



SMG Reg Watch

March 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:

- [Engineer's Week Outreach Program: Patricia Mason, PE, serves as EOMS PTSA Committee Chair to organize Fifth Annual DiscoverE Event](#)
- [KAAE 1st Annual Fundraising Luncheon](#)

- [Groundwater Awareness is Important to You!](#)
- [Des Moines, Iowa Sues Three Upstream Counties Over Nutrient Pollution](#)
- [Pretreatment Program – Regulations, Pretreatment Standards And Industrial Users](#)
- [SMG's South Wireless Summit Insights](#)
- [Revised DMR Manual Available](#)
- [EPA Proposes One-Time Reporting Requirements for Nanoscale Materials](#)

State Regulation Review

The following are Proposed Amendments that are being addressed by the Administrative Regulation Review Subcommittee:

No items of interest.

Federal Regulation Review

OSHA, [Procedures for the Handling of Retaliation Complaints Under Section 806 of the Sarbanes-Oxley Act of 2002, as Amended](#)

Final Rule: This document provides the final text of regulations governing employee protection (retaliation or whistleblower) claims under section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley or Act), which was amended by sections 922 and 929A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd- Frank), enacted on July 21, 2010. An interim final rule (IFR) governing these provisions and request for comment was published in the **Federal Register** on November 3, 2011. Five comments were

received. This rule responds to those comments and establishes the final procedures and time frames for the handling of retaliation complaints under Sarbanes-Oxley, including procedures and time frames for employee complaints to the Occupational Safety and Health Administration (OSHA), investigations by OSHA, appeals of OSHA determinations to an administrative law judge (ALJ) for a hearing de novo, hearings by ALJs, review of ALJ decisions by the Administrative Review Board (ARB) (acting on behalf of the Secretary of Labor), and judicial review of the Secretary of Labor's final decision. It also sets forth the Secretary of Labor's interpretations of the Sarbanes-Oxley whistleblower provision on certain matters.

DATES: This final rule is effective on March 5, 2015.

EPA, [Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements](#)

Final rule: The U.S. Environmental Protection Agency (EPA) is establishing a final rule for implementing the 2008 ozone national ambient air quality standards (NAAQS) (the "2008 ozone NAAQS") that were promulgated on March 12, 2008. This final rule addresses a range of nonattainment area state implementation plan (SIP) requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), major new source review (NSR), emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. Other issues also

addressed in this final rule are the revocation of the 1997 ozone NAAQS and anti-backsliding requirements that apply when the 1997 ozone NAAQS are revoked. If the primary or secondary ozone NAAQS are revised in the future, the EPA expects that this rule will help facilitate implementation of any new standards.

DATES: This final rule is effective on April 6, 2015.

EPA, [Improving EPA Regulations](#)

Notice; request for comment. The Environmental Protection Agency (EPA) is requesting public input on the agency's periodic retrospective review of its regulations. Executive Order 13563, "Improving Regulation and Regulatory Review," and Executive Order 13610, "Identifying and Reducing Regulatory Burdens," call on all federal agencies to conduct a retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal them in accordance with what has been learned. The EPA is particularly seeking public input on how the agency can promote regulatory modernization through business-process streamlining, facilitated by improved technology.

DATES: Comments must be received on or before April 8, 2015.

EPA, [Agency Information Collection Activities; Proposed Collection; Comment Request; RCRA Expanded Public Participation](#)

Notice. The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), RCRA Expanded Public Participation (EPA ICR No. 1688.08, OMB Control

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No. 2050–0149) 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, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through June 30, 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 May 12, 2015.

OSHA, Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection

Notice of proposed rulemaking. The Occupational Safety and Health Administration (“OSHA” or “Agency”) is issuing this notice of proposed rulemaking to update its general industry, shipyard employment, marine terminals, longshoring, and construction eye and face protection standards by incorporating by reference the three most recent versions of the American National Standards Institute (“ANSI” or “national consensus standard”) Occupational and Educational Eye and Face Protection standard. In addition, OSHA proposes to change language in the construction eye and face protection standard to make it consistent with both the general industry and maritime standards.

DATES: Submit comments on this notice of proposed rule (including comments on the information-collection (paperwork) determination described under the section titled

Procedural Determinations, hearing requests, and other information) by April 13, 2015.

EPA, Information Collection Request Submittal to OMB for Review and Approval; Comment Request; 2015 Drinking Water Infrastructure Needs Survey and Assessment (Reinstatement)

Notice: The U.S. Environmental Protection Agency (EPA) has submitted an information collection request (ICR), “2015 Drinking Water Infrastructure Needs Survey and Assessment (Reinstatement)” (EPA ICR No. 2234.04, OMB Control No. 2040–0274) 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 request to reinstate a previously discontinued collection. Public comments were previously requested via the **Federal Register** (79 FR 65209) on November 3, 2014, 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 in this notice, including the ICR’s 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 15, 2015.

