



SMG Reg Watch

January 2016 / 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:

- [Proposed Cross-State Air Pollution Rule Update: Impacts to Kentucky](#)
- [LOCAL LIMITS: Collection and Analysis of Data](#)

- [USEPA Accused of its 'Covert Propaganda' violating Federal Law](#)
- [Chicago's Giant Overflow Basin](#)
- [Local Limits](#)
- [Kentucky's 2016 Future City Competition](#)
- [Flint's Water Crisis - An Environmental Professional's Perspective](#)

As the legislative session begins, watch for our Legislative Updates which are posted on our website.

State Review

Administrative Regulations Reviewed by the Administrative Regulation Review Subcommittee:

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division for Air Quality: New Source Standards

[401 KAR 59:174](#). Stage II controls at gasoline dispensing facilities.

On January 11, 2016, A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 7, 9, 10, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Federal Regulation Review

[EPA, Announcement of Final Regulatory Determinations for Contaminants on the Third Drinking Water Contaminant Candidate List](#)

Final regulatory determinations. The U.S. Environmental Protection Agency (EPA) is announcing final regulatory determinations not to issue national primary drinking water regulations for four of the 116 contaminants listed on the Third Contaminant Candidate List. The Safe Drinking Water Act, as amended in 1996, requires the EPA to make regulatory determinations every five years on at least five unregulated contaminants. A regulatory determination is a decision about whether or not to begin the process to propose and promulgate a national primary drinking water regulation for an unregulated contaminant. On October 20, 2014, the agency published its preliminary determinations not to regulate dimethoate, 1,3-dinitrobenzene, terbufos, terbufos sulfone and begin the process to regulate strontium. The agency requested public comment on the determinations, process, rationale and supporting technical information. The agency received comments from 14 individuals or organizations on the preliminary regulatory determinations. After careful review and consideration of the public comments, the agency is making a final determination not to regulate dimethoate, 1,3-dinitrobenzene, terbufos and terbufos sulfone. The agency, however, is delaying the final regulatory determination on strontium in order to consider additional data and decide whether there is a meaningful opportunity for health risk

reduction by regulating strontium in drinking water.

DATES: In accordance with 40 CFR 23.7 for purposes of judicial review, the regulatory determinations in this document are issued as of January 4, 2016.

[EPA, National Pollutant Discharge Elimination System \(NPDES\) Municipal Separate Storm Sewer System General Permit Remand](#)

Proposed rule. The Environmental Protection Agency (EPA) is proposing changes to the regulations governing small municipal separate storm sewer system (MS4) permits to respond to a remand from the United States Court of Appeals for the Ninth Circuit in *Environmental Defense Center, et al. v. EPA*, 344 F.3d 832 (9th Cir. 2003). In that decision, the court determined that the regulations for providing coverage under small MS4 general permits did not provide for adequate public notice and opportunity to request a hearing. Additionally, the court found that EPA failed to require permitting authority review of the best management practices (BMPs) to be used at a particular MS4 to ensure that the small MS4 permittee reduces pollutants in the discharge from their systems to the “maximum extent practicable” (MEP), the standard established by the Clean Water Act for such permits. EPA’s proposal would revise the small MS4 regulations to ensure that the permitting authority determines the adequacy of BMPs and other requirements and provides public notice and the opportunity to request a public hearing on the requirements for each MS4. The proposal would not establish any new substantive requirements for small MS4s.

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



DATES: Comments must be received on or before March 21, 2016.

EPA, [Notice of Availability of Draft Guidelines for Human Exposure Assessment](#)

Notice of availability for public comment. The Environmental Protection Agency (EPA) is announcing a 45-day public comment period for the External Review Draft of the “Guidelines for Human Exposure Assessment.” EPA is seeking public comment prior to external peer review. The document will undergo review during an expert peer review meeting, which will be convened, organized, and conducted by an independent contractor. The date and location of the peer review meeting will be announced in a subsequent Federal Register notice. All comments received in the docket by the closing date February 22, 2016 will be shared with the peer review panel for their consideration. Comments received after the close of the comment period may be considered by EPA when it finalizes the document. Members of the public may obtain the draft guidance at <http://www.regulations.gov>; or www.epa.gov/osa/guidelines-human-exposureassessment or from Dr. Michael Broder via the contact information below.

