



SMG Reg Watch

August 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:

- [Local Limits](#)
- [Whitney to Speak at Alliance of Hazardous Materials Professionals National Conference](#)
- [The Rise of Consent Decrees](#)
- [Start Ups, Shut Downs, and Upsets](#)

- [New Regulations and Programs - Making Sense of It All](#)
- [Tennessee Tests a New Silt Fence Product](#)

State Regulation Review

Kentucky Division of Water has filed a notice of proposed changes to Kentucky Water Quality Standards in association with its Triennial Review process. Below is the public notice and proposed changes. Comments are due by September 30, 2015.

- Public Notice for 401 KAR Chapter 10
- 401 KAR 10:026 (Designation of Uses of Surface Waters)
- 401 KAR 10:029 (General Provisions)
- 401 KAR 10:030 (Antidegradation Policy Implementation Methodology)
- 401 KAR 10:031 (Surface Water Standards)
- Supplement to 401 KAR 10:026 – Outstanding State Resource Waters
- Supplement to 401 KAR 10:030 – Exceptional Waters
- 2015 Proposed Outstanding State Resource Water maps

Federal Regulation Review

OSHA, [Occupational Exposure to Beryllium and Beryllium Compounds](#)

Proposed rule; request for comments. The Occupational Safety and Health Administration (OSHA) proposes to amend its existing exposure limits for occupational exposure in general industry to beryllium and beryllium compounds and promulgate a substance-specific standard for general industry regulating occupational exposure to beryllium and beryllium

compounds. This document proposes a new permissible exposure limit (PEL), as well as ancillary provisions for employee protection such as methods for controlling exposure, respiratory protection, medical surveillance, hazard communication, and recordkeeping. In addition, OSHA seeks comment on a number of alternatives, including a lower PEL, that could affect construction and maritime, as well as general industry.

DATES: *Written comments.* Written comments, including comments on the information collection determination described in Section IX of the preamble (OMB Review under the Paperwork Reduction Act of 1995), must be submitted (postmarked, sent, or received) by November 5, 2015.

EPA, [Approval and Promulgation of Implementation Plans; Kentucky: New Sources in or Impacting Nonattainment Areas](#)

Proposed rule. The Environmental Protection Agency (EPA) is proposing to approve the Commonwealth of Kentucky's September 23, 2011, State Implementation Plan (SIP) revision, submitted through the Kentucky Division for Air Quality (KY DAQ), which modifies the SIP by making changes to Kentucky regulation, "*Review of new sources in or impacting upon nonattainment areas.*" EPA has preliminarily determined that Kentucky's requested SIP revision meets the applicable provisions of the Clean Air Act (CAA or Act) and EPA regulations regarding Nonattainment New Source Review (NNSR) permitting.

DATES: Written comments must be received on or before September 10, 2015.

EPA, [Phosphoric Acid Manufacturing and Phosphate Fertilizer Production RTR and Standards of Performance for Phosphate Processing](#)

Final rule. This action finalizes the residual risk and technology review conducted for the Phosphoric Acid Manufacturing and Phosphate Fertilizer Production source categories regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, this action finalizes an 8-year review of the current new source performance standards (NSPS) for five source categories. We are also taking final action addressing Clean Air Act (CAA) provisions related to emission standards for hazardous air pollutants, review and revision of emission standards, and work practice standards. The final amendments to the Phosphoric Acid Manufacturing NESHAP include: Numeric emission limits for previously unregulated mercury (Hg) and total fluoride emissions from calciners; work practice standards for hydrogen fluoride (HF) emissions from previously unregulated gypsum dewatering stacks and cooling ponds; clarifications to the applicability and monitoring requirements to accommodate process equipment and technology changes; removal of the exemptions for startup, shutdown, and malfunction (SSM); adoption of work practice standards for periods of startup and shutdown; and revised recordkeeping and reporting requirements for periods of SSM. The final amendments to the Phosphate Fertilizer Production NESHAP include: Clarifications to the applicability and monitoring requirements to accommodate process equipment and technology changes; removal of the exemptions for SSM; adoption of work practice standards for

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periods of startup and shutdown; and revised recordkeeping and reporting requirements for periods of SSM. The revised NESHAP for Phosphoric Acid Manufacturing facilities will mitigate future increases of Hg emissions from phosphate rock calciners by requiring pollution prevention measures. Further, based on the 8-year review of the current NSPS for these source categories, the EPA determined that no revisions to the numeric emission limits in those rules are warranted.

DATES: This final action is effective on August 19, 2015. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 19, 2015.

[EPA, Prevention of Significant Deterioration and Title V Permitting for Greenhouse Gases: Removal of Certain Vacated Elements](#)

Final rule. The Environmental Protection Agency (EPA) is amending its Prevention of Significant Deterioration (PSD) and title V regulations to remove from the Code of Federal Regulations portions of those regulations that were initially promulgated in 2010 and that the Court of Appeals for the District of Columbia Circuit (D.C. Circuit) specifically identified as vacated in the April 10, 2015, amended judgment, *Coalition for Responsible Regulation v. EPA*. This action is exempt from notice and comment rulemaking because it is ministerial in nature.

