



Blogs / Brownfields & Contaminated Properties

Toggle
Navigation

RECORDED WEBINARS

- [Environmental Enforcement & Crimes Webinar – March 22, 2016](#)

BLOG TOPICS

- [Air Emissions Climate Change & Sustainability](#) (6)
- [Brownfields & Contaminated Properties](#) (13)
- [Environmental Cleanups](#) (12)
- [Environmental Compliance & Enforcement Defense](#) (23)
- [Environmental Litigation](#) (21)
- [Environmental Permitting](#) (8)
- [Environmental Statutes & Regulations](#) (26)
 - [CERCLA / Superfund](#) (12)
 - [Clean Air Act](#) (10)
 - [Clean Water Act](#) (10)
 - [EPCRA](#) (5)
 - [FIFRA](#) (4)
 - [RCRA / Hazardous Waste & Solid Waste](#) (10)
 - [TSCA](#) (4)
- [Fracking](#) (7)
- [Industries](#) (20)
 - [Construction](#) (12)
 - [Energy](#) (11)
 - [Health Care](#) (7)
 - [Life Sciences](#) (9)
 - [Manufacturing](#) (15)
 - [Petroleum](#) (11)
 - [Transportation](#) (9)
 - [Waste Management](#) (12)
- [OSHA / Health & Safety](#) (12)

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01.19.2015 [A Sham, a Waste? EPA's New Recycling and Hazardous Waste Rules Finalized](#)

By Andrew C. Brought

Last week, on January 13, 2015, EPA issued its new "Definition of Solid Waste" Final Rule in the Federal Register at 80 Fed. Reg. 1694. This new rulemaking will have significant impacts regarding how secondary hazardous materials are recycled and exempted from the hazardous waste regulations. Unless challenged (and by all accounts it appears at least certain aspects may be litigated based on initial comments by various industrial sectors) the rule becomes effective on July 13, 2015, where EPA is the authorized implementing agency (Iowa, Alaska, American Samoa, and Puerto Rico and the U.S. Virgin Islands). Because RCRA is a federally delegated program, other states will have to adopt the more stringent aspects of the rule discussed below.

06.18.2014 [2005 Phase I ESA Will No Longer Satisfy All Appropriate Inquiries Under EPA Proposed Rule](#)

By Andrew C. Brought, Kathleen M. Whitby

On June 17, 2014, EPA issued a proposed rule in the Federal Register, 79 Fed. Reg. 34480, proposing to amend the standards and practices for satisfying All Appropriate Inquiries (AAI) under CERCLA. In particular, EPA is proposing to remove references to the 2005 Phase I ESA Standard ASTM E1527-05 as satisfying AAI.

06.10.2014 [CERCLA Will Not Save a Toxic Tort Claim which is Barred by a State Statute of Repose](#)

By Kathleen M. Whitby

Earlier today, June 9, 2014, the United States Supreme Court handed down its decision in *CTS Corp. v. Waldburger*, et al., slip op. No. 13-339 (U.S., 6-9-2014). Reversing the Fourth Circuit, the Supreme Court held that the Superfund law's preemption of state statutes of limitation for personal injury or property damage claims does not apply to state statutes of repose. Not every state has such a statute on the books, but for those that do, this may provide an additional shield for defendants, and an additional hurdle for plaintiffs.

◀ 1 2 Showing 11-20 of 13 results [View All](#)