EPA, Approval and Promulgation of Implementation Plans; Region 4 States; 2008 Lead, 2008 Ozone and 2010 Nitrogen Dioxide Prevention of Significant Deterioration Infrastructure Plans

Final Rule. The Environmental Protection Agency (EPA) is approving portions of submissions from

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Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee for inclusion into each State's implementation plan. This action pertains to the Clean Air Act (CAA or Act) infrastructure requirements for the 2008 Lead, 2008 Ozone and 2010 Nitrogen Dioxide (NO₂) National Ambient Air Quality Standards (NAAQS). The CAA requires that each state adopt and submit a state implementation plan (SIP) for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA. These plans are commonly referred to as "infrastructure" SIPs. Specifically, EPA is approving the portions of the submissions from Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee that relate to the infrastructure SIP prevention of significant deterioration (PSD) requirements. All other applicable infrastructure requirements for the 2008 Lead, 2008 Ozone and 2010 NO₂ NAAQS associated with these States are being addressed in separate rulemakings.

DATES: This rule is effective on April 17, 2015.

EPA, [National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations](#)

Final rule. This action finalizes the residual risk and technology review (RTR) conducted for the Off-Site Waste and Recovery Operations (OSWRO) source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, the Environmental Protection Agency (EPA) is finalizing amendments to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown and malfunction (SSM); add requirements for reporting of

performance testing through the Electronic Reporting Tool (ERT); revise the routine maintenance provisions; clarify provisions pertaining to open-ended valves and lines (OELs); add monitoring requirements for pressure relief devices (PRDs); clarify provisions for some performance test methods and procedures; and make several minor clarifications and corrections. The revisions to the final rule increase the level of emissions control and environmental protection provided by the OSWRO NESHAP.

DATES: This final action is effective on March 18, 2015.

[EPA, Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements](#)

Proposed rule. The Environmental Protection Agency (EPA) is proposing requirements that state, local and tribal air agencies would have to meet as they implement the current and future national ambient air quality standards (NAAQS) for fine particulate matter (PM_{2.5}). Specifically, this notice provides details on how the EPA proposes that air agencies meet the statutory state implementation plan (SIP) requirements that apply to areas designated nonattainment for any PM_{2.5} NAAQS, such as: general requirements for attainment plan due dates and attainment dates; emissions inventories; attainment demonstrations; provisions for demonstrating reasonable further progress; quantitative milestones; contingency measures; and nonattainment New Source Review (NNSR) permitting programs, among other things. This proposed rule clarifies the specific attainment planning requirements that would apply to

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PM2.5 NAAQS nonattainment areas based on their classification (either Moderate or Serious), and the process for reclassifying Moderate areas to Serious. Additionally in this notice, the EPA is proposing to revoke the 1997 primary annual standard because the EPA revised the primary annual standard in 2012. The EPA first established the PM2.5 NAAQS in 1997, completed a review of those standards in 2006, and most recently completed a review of the PM2.5 NAAQS on December 14, 2012.

DATES: *Comments.* Comments must be received on or before May 22, 2015. *Public Hearing.* The EPA plans to hold one public hearing concerning the proposed rule in Washington, DC. The date, time and location will be announced separately.

EPA, Oil and Natural Gas Sector: Definitions of Low Pressure Gas Well and Storage Vessel

Proposed rule. On July 17, 2014, the Environmental Protection Agency (EPA) published proposed amendments to the new source performance standards (NSPS) for the Oil and Natural Gas Sector. One of the issues addressed in the proposed amendments was the EPA's proposed definition of "low pressure gas well." A petitioner's timely submitted comment on the proposed amendments concerning the definition was, inadvertently, not made part of the record in the rulemaking docket and was, therefore, not available to be considered by the EPA when the agency finalized the definition of "low pressure gas well" in its December 19, 2014, final amendments to the NSPS. To correct the above mentioned procedural defect, the EPA is re-proposing its definition of "low pressure gas well" for notice and comment. The EPA is also soliciting comment on certain issues raised in the

missed comment. We are also proposing to amend the NSPS to remove provisions concerning storage vessels connected or installed in parallel and to revise the definition of "storage vessel". The EPA is granting reconsideration of the issue.

DATES: *Comments.* Comments must be received on or before April 22, 2015.

EPA, Fiscal Year (FY) 2015 Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Grantees

Notice of the availability of funds. The Environmental Protection Agency (EPA) plans to make available approximately \$5.8 million to provide supplemental funds to Revolving Loan Fund (RLF) 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 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 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 23, 2015. Funding requests for hazardous substances and/or petroleum funding will be accepted. Specific information on submitting a request for RLF supplemental funding is

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described below and additional information may be obtained by contacting the EPA Regional Brownfields Coordinator.

DATES: This action is effective on March 24, 2015.

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