DATES: This rule is effective on August 19, 2015.

[OSHA, Hazardous Waste Operations and Emergency Response \(HAZWOPER\) Standard; Extension of the Office of Management and](#)

[Budget's \(OMB\) Approval of Information Collection \(Paperwork\) Requirements](#)

Request for public comments. OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard (29 CFR 1910.120).

DATES: Comments must be submitted (postmarked, sent, or received) by October 19, 2015.

[EPA, Water Quality Standards Regulatory Revisions](#)

Final rule. EPA updates the federal water quality standards (WQS) regulation to provide a better-defined pathway for states and authorized tribes to improve water quality and protect high quality waters. The WQS regulation establishes a strong foundation for water quality management programs, including water quality assessments, impaired waters lists, and total maximum daily loads, as well as water quality-based effluent limits in National Pollutant Discharge Elimination System (NPDES) discharge permits. In this rule, EPA is revising six program areas to improve the WQS regulation's effectiveness, increase transparency, and enhance opportunities for meaningful public engagement at the state, tribal and local levels. Specifically, in this rule EPA: Clarifies what constitutes an Administrator's determination that new or revised WQS are necessary; refines how states and authorized tribes assign and revise designated uses for individual water bodies; revises the triennial review requirements to clarify the role of new or updated Clean Water

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Act (CWA) section 304(a) criteria recommendations in the development of WQS by states and authorized tribes, and applicable WQS that must be reviewed triennially; establishes stronger antidegradation requirements to enhance protection of high quality waters and promotes public transparency; adds new regulatory provisions to promote the appropriate use of WQS variances; and clarifies that a state or authorized tribe must adopt, and EPA must approve, a permit compliance schedule authorizing provision prior to authorizing the use of schedules of compliance for water quality-based effluent limits (WQBELs) in NPDES permits. In total, these revisions to the WQS regulation enable states and authorized tribes to more effectively address complex water quality challenges, protect existing water quality, and facilitate environmental improvements. The final rule also leads to better understanding and proper use of available CWA tools by promoting transparent and engaged public participation. This action finalizes the WQS regulation revisions initially proposed by EPA on September 4, 2013.

DATES: This final rule is effective on October 20, 2015.

EPA, [Data Requirements Rule for the 2010 1-Hour Sulfur Dioxide \(SO₂\) Primary National Ambient Air Quality Standard \(NAAQS\)](#)

Final rule. The Environmental Protection Agency (EPA) is promulgating a rule directing state and tribal air agencies (air agencies) to provide data to characterize current air quality in areas with large sources of sulfur dioxide (SO₂) emissions to identify maximum 1- hour SO₂ concentrations in ambient air. The final rule establishes minimum

criteria for identifying the emissions sources and associated areas for which air agencies are required to characterize SO₂ air quality. Air agencies remain free to also characterize air quality in additional areas beyond those required to be characterized under the rule. The final rule also sets forth a process and timetables by which air agencies must characterize air quality through ambient monitoring and/or air quality modeling techniques and submit such data to the EPA. The EPA has issued separate nonbinding draft technical assistance documents recommending how air agencies should conduct such monitoring or modeling. The air quality data developed by air agencies pursuant to this rule may be used by the EPA in future actions to evaluate areas' air quality under the 2010 1-hour SO₂ National Ambient Air Quality Standard (NAAQS), including area designations and redesignations, as appropriate. **DATES:** This final rule is effective on September 21, 2015.

EPA, [Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills](#)

Proposed rule. The Environmental Protection Agency (EPA) is proposing a new subpart that updates the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (Emission Guidelines). The EPA determined that it was appropriate to review the landfills Emission Guidelines based on changes in the landfills industry since the Emission Guidelines were promulgated in 1996. The EPA's review of the Emission Guidelines for municipal solid waste (MSW) landfills applies to landfills that accepted waste after November 8, 1987, and commenced construction, reconstruction,

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or modification on or before July 17, 2014. Based on its initial review, the EPA has determined that it is appropriate to propose revisions to the Emission Guidelines that reflect changes to the population of landfills and the results of an analysis of the timing and methods for reducing emissions. This action proposes to achieve additional reductions of landfill gas (LFG) and its components, including methane, by lowering the emissions threshold at which a landfill must install controls. This action also incorporates new data and information received in response to an advanced notice of proposed rulemaking and addresses other regulatory issues including surface emissions monitoring, wellhead monitoring, and the definition of landfill gas treatment system. In addition to considering information received in response to this proposed rule in evaluating potential changes to the Emission Guidelines, the EPA intends to consider the information in evaluating whether changes to the requirements for new sources beyond those in the July 17, 2014, proposed rule for new sources are warranted. The proposed revisions to the Emission Guidelines, once implemented through revised state plans or a revised federal plan, would reduce emissions of LFG, which contains both nonmethane organic compounds and methane. Landfills are a significant source of methane which is a potent greenhouse gas (GHG) pollutant. These avoided emissions will improve air quality and reduce public health and welfare effects associated with exposure to landfill gas emissions.

