



SMG Reg Watch

May 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:

- [Public Comment for New TMDL's in Western Kentucky](#)
- [Duke Energy Coal Ash Settlement](#)
- [The Northern Long-eared Bat 49d\) Rule- What Does it Mean?](#)

- [Companies Pay Massive Fine for Clean Water Act Crimes](#)
- [It's an Emergency: My Water Line has Busted!](#)
- [Bat Conservation Strategy & Conservation MOA Update](#)
- [Revised Draft Bill in U.S. House Builds on Momentum to Reform TSCA](#)
- [POTW Pretreatment Program](#)
- [New WOTUS Rule has been Finalized](#)

State Regulation Review

The following are Proposed Amendments that are being addressed 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.

The Kentucky Department for Natural Resources filed the proposed administrative regulations with the Legislative Research Commission on May 12, 2015. A public hearing on the administrative regulations is scheduled for June 23, 2015 at 10:00 A.M. Individuals may submit written comments through June 30, 2015.

[402 KAR 3:010](#). Timber Sales
[402 KAR 3:030](#). Best management practices for timber harvesting operations.
[402 KAR 3:050](#). Bad actor notice provisions

Federal Regulation Review

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

Final rule; correcting amendment. On March 6, 2014, EPA published a final rule in the **Federal Register** revising effluent limitations guidelines and standards for the construction and development point source category. This correcting amendment corrects errors in the amendatory language of the March 6, 2014 final rule.

DATES: The indefinite stay at 40 CFR 450.22(a) and (b) is lifted and this rule is effective on May 4, 2015.

OSHA, [Confined Spaces in Construction](#)

Final rule. OSHA is adding a new subpart to provide protections to employees working in confined spaces in construction. This new subpart replaces OSHA's one training requirement for confined space work with a comprehensive standard that includes a permit program designed to protect employees from exposure to many hazards associated with work in confined spaces, including atmospheric and physical hazards. The final rule is similar in content and organization to the general industry confined spaces standard, but also incorporates several provisions from the proposed rule to address construction-specific hazards, accounts

for advancements in technology, and improves enforceability of the requirements.

DATES: The final rule becomes effective on August 3, 2015.

EPA, [Prevention of Significant Deterioration Permitting for Greenhouse Gases: Providing Option for Rescission of EPA-Issued Tailoring Rule Step 2 Prevention of Significant Deterioration Permits](#)

Direct final rule. The Environmental Protection Agency (EPA) is taking direct final action to amend the federal Prevention of Significant Deterioration (PSD) program regulations to allow for rescission of certain PSD permits issued by the EPA and delegated reviewing authorities under Step 2 of the Prevention of Significant Deterioration and Title V Greenhouse Gas (GHG) Tailoring Rule (Tailoring Rule). EPA is taking this action in order to provide a mechanism for the EPA and delegated reviewing authorities to rescind PSD permits that are no longer required in light of the United States (U.S.) Supreme Court's decision in *Utility Air Regulatory Group (UARG) v. EPA* and the amended appeals court judgment in *Coalition for Responsible Regulation (Coalition) v. EPA*, vacating that rule. These decisions determined that Step 2 of the Tailoring Rule was not required under the Clean Air Act (CAA or Act) and vacated the EPA regulations implementing Step 2. When effective, this action will authorize the EPA and delegated reviewing authorities to rescind Step 2 PSD permits in response to requests from applicants who can demonstrate that they are eligible for permit rescission.

DATES: This rule is effective on July 6, 2015 without further notice, unless the EPA receives

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adverse comment by June 8, 2015. If the EPA receives adverse comment, they will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. If anyone contacts the EPA requesting to speak at a public hearing by May 18, 2015, the EPA will hold a public hearing on May 22, 2015 in Research Triangle Park, North Carolina.

