Overburdened Communities and Promising Practices for Permit Applicants Seeking EPA Issued Permits: Ways to Engage Neighboring Communities*. This notice responds to comments on the proposals issued for public comment in June 2012. These documents reflect suggestions and input received by EPA from numerous stakeholders. This notice describes actions that EPA regional offices are taking when issuing EPA permits to promote greater participation in the permitting process by communities that have historically been underrepresented in that process. This notice also describes promising practices for permit applicants that are designed to encourage and assist permit applicants to reach out to neighboring communities when applying for permits that may affect communities’ quality of life, including their health and environment.

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EPA, [Technical Guidance for Assessing Environmental Justice in Regulatory Analysis](#)

Notice: The Environmental Protection Agency (EPA) has issued for public comment a document entitled, "Technical Guidance for Assessing Environmental Justice in Regulatory Analysis." The purpose of this guidance is to provide EPA analysts with technical information on how to consider environmental justice in regulatory analyses. This guidance takes into account EPA's past experience in integrating EJ into the rulemaking process, and underscores EPA's ongoing commitment to ensuring the fair treatment and meaningful involvement of all people with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. A Science Advisory Board (SAB) review of this document will be announced in May 2013. Information on the SAB review can be found here:

<http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/0f7d1a0d7d15001b8525783000673ac3!OpenDocument&tableRow=2.0#2>. In addition, the EPA will host two webinars on the draft guidance. Wednesday, May 29, 1:00–2:30 p.m. EST; <https://epa.connectsolutions.com/r4nnz6umjci/> Thursday, June 6, 3:00–4:30 p.m. EST; <https://epa.connectsolutions.com/r8fs6ctfvg/>.

DATES: Comments must be received on or before July 8, 2013, 60 days after publication in the **Federal Register**.

EPA, [Significant New Use Rules on Certain Chemical Substances](#)

Final Rule: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 15 chemical substances which were the subject of premanufacture notices (PMNs). This action requires persons who intend to manufacture, import, or process any of these 15 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This rule is effective on July 8, 2013. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on May 23, 2013. Written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs must be received on or before June 10, 2013.

EPA, [Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program: Recent Posting to the Applicability Determination Index \(ADI\) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations](#)

Notice of availability: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air

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Pollutants (NESHAP); and/or the Stratospheric Ozone Protection Program.

EPA, [Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Notice of Public Meeting and Reopening of Comment Period](#)

Notice: In 2010, EPA issued an advance notice of proposed rulemaking (ANPRM) concerning renovation, repair, and painting activities in public and commercial buildings. EPA is in the process of determining whether these activities create lead-based paint hazards, and, for those that do, developing certification, training, and work practice requirements as directed by the Toxic Substances Control Act (TSCA). This document announces a public meeting on June 26, 2013, and reopens the comment period for the December 31, 2012 **Federal Register** document to allow for additional data and other information to be submitted by the public and interested stakeholders.

DATES: The public meeting will be held on June 26, 2013, from 8:30 a.m. to 12:30 p.m. Requests to participate in the meeting must be received on or before June 3, 2013.

EPA, [Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed On or Before December 1, 2008, and Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators](#)

Final Rule: This action finalizes amendments to the federal plan and the new source performance standards for

hospital/medical/infectious waste incinerators. This final action implements national standards promulgated in the 2009 amendments to the hospital/medical/infectious waste incinerator emissions guidelines that will result in reductions in emissions of certain pollutants from all affected units.

DATES: The effective date of this rule is June 12, 2013.

EPA, [Revocation of TSCA Section 4 Testing Requirements for One High Production Volume Chemical Substance](#)

Final Rule: This final rule implements EPA's decision to revoke certain testing requirements promulgated under the Toxic Substance Control Act (TSCA) for the High Production Volume (HPV) chemical substance, benzenesulfonic acid, [[4-[[4-(phenylamino)phenyl][4-(phenylimino)-2,5-cyclohexadien-1-ylidene]methyl]phenyl]amino]- (CAS No. 1324-76-1), also known as C.I. Pigment Blue 61. After publication in the **Federal Register** of a final rule requiring testing for C.I. Pigment Blue 61, EPA received adequate, existing studies which eliminated the need for testing.

DATES: This final rule is effective June 12, 2013.

EPA, [Approval and Promulgation of Implementation Plans; Kentucky; Approval of Revisions to the Jefferson County Portion of the Kentucky SIP; Emissions During Startups, Shutdowns, and Malfunctions](#)

Proposed rule: EPA is proposing to approve part of a revision to the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), on

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March 22, 2011. The proposed revision was submitted by KDAQ on behalf of the Louisville Metro Air Pollution Control District (District), which has jurisdiction over Jefferson County, Kentucky. The portion of the revision that EPA is proposing for approval modifies the Regulation entitled, "Emissions During Startups, Shutdowns, Malfunctions and Emergencies" in the Jefferson County portion of the Kentucky SIP. EPA is proposing approval of this portion of the March 22, 2011, SIP revision because the Agency has determined that it is in accordance with the requirements for SIP provisions under the Clean Air Act (CAA or Act). EPA will act on the other portions of KDAQ's March 22, 2011, submittal, which are severable and unrelated, in a separate action.

DATES: Comments must be received on or before June 20, 2013.

[EPA, Expedited Approval of Alternative Test Procedures for the Analysis of Contaminants Under the Safe Drinking Water Act; Analysis and Sampling Procedures](#)

Final rule: This action announces the U.S. Environmental Protection Agency's (EPA's) approval of alternative testing methods for use in measuring the levels of contaminants in drinking water and determining compliance with national primary drinking water regulations. The Safe Drinking Water Act (SDWA) authorizes EPA to approve the use of alternative testing methods through publication in the **Federal Register**. EPA is using this streamlined authority to make 84 additional methods available for analyzing drinking water samples. This expedited approach provides public water systems, laboratories, and primacy

agencies with more timely access to new measurement techniques and greater flexibility in the selection of analytical methods, thereby reducing monitoring costs while maintaining public health protection.

DATES: This action is effective May 31, 2013.

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