DATES: *Comments.* Comments must be received on or before October 26, 2015. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best

assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before September 28, 2015.

EPA, [Standards of Performance for Municipal Solid Waste Landfills](#)

Supplemental proposal. The Environmental Protection Agency (EPA) is issuing this supplemental proposal for the Standards of Performance for Municipal Solid Waste (MSW) Landfills to address the nonmethane organic compound (NMOC) emission rate threshold at which an affected MSW landfill must install controls. The EPA is in the process of reviewing the Standards of Performance for MSW Landfills based on changes in the landfills industry since the standards were promulgated in 1996 and issued a proposed rulemaking on July 17, 2014. The EPA's review of the Standards of Performance for MSW Landfills (also referred to as the New Source Performance Standards or NSPS for MSW Landfills) applies to landfills that commenced construction, reconstruction, or modification after July 17, 2014. This document proposes to achieve additional reductions of landfill gas (LFG) and its components, including methane, through a lower emission threshold at which MSW landfills must install and operate a gas collection and control system (GCCS). This document supplements the proposed July 17, 2014, rulemaking by further lowering, from 40 megagrams per year (Mg/yr) to 34 Mg/yr, the proposed NMOC emissions threshold at which controls would be required. This change to the 2014 proposed threshold is based on additional data we have reviewed that indicate greater potential for reductions in methane emissions

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from these sources than we originally estimated that can be achieved at reasonable cost. Accordingly, the EPA is proposing to establish the NMOC emission rate threshold for installing a GCCS at 34 Mg/yr and is requesting comment specifically on whether this is appropriate. The EPA is also soliciting comment on the number of facilities that might ultimately become subject to proposed new subpart XXX. The EPA intends to consider the information received in response to this supplemental proposal prior to finalizing revised Standards of Performance for MSW Landfills. The EPA is seeking comment only on the two issues addressed by this supplemental proposal and the supplemental proposal does not otherwise reopen the comment period for the July 17, 2014, proposed rule.

DATES: Comments. Comments must be received on or before October 26, 2015. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before September 28, 2015.

EPA, [Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas Classified as Marginal for the 2008 Ozone National Ambient Air Quality Standards](#)

Proposed rule. The Environmental Protection Agency (EPA) is proposing three separate and independent determinations related to the 36 areas that are currently classified as “Marginal” for the 2008 ozone National Ambient Air Quality Standards (NAAQS). First, the EPA is proposing to determine that 17 areas attained the 2008 ozone

NAAQS by the applicable attainment date of July 20, 2015, based on complete, quality-assured and certified ozone monitoring data for 2012–2014. Second, the EPA is proposing to grant 1-year attainment date extensions for eight areas on the basis that the requirements for such extensions under the Clean Air Act (CAA or Act) have been met. Third, the EPA is proposing to determine that 11 areas failed to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015, and that they are not eligible for an extension, and to reclassify these areas as “Moderate” for the 2008 ozone NAAQS. Once reclassified as Moderate, states must submit State Implementation Plan (SIP) revisions that meet the statutory and regulatory requirements that apply to 2008 ozone NAAQS nonattainment areas classified as Moderate. In this action, the EPA is proposing and taking comment on two options for the deadline by which states would need to submit to the EPA for review and approval the SIP revisions required for Moderate areas once their areas are reclassified.

EPA, [Source Determination for Certain Emission Units in the Oil and Natural Gas Sector; Oil and Natural Gas Sector: Emission Standards for New and Modified Sources; and Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions From True Minor Sources Engaged in Oil and Natural Gas Production in Indian Country](#)

Proposed rule; notice of public hearings. The Environmental Protection Agency (EPA) is announcing three public hearings to be held for three proposed rules titled, “Source Determination for Certain Emission Units in the

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Oil and Natural Gas Sector,” “Oil and Natural Gas Sector: Emission Standards for New and Modified Sources,” and “Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Natural Gas Production in Indian Country.” Two hearings will be held on September 23, 2015, simultaneously— one in Denver, CO, and one in Dallas, TX. One hearing will be on September 29, 2015, in Pittsburgh, PA.

DATES: Two public hearings will be held at different locations on September 23, 2015, and one public hearing will be held on September 29, 2015.

EPA, [Creation of a New System of Records](#)
Notice: Eventbrite

Notice. The U.S. Environmental Protection Agency’s (EPA) Office of the Chief Financial Officer is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). This system of records contains personally identifiable information (PII) collected from individuals registering to attend EPA-hosted meetings and events.

DATES: Persons wishing to comment on this system of records notice must do so by October 7, 2015.

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