DATES: All comments received in the docket by February 22, 2016 will be shared with the external peer review panel for their consideration. Comments received beyond that time may be considered by EPA when it finalizes the document.

Fish & Wildlife Service, [Endangered and Threatened Wildlife and Plants; 4\(d\) Rule for the Northern Long-Eared Bat](#)

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

Final rule. The U.S. Fish and Wildlife Service (Service), finalizes a rule under authority of section 4(d) of the Endangered Species Act of 1973 (Act), as amended, that provides measures that are necessary and advisable to provide for the conservation of the northern long-eared bat (*Myotis septentrionalis*), a bat species that occurs in 37 States, the District of Columbia, and 13 Canadian Provinces. **DATES:** This rule is effective February 16, 2016.

EPA, [2015 Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule](#)

Proposed rule; grant of reconsideration. The Environmental Protection Agency (EPA) is proposing to amend specific provisions in the Greenhouse Gas Reporting Rule to streamline and improve implementation of the rule, to improve the quality and consistency of the data collected under the rule, and to clarify or provide minor updates to certain provisions that have been the subject of questions from reporting entities. This action also proposes confidentiality determinations for the reporting of certain data elements to the program. This action also proposes action in response to a petition to reconsider specific aspects of the Greenhouse Gas Reporting Rule.

DATES: Comments must be received on or before February 29, 2016.

Federal Energy Regulatory Commission. [Standards for Business Practices of Interstate Natural Gas Pipelines](#)

Proposed rule; request for comment on filing. Take notice that on January 11,



2016, the North American Energy Standards Board (NAESB) filed a report with the Commission stating it had approved a minor correction to Standard No. 1.3.22 (ii) of Version 3.0 of the NAESB Wholesale Gas Quadrant standards, which were incorporated by reference in the Commission's regulations by order issued by the Commission on October 16, 2015. Comments are invited on whether to incorporate this minor correction by reference in the Commission's regulations. **DATES:** Comments are due on or before February 10, 2016.

EPA, [Oil and Natural Gas Sector: National Emission Standards for Hazardous Air Pollutants; Extension of Comment Period Request for information; extension of comment period.](#) On November 27, 2015, the Environmental Protection Agency (EPA) requested information related to hazardous air pollutant emissions from sources in the oil and natural gas production and natural gas transmission and storage segments of the oil and natural gas sector. The deadline to respond to our request was January 26, 2016. In response to requests from several stakeholders, the EPA is extending the period to respond to our request for information to March 11, 2016.

DATES: The public comment period for the request for information published in the Federal Register on November 27, 2015 (80 CFR 74068), is being extended. Written comments must be received on or before March 11, 2016.

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

Final rule. The Environmental Protection Agency (EPA) is taking final action to approve the state implementation plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Kentucky Division of Air Quality (DAQ) on November 18, 2015, to address the emissions statements requirement for the Commonwealth's portion of the Cincinnati, Ohio Kentucky-Indiana (Cincinnati, OH-KY-IN) 2008 8-hour ozone national ambient air quality standards (NAAQS) nonattainment area (hereafter 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. Any actions that EPA takes regarding the emissions statements requirements for the Ohio and Indiana portions of this Area will be addressed in separate rulemakings.

DATES: This rule is effective February 29, 2016.

EPA, [Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems](#)

Proposed rule. The EPA is proposing revisions and confidentiality determinations for the petroleum and natural gas systems source category of the Greenhouse Gas Reporting Program (GHGRP). In particular, the EPA is proposing to add new monitoring methods for detecting leaks from oil and gas equipment in the petroleum and natural

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



gas systems source category consistent with the leak detection methods in the recently proposed new source performance standards (NSPS) for the oil and gas industry. The EPA is also proposing to add emission factors for leaking equipment to be used in conjunction with these monitoring methods to calculate and report greenhouse gas (GHG) emissions resulting from equipment leaks. Further, the EPA is proposing reporting requirements and confidentiality determinations for nine new or substantially revised data elements. DATES: Comments. Comments must be received on or before February 29, 2016. 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 February 29, 2016.

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

