

Legislative and Regulatory Outlook

Federal and State EH&S Update

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President Obama's Environmental Priorities



- Build a foundation for a clean energy economy
- Tackle Climate Change
- Protect the Environment



President Obama's Environmental Priorities



- August 3 – Final rule limiting carbon pollution from existing power plants (reduce carbon dioxide emissions by 32 percent from 2005 levels by 2030)
- July 2 – Final rule curbing the use of the potent greenhouse gases known as hydrofluorocarbons (HFCs) under the Significant New Alternatives Policy (SNAP) program
- May 27 – Final Clean Water Act rule
- April – Safe Drinking Water Dashboard implemented at EPA
- In general, solar power has doubled since President Obama took office.

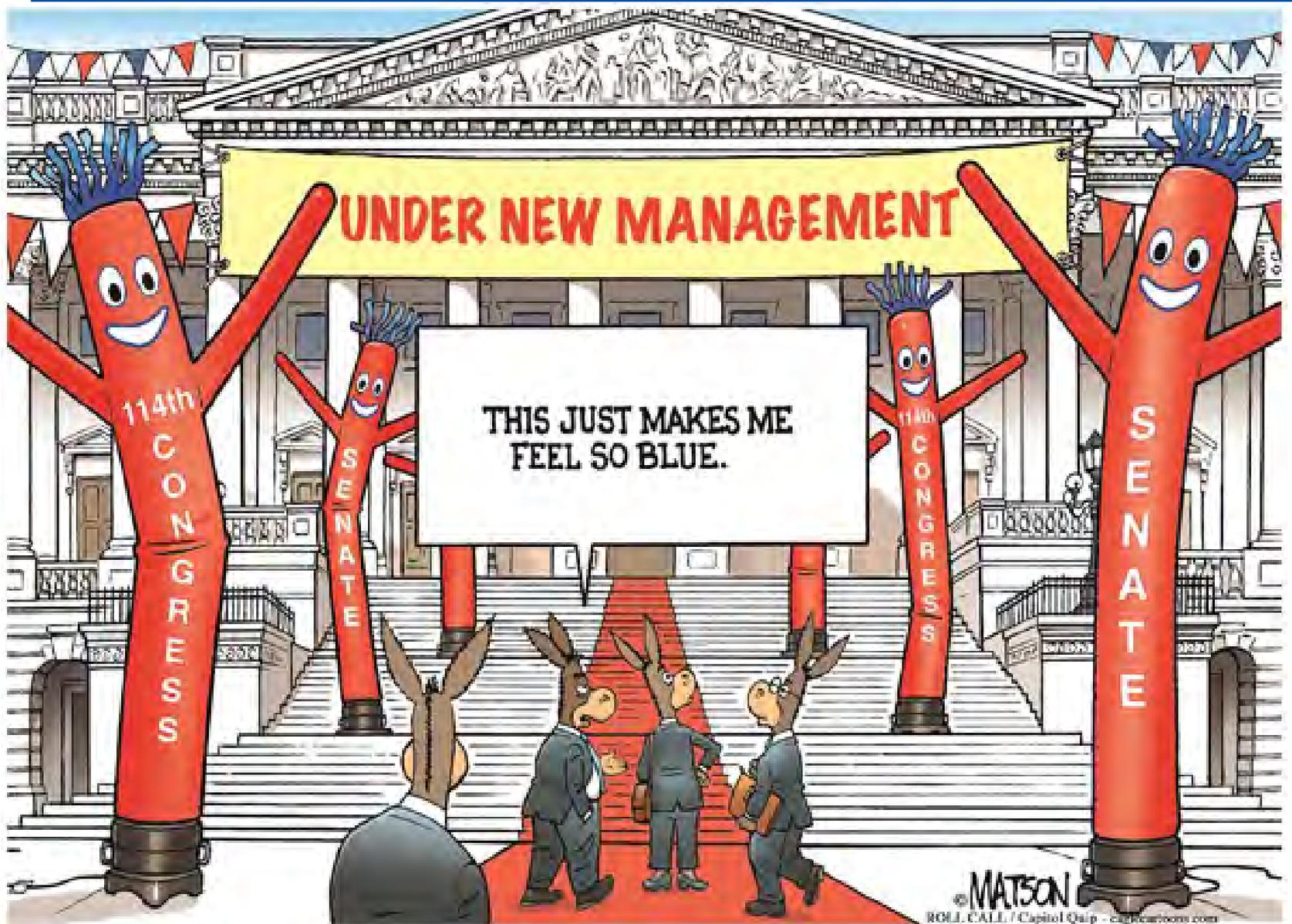


YOU AIN'T SEEN
DO-NOTHIN' YET!



