



SMG Reg Watch

September 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

Scott R. Smith, scottr.smith@smithmanage.com or koria@smithmanage.com

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:

- [Important Upcoming Dates for GHS Compliance](#)
- [Free Emergency Response Planning Opportunity](#)
- [Proposed Species De-Listing in Eastern Kentucky](#)

- [September is National Preparedness Month: Are you and your Company Ready?](#)
- [What Does a Harmful Algal Bloom Advisory Mean for Numeric Nutrient Water Quality Standards?](#)
- [ISO Updates their Environmental Management Systems Standard ISO 14001:2015](#)
- [Water Quality Sleuths: Hot on the Trail for E. coli, B-theta fecal bacteria](#)
- [Underground Storage Tank Regulation Update](#)
- [Lexington Has A New Stormwater Permit](#)
- [Don't Let Clean Water Act Complacency Get You in Trouble](#)
- [Proposed Changes to the EPA RCRA Hazardous Waste Generator Rules](#)
- [Safe Drinking Water Act Amended to \(Indirectly\) Address Nutrients](#)
- [Local Limits](#)
- [Final Update V Released](#)
- [US Fish & Wildlife Service Petition for Listing Butterflies and Bees in Kentucky](#)
- [Net DMR News!](#)

State 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 were due by September 30, 2015. We are awaiting response to comments and final rules.

-  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, [The Lead in Construction 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 contained in the Lead in Construction Standard (29 CFR 1926.62).

DATES: [Comments must be submitted \(postmarked, sent, or received\) by November 23, 2015.](#)

EPA/Department of Transportation, [Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles— Phase 2; Extension of Comment Period](#)

Proposed rule; extension of comment period. The Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) are extending the comment period for the joint proposed rules "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles— Phase 2," and also for NHTSA's Draft Environmental Impact Statement (DEIS). The proposed rules were published in the **Federal Register** on July 13, 2015. The comment

period for the proposed rules was to end on September 17, 2015. The DEIS was published to a NHTSA Docket on June 19, 2015, and the comment period for that document was to end on August 31, 2015. The purpose of this action is to extend the comment period for the proposed rules and the DEIS to October 1, 2015.

DATES: The comment period for the proposed rule published July 13, 2015 (80 FR 40139) is extended. Written comments for both documents must be received on or before October 1, 2015.

DEPARTMENT OF HOMELAND SECURITY/
DEPARTMENT OF AGRICULTURE/ DEPARTMENT
OF ENERGY/ NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION/DEPARTMENT OF
COMMERCE/ SOCIAL SECURITY
ADMINISTRATION/ AGENCY FOR
INTERNATIONAL DEVELOPMENT/
DEPARTMENT OF JUSTICE/ DEPARTMENT OF
LABOR/ DEPARTMENT OF DEFENSE/
DEPARTMENT OF EDUCATION/ DEPARTMENT
OF VETERANS AFFAIRS/ ENVIRONMENTAL
PROTECTION AGENCY/ DEPARTMENT OF
HEALTH AND HUMAN SERVICES/ NATIONAL
SCIENCE FOUNDATION/ DEPARTMENT OF
TRANSPORTATION. [Federal Policy for the Protection of Human Subjects](#)

Notice of proposed rulemaking. The departments and agencies listed in this document propose revisions to modernize, strengthen, and make more effective the Federal Policy for the Protection of Human Subjects that was promulgated as a Common Rule in 1991. This NPRM seeks comment on proposals to better protect human subjects involved in research, while facilitating valuable research and reducing burden, delay, and ambiguity for investigators. This proposed rule is an effort to modernize, simplify, and enhance the current system of oversight. The participating departments and agencies propose these revisions to the human subject's regulations because they believe these changes would

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



strengthen protections for research subjects while facilitating important research.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on December 7, 2015.

EPA, [Revisions to Test Methods, Performance Specifications, and Testing Regulations for Air Emission Sources](#)

Proposed rule. This action proposes technical and editorial corrections and revisions to regulations related to source testing of emissions. This proposed rule will make corrections and updates to testing provisions that contain inaccuracies and outdated procedures, and provide alternatives to existing testing regulations. These revisions will improve the quality of data and provide testers flexibility to use recently approved alternative procedures. Many of these changes were suggested by testers and other end-users, and they will not impose new substantive requirements on source owners or operators.