EPA, [Prevention of Significant Deterioration Permitting for Greenhouse Gases: Providing Option for Rescission of EPA-Issued Tailoring Rule Step 2 Prevention of Significant Deterioration Permits](#)

Proposed rule. The Environmental Protection Agency (EPA) is proposing to amend the federal Prevention of Significant Deterioration (PSD) program regulations to allow for rescission of certain PSD permits issued by the EPA and delegated reviewing authorities under Step 2 of the Prevention of Significant Deterioration and Title V Greenhouse Gas (GHG) Tailoring Rule (Tailoring Rule). EPA is proposing to take this action in order to provide a mechanism for the EPA and delegated reviewing authorities to rescind PSD permits that are no longer required in light of the United States (U.S.) Supreme Court's decision in *Utility Air Regulatory Group (UARG) v. EPA* and the amended appeals court judgment in *Coalition for Responsible Regulation (Coalition) v. EPA*, vacating that rule. These decisions determined that Step 2 of the Tailoring Rule was not required by the Clean Air Act (CAA or Act) and vacated the EPA regulations implementing Step 2. When effective, this action would authorize the EPA and delegated reviewing authorities to rescind Step 2 GHG PSD permits in response to requests from applicants

who can demonstrate that they are eligible for permit rescission. In the "Rules and Regulations" section of this **Federal Register**, we are amending the federal PSD program regulations as a direct final rule without a prior proposed rule. If we receive no adverse comment in response to the direct final rule, EPA will not take further action on this proposed rule.

DATES: Written comments must be received by June 8, 2015.

EPA, [Chemical Substances When Manufactured or Processed as Nanoscale Materials; TSCA Reporting and Recordkeeping Requirements; Notice of Public Meeting](#)

Notice of public meeting. EPA is holding a public meeting during the comment period of the proposed rule that published in the **Federal Register** of April 6, 2015, which involved proposed reporting and recordkeeping requirements for certain chemical substances when they are manufactured or processed at the nanoscale. Specifically, that proposal involves one-time reporting for existing nanoscale materials and one-time reporting for new discrete nanoscale materials before they are manufactured or processed. As stated in that proposed rule, the public meeting will provide an opportunity for further discussion of the proposed requirements and is intended to facilitate comments on all aspects of that proposed rule, especially comments on specific issues as identified in the proposed rule.

DATES: The meeting will be held on June 11, 2015, from 9:00 a.m. to 4:00 p.m. Requests to participate in the meeting must be received on or before June 1, 2015.

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[EPA, New and Revised Emissions Factors for Flares and Other Refinery Process Units and Determination for No Changes to VOC Emissions Factors for Tanks and Wastewater Treatment Systems](#)

Notice of final action. On April 20, 2015, the Environmental Protection Agency (EPA) issued new and revised emission factors for flares and other refinery process units and issued its final determination that revisions to existing emissions factors for tanks and wastewater treatment systems are not necessary. The EPA finalized these actions in compliance with a consent decree entered into with Air Alliance Houston, Community In-Power and Development Association, Inc., Louisiana Bucket Brigade and Texas Environmental Justice Advocacy Services (“Plaintiffs”).

[EPA, Release of Risk and Exposure Assessment Planning Document for the Review of the Primary National Ambient Air Quality Standards for Nitrogen Dioxide](#)

Notice of availability. The Environmental Protection Agency (EPA) is reviewing the primary National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO₂). On or about May 4, 2015, the EPA will make available for public review the document titled *Review of the Primary National Ambient Air Quality Standards for Nitrogen Dioxide: Risk and Exposure Assessment Planning Document* (REA Planning Document). This plan presents considerations and the proposed approach for conducting quantitative analyses of NO₂ exposures or health risks in the current review of the primary NO₂ NAAQS. This planning document is intended to facilitate Clean Air Scientific Advisory

Committee (CASAC) advice and public input in advance of reaching decisions on these quantitative analyses.

DATES: Comments should be received on or before July 3, 2015.

[EPA, Environmental Protection Agency Acquisition Regulation \(EPAAR\); Describing Agency Needs](#)

Direct final rule. The Environmental Protection Agency (EPA) is issuing a direct final rule to address administrative and minor non-substantive changes in four clauses. The direct final rule updates “Monthly Progress Reports”, “Working Files”, “Final Reports”, and “Management Consulting Services”. EPA does not anticipate any adverse comments.

DATES: This rule is effective on July 27, 2015 without further notice, unless adverse comment is received June 25, 2015. If adverse comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register**.

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