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UNDER NEW MANAGEMENT

114th
CONGRESS

SENATE

THIS JUST MAKES ME
FEEL SO BLUE.

114th
CONGRESS

SENATE

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114th Congress, 1st Session



- House of Representatives - there are 247 Republicans (including 1 delegate), 193 Democrats, (including 4 Delegates and the Resident Commissioner), and 2 vacant seats.
- The Senate has 54 Republicans, 44 Democrats, and 2 Independents, who caucus with the Democrats.
- The average length of service for Representatives at the beginning of the 114th Congress was 8.8 years (4.4 terms); for Senators, 9.7 years (1.6 terms). Note: These terms are slightly lower than last year.



114th Congress, 1st Session



- The 114th Congress is the most diverse in history :
 - 108 women (a record number) serve in the 114th Congress: 88 in the House, including 4 Delegates, and 20 in the Senate.
 - There are 46 African American Members of the House and Senate.
 - There are 32 Hispanic or Latino Members (a record number) serving
 - Eleven Members are Asian American or Pacific Islanders.
 - Two Native Americans serve in the House.

114th Congress, 1st Session



- **Climate Change**

- Carbon Capture and Storage or Enhanced Oil Recovery
- Clean Energy
- Climate Change Adaptation
- Climate Science
- Curbing Climate Action
- Energy Efficiency
- International
- Keystone Pipeline
- Non-CO2 Greenhouse Gases



114th Congress, 1st Session



- **Regulatory Oversight**

- H.R. 185 “Regulatory Accountability Act of 2015”
- H.R. 348 “RAPID Act” (streamline rulemaking)
- H.R. 427 & S. 226 - “Regulations from the Executive in Need of Scrutiny Act”
- H.R. 527 “Small Business Regulatory Flexibility Improvements Act of 2015”
- H.R. 1030 & S. 544 “Secret Science Reform Act of 2015”
- H.R. 1407 & S. 708 “Regulatory Improvement Act of 2015”
- H.R. 2010 & S. 1067 “The Regulatory Review and Sunset Act of 2015”
- S. 234 "Regulatory Fairness Act of 2015."