DATES: Comments must be received on or before November 9, 2015.

EPA, [Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Petroleum Dry Cleaners \(Renewal\)](#)

Notice. The Environmental Protection Agency has submitted an information collection request (ICR), “NSPS for Petroleum Dry Cleaners (40 CFR part 60, subpart JJJ) (Renewal)” (EPA ICR No. 0997.11, OMB Control No. 2060–0079), 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 proposed extension of the ICR, which is currently approved through September 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment

period. This notice allows for an additional 30 days for public comments.

DATES: Additional comments may be submitted on or before October 13, 2015.

EPA, [Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Publicly Owned Treatment Works \(Renewal\)](#)

Notice. The Environmental Protection Agency has submitted an information collection request (ICR), “NESHAP for Publicly Owned Treatment Works (40 CFR part 63, subpart VVV) (Renewal)” (EPA ICR No. 1891.07, OMB Control No. 2060–0428), 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 proposed extension of the ICR, which is currently approved through September 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Additional comments may be submitted on or before October 13, 2015.

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

Notice of data availability (NODA). The Environmental Protection Agency (EPA) is providing notice of the availability of preliminary lists of units eligible for allocations of emission allowances under the Cross-State Air Pollution Rule (CSAPR). Under the CSAPR federal implementation plans (FIPs), portions of each covered state’s annual emissions budgets for each of the four CSAPR emissions trading programs are reserved for allocation to electricity generating units that commenced commercial operation on or after January 1, 2010 (new units) and certain other units not otherwise obtaining allowance allocations under the FIPs. The quantities of allowances allocated

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



to eligible units from each new unit set aside (NUSA) under the FIPs are calculated in an annual one- or two round allocation process. EPA previously completed the first round of NUSA allowance allocations for the 2015 control periods for all four CSAPR trading programs and is now making available preliminary lists of units eligible for allocations in the second round of the NUSA allocation process for the CSAPR NOX Ozone Season Trading Program. EPA has posted a spreadsheet containing the preliminary lists on EPA's Web site. EPA will consider timely objections to the lists of eligible units contained in the spreadsheet and will promulgate a document responding to any such objections no later than November 15, 2015, the deadline for recording the second-round allocations of CSAPR NOX Ozone Season allowances in sources' Allowance Management System accounts. This notice of availability may concern CSAPR affected units in the following states: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, **Kentucky**, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

DATES: Objections to the information referenced in this notice of availability must be received on or before October 14, 2015.

[EPA, Public Comment on EPA's National Enforcement Initiatives for Fiscal Years 2017–2019](#)

Notice of public comment period. The Environmental Protection Agency (EPA) is soliciting public comment and recommendations on national enforcement initiatives (NEI) for fiscal years 2017–2019. EPA selects these initiatives every three years in order to focus federal resources on the most important environmental problems where noncompliance is a significant contributing factor and where federal enforcement attention can make a difference. The current initiatives as well as

potential new initiatives under consideration are described in the **hyperlinked document under SUPPLEMENTARY INFORMATION**, with additional descriptions and data on current initiatives available at: <http://www2.epa.gov/enforcement/national-enforcementinitiatives>.

DATES: Comments must be received on or before October 14, 2015.

[Fish & Wildlife Service, Endangered and Threatened Wildlife and Plants; Threatened Species Status for *Platanthera integrilabia* \(White Fringeless Orchid\)](#)

Proposed rule. The U.S. Fish and Wildlife Service (Service), propose to list *Platanthera integrilabia* (white fringeless orchid), a plant species from Alabama, Georgia, Kentucky, Mississippi, South Carolina, and Tennessee, as a threatened species under the Endangered Species Act (Act). If the Service finalizes this rule as proposed, it would extend the Act's protections to this species.

DATES: The Service will accept comments received or postmarked on or before November 16, 2015.

