



SMG Reg Watch

July 2015 / 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

SMG provides brief blog updates several times each week. Blogs are written by SMG employees, and can be found on our website. SMG Blog Entries of Note for this month are hyperlinked below:

- [Change Announced to Kentucky's "Sulfuric Acid Battery Facility Policy"](#)
- [MSD Has a New Director](#)
- [Tis the reporting season!](#)
- [Local Limits](#)

State Regulation Review

The following are Proposed Amendments that have been amended after comment by the Administrative Regulation Review Subcommittee:

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Oil and Gas: Oil and Gas

[805 KAR 1:100](#). Commission's rules of procedure; spacing of deep well drilling; wildcat wells and pooling of interests.

[805 KAR 1:130](#). Administrative regulation relating to casing, cementing, plugging, gas detection and blow-out prevention in oil and gas wells.

[805 KAR 1:140](#). Directional and horizontal wells.

[805 KAR 1:170](#). Content of the operations and reclamation plan.

Federal Regulation Review

EPA, [Proposed Finding That Greenhouse Gas Emissions From Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated To Endanger Public Health and Welfare and Advance Notice of Proposed Rulemaking](#)

Proposed rule and advance notice of proposed rulemaking. In this action, the Administrator is proposing to determine that greenhouse gas concentrations in the atmosphere endanger the public health and welfare of current and future generations within the meaning of section 231(a) of the Clean Air Act. She proposes to make this finding specifically with respect to the same six well-mixed greenhouse gases (GHGs) —

carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride—that together were defined as the air pollution in the 2009 Endangerment Finding under section 202(a) of the Clean Air Act and that together constitute the primary cause of the climate change problem. The Administrator is also proposing to find that greenhouse gas emissions from certain classes of engines used in aircraft are contributing to air pollution—the mix of greenhouse gases in the atmosphere—that endangers public health and welfare under section 231(a) of the Clean Air Act. Concurrent with these proposed findings, the EPA is issuing an Advance Notice of Proposed Rulemaking to provide an overview of and seek input on a variety of issues related to setting an international CO₂ standard for aircraft at the International Civil Aviation Organization (ICAO), ICAO's progress in establishing global aircraft standards that achieve meaningful reductions in CO₂ emissions, and (provided the EPA promulgates final endangerment and cause and contribute findings for aircraft engine GHG emissions) the potential use of section 231 of the Clean Air Act to adopt and implement corresponding aircraft engine GHG emission standards domestically, ensuring transparency and the opportunity for public comment.

DATES: Comments. Comments must be received on or before August 31, 2015. Public Hearing. The EPA will hold a public hearing on August 11, 2015 in Washington, DC, at the William Jefferson Clinton East Building, Room 1153, 101 Constitution Avenue NW., Washington, DC 20004. If no one contacts the EPA requesting to speak at the hearing for this proposal by July 13,

2015 the public hearing will not take place and will be cancelled with no further notice.

[EPA, Proposed Information Collection Request; Comment Request; Water Quality Standards Regulation \(Renewal\)](#)

Notice. The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), “Water Quality Standards Regulation (Renewal)” (EPA ICR No. 0988.12, OMB Control No. 2040–0049) 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.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described in the linked document. This is a proposed extension of the ICR, which is currently approved through December 31, 2015. 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 August 31, 2015.

[EPA, Technical Amendments to the Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals From Electric Utilities—Correction of the Effective Date](#)

Final rule. The Environmental Protection Agency (EPA or the Agency) is taking action to amend the final rule regulating the disposal of coal combustion residuals (CCR) as solid waste under subtitle D of the Resource Conservation and Recovery Act (RCRA). After publication in the **Federal Register**, inconsistencies resulting from

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typographical errors established two different effective dates in the regulatory text for the final CCR rule. This action corrects these inconsistencies and revises the Code of Federal Regulations (CFR) so that it accurately reflects the statutory effective date of six months from the publication date of the rule, coinciding with a date of October 19, 2015. Consistent with Federal requirements, the EPA is also correcting dates for certain provisions that fall on January 18, 2016, which is a Federal holiday, to the next succeeding Federal business day, which is January 19, 2016.

DATES: This final rule is effective on October 19, 2015. Effective July 2, 2015, the effective date of the final CCR rule published on April 17, 2015 at 80 FR 21302 is corrected from October 14, 2015 to October 19, 2015.

[EPA, Chemical Substances When Manufactured or Processed as Nanoscale Materials, TSCA Reporting and Recordkeeping Requirements; Extension of Comment Period](#)

Proposed rule; extension of comment period.

EPA published a proposed rule in the **Federal Register** of April 6, 2015 at 80 FR 18330, concerning proposing reporting and recordkeeping requirements for certain chemical substances when they are manufactured or processed at the nanoscale. This document extends the comment period for 30 days, from July 6, 2015 to August 5, 2015. A commenter requested additional time to submit written comments for the proposed rule. EPA is therefore extending the comment period in order to give all interested persons the opportunity to comment fully.

DATES: Comments, identified by docket identification (ID) number EPA-HQ-OPPT-2010-0572, must be received on or before August 5, 2015.