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RETURNS EXCHANGES

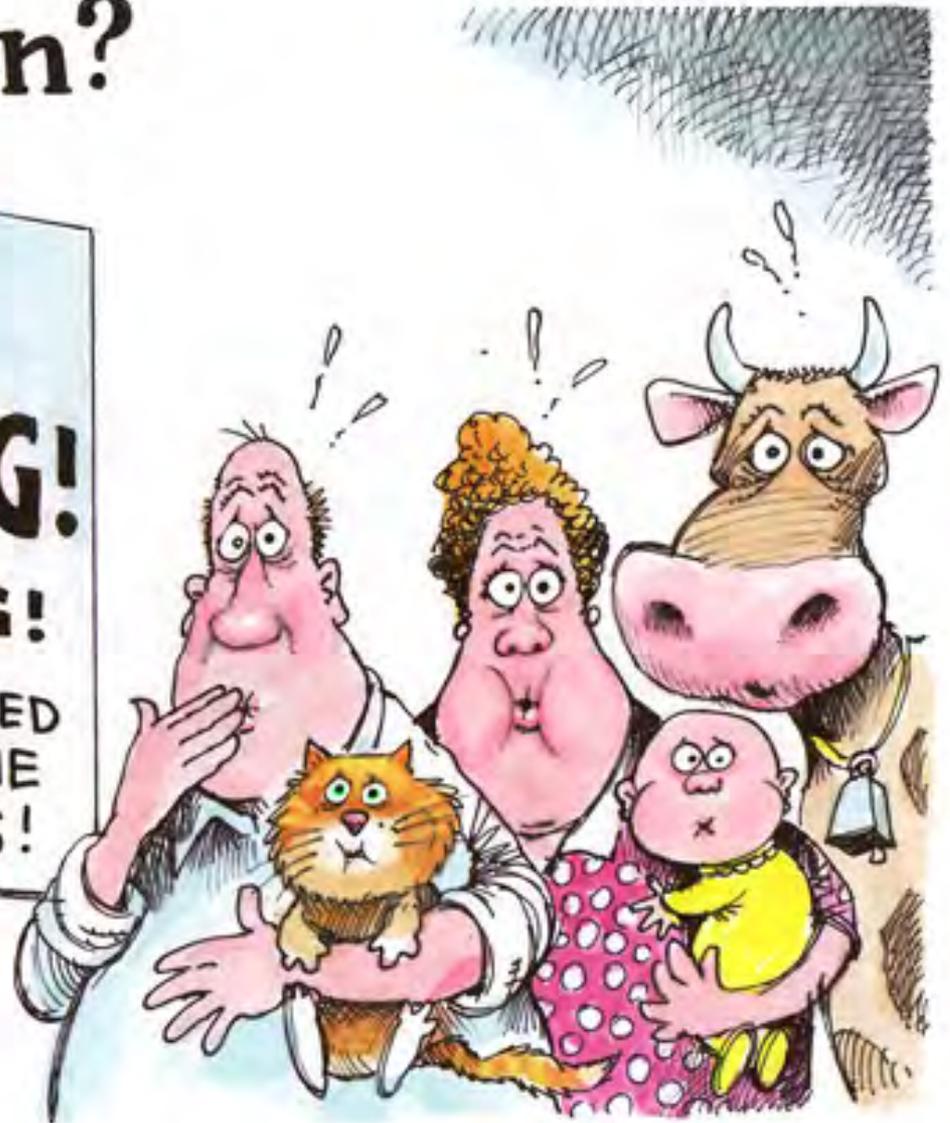
CONGRESS

Z

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Search ID: pfen901
I'M AFRAID THERE'S
A NO-RETURN
POLICY ON THOSE...
YOU ELECTED HIM,
YOU'RE STUCK
WITH HIM ...

Coming soon?





Definition of Solid Waste Rule

- On January 13, 2015, the [final DSW rule](#) was published in the *Federal Register*.
- The rule is effective July 13, 2015.
- Under the final rule, the EPA retains the exclusion for hazardous secondary materials that are legitimately reclaimed under the control of the generator (“generator-controlled exclusion”), with certain revisions from the 2008 DSW final rule.
- Revisions include: 1) adding a codified definition of “contained”; 2) adding record-keeping requirements for same-company and toll manufacturing reclamation; 3) making notification a condition of the exclusion; 4) adding a requirement to document that recycling under the exclusion is legitimate; and 5) adding emergency preparedness and response conditions.
- EPA has amended the speculative accumulation provisions to add a record-keeping requirement.



Definition of Solid Waste Rule

- The Agency recently issued interim [Guidance](#) on how facilities should submit required notifications under the final DSW Rule.
- The guidance is necessary because the updated notification forms will not be available until “late 2016” and the final rule became effective July 13.
- Facilities that have previously submitted a notification under the 2008 DSW final rule (which includes an estimated 100 facilities in Iowa, Illinois, Pennsylvania, Idaho, New Jersey, Puerto Rico, and the U.S. Virgin Islands) will not have to submit a new notification by July 13, 2015, but, instead, can simply update their information in their next renotification, due by March 1, 2016.



Clean Air– Ozone

- November 2014 - EPA issued a proposal rule regarding the national ambient air quality .
- In 2008, the standard was set at 75 parts per billion (ppb).
- EPA proposes to reduce to somewhere between 65 and 70 parts per billion (ppb).
- OMB is in the process of reviewing the final rule.
- The court ordered deadline for retaining or revising the 75 ppb is October 1.





Clean Water – Waters of the United States

- On May 27, the EPA released the final rule clearly defining waters of the United States.
- The rule is effective August 28, 2015.
- **Telco Impact:** The EPA has released several fact sheets targeted at specific industries. From the Utility Factsheet: “The energy and utility sector will benefit from the greater clarity and certainty provided by the Clean Water Rule. Permitting requirements have not changed, including the availability of nationwide permits for linear utility projects, but the permit process will be more timely and predictable as covered and exempt waters are more clearly defined.”





Clean Water – Waters of the United States

- On August 27, the U.S. District Court for the District of North Dakota issued a preliminary injunction against the Environmental Protection Agency and the U.S. Army Corps of Engineers to block implementation of the clean water rule in the 13 states.
- The rule, which sought to clarify which waters and wetlands fall under the Clean Water Act, was to take effect nationwide on August 28.
- Prior regulation will be implemented in these states: Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, and Wyoming.





Underground Storage Tanks

- In 2011, the EPA proposed changes to the underground storage tank (UST) technical standards in 40 CFR, Part 280.
- On July 15, the Agency issued the [final rule](#) of the revised requirements which include: adding secondary containment requirements for new and replaced tanks and piping; adding operator training requirements; adding periodic operation and maintenance requirements for UST systems; removing past deferrals for emergency generator tanks, airport hydrant systems, and field-constructed tanks; adding new release prevention and detection technologies; updating codes of practice; and updating state program approval requirements to incorporate these new changes.





Underground Storage Tanks

- **Telco Impact:** For the final rule, EPA removes deferral and requires owners and operators to perform release detection. The final rule allows owners and operators to choose the most appropriate release detection methods—including automatic line leak detectors that trigger an alarm only and not necessarily shut down the pump—for their systems. For an unmanned facility, the alarm must be transmitted to a monitoring center where someone can hear or see the alarm and quickly respond to a suspected release. **Implementation:** within three years.
- The rule is effective October 13, 2015.