[EPA, Agency Information Collection Activities; Proposed Collection; Comment Request; Standardized Permit for RCRA Hazardous Waste Management Facilities](#)

Notice. The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Standardized Permit for RCRA Hazardous Waste Management Facilities (EPA ICR No. 1935.05, OMB Control No. 2050–0182) 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 January 31, 2016. An Agency may not conduct or sponsor and a person is not required to respond

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before November 16, 2015.

EPA, [Source Determination for Certain Emission Units in the Oil and Natural Gas Sector](#)

Proposed rule. The U.S. Environmental Protection Agency (EPA) is proposing to clarify the term “adjacent” in the definitions of: “building, structure, facility or installation” used to determine the “stationary source” for purposes of the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) programs and “major source” in the title V program as applied to the oil and natural gas sector. The EPA has previously issued guidance on how to assess “adjacency” for this industry, but the use of the guidance has been challenged, resulting in uncertainty for the regulated community and for permitting authorities. The EPA is proposing to clarify how properties in the oil and natural gas sector are determined to be adjacent in order to assist permitting authorities and permit applicants in making consistent source determinations for this sector. In this action, the EPA is proposing two options for determining whether two or more properties in the oil and natural gas sector are “adjacent” for purposes of defining the “stationary source” in the PSD and NNSR programs, and “major source” for the title V program (referred to collectively as “source”). The preferred option would define “adjacent” for the oil and natural gas sector in terms of proximity. The EPA is co proposing and taking comment on an alternative option to define “adjacent” in terms of proximity or functional interrelatedness.

DATES: Comments. Comments must be received on or before November 17, 2015. *Public Hearing.* The EPA will hold public hearings on the proposal. Details will be announced in a separate document.

EPA, [Oil and Natural Gas Sector: Emission Standards for New and Modified Sources](#)

Proposed rule. This action proposes to amend the new source performance standards (NSPS) for the oil and natural gas source category by setting standards for both methane and volatile organic compounds (VOC) for certain equipment, processes and activities across this source category. The Environmental Protection Agency (EPA) is including requirements for methane emissions in this proposal because methane is a greenhouse gas (GHG), and the oil and natural gas category is currently one of the country’s largest emitters of methane. In 2009, the EPA found that by causing or contributing to climate change, GHGs endanger both the public health and the public welfare of current and future generations. The EPA is proposing both methane and VOC standards for several emission sources not currently covered by the NSPS and proposing methane standards for certain emission sources that are currently regulated for VOC. The proposed amendments also extend the current VOC standards to the remaining unregulated equipment across the source category and additionally establish methane standards for this equipment. Lastly, amendments to improve implementation of the current NSPS are being proposed which result from reconsideration of certain issues raised in petitions for reconsideration that were received by the administrator on the August 16, 2012, final NSPS for the oil and natural gas sector and related amendments. Except for the implementation improvements and the setting of standards for methane, these amendments do not change the requirements for operations already covered by the current standards.

DATES: Comments. Comments must be received on or before November 17, 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 November 17,

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



2015. The EPA will hold public hearings on the proposal. Details will be announced in a separate announcement.

EPA, [Release of Draft Control Techniques Guidelines for the Oil and Natural Gas Industry Notice of availability](#). The Environmental Protection Agency (EPA) is announcing the availability of a draft Control Techniques Guidelines (CTG) document for select oil and natural gas industry emission sources. This document, when finalized, will provide state, local, and tribal air agencies (air agencies) information to assist them in determining reasonably available control technology (RACT) for volatile organic compound (VOC) emissions from such sources.

DATES: Comments must be received on or before November 17, 2015.

EPA, [Proposed Information Collection Request; Comment Request; EPA Strategic Plan Information on Source Water Protection](#)

Notice. The U.S. Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), “EPA Strategic Plan Information on Source Water Protection” (EPA ICR No. 1816.06, OMB Control No. 2040–0197) 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, EPA is soliciting public comments on specific aspects of the proposed information collection as described in this renewal notice. This is a proposed extension of the existing ICR, which is 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 November 17, 2015.