[EPA, Findings of Failure To Submit a Section 110 State Implementation Plan for Interstate Transport for the 2008 National Ambient Air Quality Standards for Ozone](#)

Final rule. The Environmental Protection Agency (EPA) is taking final action finding that 24 states have failed to submit infrastructure State Implementation Plans (SIPs) to satisfy certain interstate transport requirements of the Clean Air Act (CAA) with respect to the 2008 8-hour ozone national ambient air quality standard (NAAQS). Specifically, these requirements pertain to significant contribution to nonattainment, or interference with maintenance, of the 2008 8-hour ozone NAAQS in other states. These findings of failure to submit establish a 2-year deadline for the EPA to promulgate a Federal Implementation Plan (FIP) to address the interstate transport SIP requirements pertaining to significant contribution to nonattainment and interference with maintenance unless, prior to the EPA promulgating a FIP, the state submits, and the EPA approves, a SIP that meets these requirements.

DATES: Effective date of this action is August 12, 2015.

[EPA, Revising Underground Storage Tank Regulations — Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training](#)

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Final rule. The Environmental Protection Agency (EPA or the Agency) is making certain revisions to the 1988 underground storage tank (UST) regulation and to the 1988 state program approval (SPA) regulation. These changes establish Federal requirements that are similar to key portions of the Energy Policy Act of 2005 (EPAct); they also update the 1988 UST and SPA regulations. Changes to the regulations include: Adding secondary containment requirements for new and replaced tanks and piping; adding operator training requirements; adding periodic operation and maintenance requirements for UST systems; addressing UST systems deferred in the 1988 UST regulation; adding new release prevention and detection technologies; updating codes of practice; making editorial corrections and technical amendments; and updating state program approval requirements to incorporate these new changes. EPA thinks these changes will protect human health and the environment by reducing the number of releases to the environment and quickly detecting releases, if they occur.

DATES: This rule is effective October 13, 2015.

[EPA, Protection of Stratospheric Ozone: Determination 30 for Significant New Alternatives Policy Program](#)

Determination of acceptability. This determination of acceptability expands the list of acceptable substitutes pursuant to the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program. This action lists as acceptable additional substitutes for use in the refrigeration and air conditioning; foam blowing; solvent

cleaning; aerosols; and adhesives, coatings, and inks sectors.

DATES: This determination is effective on July 16, 2015.

[EPA, Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for the 2015 Compliance Year](#)

Final rule; notice of data availability (NODA). The Environmental Protection Agency (EPA) is providing notice of emission allowance allocations to certain units under the new unit setaside (NUSA) provisions of the Cross-State Air Pollution Rule (CSAPR) federal implementation plans (FIPs) and is responding to objections to preliminary calculations. EPA has completed final calculations for the first round of NUSA allowance allocations for the 2015 compliance year and has posted spreadsheets containing the calculations on EPA's Web site. The final allocations are unchanged from the preliminary calculations. EPA will record the allocated allowances in sources' Allowance Management System (AMS) accounts by August 1, 2015.

DATES: July 28, 2015.

[EPA, Revision to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches To Address Ozone and Fine Particulate Matter](#)

Proposed rule; notice of conference. In this action, the Environmental Protection Agency (EPA) proposes to revise the *Guideline on Air Quality Models* ("Guideline"). The *Guideline* has been incorporated into EPA's regulations, satisfying a requirement under the Clean Air Act (CAA) section 165(e)(3) for the EPA to specify,

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with reasonable particularity models to be used in the Prevention of Significant Deterioration (PSD) program. It provides EPA-preferred models and other recommended techniques, as well as guidance for their use in predicting ambient concentrations of air pollutants. The proposed revisions to the *Guideline* include enhancements to the formulation and application of the EPA's AERMOD near-field dispersion modeling system and the incorporation of a tiered demonstration approach to address the secondary chemical formation of ozone and fine particulate matter (PM_{2.5}) associated with precursor emissions from single sources. Additionally, the EPA proposes various editorial changes to update and reorganize information throughout the *Guideline* to streamline the compliance assessment process. Within this action, the EPA is also announcing the Eleventh Conference on Air Quality Modeling and invites the public to participate in the conference. The conference will focus on the proposed revisions to the *Guideline* and part of the conference will also serve as the public hearing for these revisions.

DATES: Comments must be received on or before October 27, 2015.

Public hearing and conference: The public hearing for this action and the Eleventh Conference on Air Quality Modeling will be held August 12–13, 2015, from 8:30 a.m. to 5:00 p.m.

OSHA, [Clarification of Employer's Continuing Obligation To Make and Maintain an Accurate Record of Each Recordable Injury and Illness](#)

Notice of proposed rule. OSHA is proposing to amend its recordkeeping regulations to clarify that the duty to make and maintain accurate records of work-related injuries and illnesses is

an ongoing obligation. The duty to record an injury or illness continues for as long as the employer must keep records of the recordable injury or illness; the duty does not expire just because the employer fails to create the necessary records when first required to do so. The proposed amendments consist of revisions to the titles of some existing sections and subparts, and changes to the text of some existing provisions. The proposed amendments add no new compliance obligations; the proposal would not require employers to make records of any injuries or illnesses for which records are not currently required to be made.

DATES: Written comments to this proposed rule must be submitted (postmarked, sent or received) by September 28, 2015. All submissions must bear a postmark or provide other evidence of the submission date.

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