Fish and Wildlife Service

Migratory Birds

- On May 26, the Fish and Wildlife Service published a [notice](#) in the *Federal Register* stating their intent to prepare a programmatic environmental impact statement to evaluate the “potential environmental impacts of a proposal to authorize incidental take of migratory birds under the Migratory Bird Treaty Act.”
- The Fish and Wildlife Service is looking at the following industries: oil and gas production, communications towers, and electric transmission and distribution.
- Comments were due July 27.



Migratory Birds

- **Telco Impact:** For communications towers, the Notice states: “communication towers can have a significant impact on birds, especially birds migrating at night. Using recommended tower-siting practices and design features such as appropriate lighting, shorter tower heights, and eliminating or reducing the use of guy wires can minimize bird take caused by collisions with these structures.”



Emergency Engines

- **Background:** In January 2013, the EPA released the final national emission standards for hazardous air pollutants (NESHAP) for stationary reciprocating internal combustion engines (RICE). Emergency engines may be used to prevent electrical outages and to test and maintain engines for up to a total of 100 hours per year.
- **2015 Update:** A federal appeals court has struck down parts of the rule that allowed backup generators to operate for up to 100 hours per year without emissions controls in emergency demand-response programs. On August 14, the EPA was granted a stay (through May 1, 2016) of the mandate for emergency engines operating in demand response situations without emissions controls.

Source: <http://www.epa.gov/airtoxics/icengines/tech.html#other>



State Legislative & Regulatory Update



- California
 - Final Rule Rights of Ways Encroachment
 - Reissued the General Permit (CAG990002) - Dewatering Manholes
 - Final Rule – Lead-Acid Batteries Storage Systems
 - Proposition 65 – Exposure to Lead

State Legislative & Regulatory Update



- California
 - Underground Storage Tanks – Enhanced Leak Detection & Tanks located in FEMA flood zones
 - Working Alone
 - Fugitive Dust Regulations (Counties – Eastern Kern)



State Legislative Update

- **Sampling of bills that have been introduced:**
 - California: AB 57 – utility poles along roads and waterways
 - Connecticut HB 5467 – utility pole repair
 - Indiana HB 1318 – construction facilities for cellular services
 - Mississippi HB 154 & Mississippi SB 2430 – cell towers & MS SB 2798 – excavation

State Legislative Update



- Nebraska: LB 205 – cell towers
- New Jersey:
 - NJ AB 849 – utility poles – gunfire locators
 - NJ AB 1979 – placement of cellular facilities
 - NJ AB 2459 & NJ SB 278– copper line placement
 - NJ AB 2534 – utility poles
 - NJ AB 3904– utility poles

State Legislative Update



- **New York:**

- NY AB 550, NY SB 409 & NY SB 391 – cellular RF safety
- NY AB 2013 & NY SB 1879 – penta poles
- NY AB 1140 – pole replacement
- NY SB 164 & NY SB 1263 – OSHA courses
- NY SB 682 – permits for cellular antennas
- NY AB 1140 – safety and reliability of poles
- NY AB 4578 – requiring backup power at all new cell towers
- AB 4746 – cell tower siting

State Legislative Update



- **Tennessee:** SB 379 – one call
- **Virginia:** 2325 – pole attachments
- **Washington:** A HB 1178 & SB 533 – crimes against utility workers

State Legislative Update



- **Bills that have passed and/or been enacted:**
 - Alabama HB 298 – Hours-of-Service
 - Alaska HB 4 - Automated External Defibrillators (AEDs)
 - Arizona HB 2147 – pole attachments
 - Arkansas HB 1496 & SB 844 – E-waste
 - California SB 287 & California SB 658 - AEDs



State Legislative Update

- **Bills that have passed and/or been enacted:**
 - Colorado HB 1207 - distracted driving/earphone exemption bill
 - Georgia SB 101 – soil erosion
 - Hawaii HB 1010 – trip reductions
 - Hawaii SB 1049 - E-cycling
 - Illinois HB 1455 – recycling of electronic devices
 - Kansas HB 2192– storage tanks & HB 2193 – hazardous waste
 - Mississippi HB 389 – distracted driving
 - Missouri HB 92 – definition of waters of the United States

State Legislative Update



- **Bills that have passed and/or been enacted:**
 - Nebraska LB 206 – excavation
 - New Hampshire HB 522 – toxic substances in the workplace
 - Nevada SB 34 – fleet
 - Tennessee SB 379 – underground utilities
 - Utah SB 20 – commercial drivers' license
 - Virginia HB 1827 – erosion and sediment control
 - West Virginia HB 2283 – clean air
 - West Virginia SB 423 – storage tanks



Godzilla versus the bureaucracy