EPA, [Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Criteria for Classification of Solid Waste Disposal Facilities and Practices \(Renewal\)](#)

Notice. The Environmental Protection Agency has submitted an information collection request (ICR), “Criteria for Classification of Solid Waste Disposal Facilities and Practices (Renewal)” (EPA ICR No. 1745.08, OMB Control No. 2050–0154) 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 proposed extension of the ICR, which is currently approved through September 30, 2015. Public comments were previously requested via the **Federal Register** (80 FR 34154) on June 15, 2015 during a 60- day comment period. This notice allows for an additional 30 days for public comments. A more full description of the ICR is given below, including its 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 October 21, 2015.

EPA, [Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Municipal Solid Waste Landfills \(Renewal\)](#)

Notice. The Environmental Protection Agency has submitted an information collection request (ICR), “NESHAP for Municipal Solid Waste Landfills (40 CFR part 63, subpart AAAA) (Renewal)” (EPA ICR No. 1938.06, OMB Control No. 2060–0505) 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 proposed extension of the ICR, which is currently approved through September 30, 2015. Public comments were previously requested via the **Federal**

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



Register (79 FR 30117) on May 27, 2014 during a 60- day comment period. This notice allows for an additional 30 days for public comments. A more full description of the ICR is given below, including its 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 October 21, 2015.

[EPA, Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing \(Renewal\)](#)

Notice. The Environmental Protection Agency has submitted an information collection request (ICR), “NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (40 CFR part 63, subpart LLLLL) (Renewal)” (EPA ICR No. 2029.06, OMB Control No. 2060–0520), 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 proposed extension of the ICR, which is currently approved through September 30, 2015. Public comments were previously requested, via the **Federal Register** (79 FR 30117) on May 27, 2014, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A more full description of the ICR is given below, including its 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 October 21, 2015.

[EPA, Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Oil and Natural Gas Production and Natural Gas Transmission and Distribution \(Renewal\)](#)

Notice. The Environmental Protection Agency has submitted an information collection request (ICR), “NSPS for Oil and Natural Gas Production and Natural Gas Transmission and Distribution (40 CFR part 60, subpart OOOO) (Renewal)” (EPA ICR No. 2437.03, OMB Control No. 2060–0673) 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 proposed extension of the ICR, which is currently approved through September 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60- day comment period. This notice allows for an additional 30 days for public comments.

DATES: Additional comments may be submitted on or before October 21, 2015.

[EPA, Air Plan Approval; KY; Emissions Statements for the 2008 8-Hour Ozone NAAQS](#)

Proposed rule. The Environmental Protection Agency (EPA) is proposing to approve the portion of a draft state implementation plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Kentucky Division of Air Quality (DAQ) on April 15, 2015, for parallel processing, that addresses the emissions statement requirements for Kentucky’s portion of the Cincinnati, Ohio-Kentucky-Indiana (Cincinnati, OH-KY-IN) 2008 8-hour ozone national ambient air quality standards (NAAQS) nonattainment area (hereinafter referred to as the “Cincinnati, OH-KY-IN Area” or “Area”). Annual emissions reporting (*i.e.*, emissions statements) is required for all ozone nonattainment areas. The Area is comprised of Butler, Clermont, Clinton, Hamilton and Warren Counties in Ohio; portions of Boone, Campbell, and Kenton Counties in Kentucky; and a portion of Dearborn County in Indiana. EPA will consider and take action on the Ohio and Indiana submissions addressing the emissions statements requirements for their portions of this Area in separate actions. This action is being

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



taken pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

EPA, Extension of Request for Scientific Views on the Draft Aquatic Life Ambient Water Quality Criterion for Selenium—Freshwater 2015

Notice; extension of comment period. The Environmental Protection Agency (EPA) is extending the comment period for the Agency's draft recommended aquatic life water quality chronic criterion for selenium in freshwater. The draft criterion was announced in a July 27, 2015 notice entitled "Request for Scientific Views: Draft Recommended Aquatic Life Ambient Water Quality Chronic Criterion for Selenium—Freshwater 2015." In response to stakeholder requests, EPA is extending the period of time in which the Agency will accept scientific views for an additional 15 days.

DATES: Comments must be received on or before October 10, 2015. Scientific views postmarked after this date may not receive the same consideration. The comment period was originally scheduled to end on September 25, 2015.

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax

