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#### 09.24.2018 [New EPA Guidance Proposed on Clean Air Act Single Source Determinations – Industrial Air Emission Sources May Benefit](#)

By Paul Jacobson

On September 5, 2018, EPA issued a [draft guidance document](#) announcing a shift of the term “adjacent” in the context of the Clean Air Act’s New Source Review (NSR) and title V operating permit programs which may benefit industrial air sources. This interpretation would focus EPA’s attention on physical proximity of facilities when making source determinations, rejecting EPA’s past practice of considering “functional interrelatedness.”

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- 03.12.2017** **[Stormwater Runoff from Construction Activities Subject to New EPA 2017 General Permit](#)**  
By Shelby Wood, Andrew C. Brought
- Construction companies, general contractors, developers, and property owners involved in land clearance and disturbance activities will want to take note of the new Stormwater Construction General Permit ("Construction General Permit") issued by the United States Environmental Protection Agency ("EPA") on February 17, 2017. As with earlier Construction General Permits, the 2017 permit applies to land clearance and disturbance activities greater than one acre and requires site operators to comply with best management practices ("BMPs"), effluent limits, and other permit requirements, including developing a Stormwater Pollution Prevention Plan ("SWPPP").
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- 12.11.2016** **[EPA Issues Final Hazardous Waste Generator Improvements Rule](#)**  
By Paul Jacobson, Baerbel E. Schiller
- On November 28, 2016, EPA published the final version of the Hazardous Waste Generator Improvements Rule (the Rule) in the Federal Register. Promulgated under the Resource Conservation and Recovery Act (RCRA), the Rule updates EPA's regulations governing generators of hazardous waste, most of which EPA promulgated in the 1980s. The Rule significantly revises the hazardous waste generator requirements.
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- 02.27.2016** **[EPA Releases National Enforcement Initiatives](#)**  
By Andrew C. Brought
- Beginning October 1, 2016, the U.S. Environmental Protection Agency (EPA) will target its enforcement efforts in seven different focused areas, including three areas designed to protect water quality, two initiatives aimed at reducing toxic air pollutants and reducing air pollution, an initiative to reduce accidental chemical releases from industrial facilities, and an enforcement initiative geared at energy extraction activities.
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- 01.02.2016** **[EPA Revamps Voluntary Self-Disclosure Audit Policy](#)**  
By Andrew C. Brought
- Businesses and companies seeking to qualify for penalty mitigation and relief by submitting voluntary self-disclosures under EPA's Audit Policy need to be aware of significant changes and modifications that took effect in December 2015.
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- 04.14.2015** **[Want immediate judicial review of a Corps of Engineers' wetlands jurisdictional determination? Pick a property within the Eighth Circuit \(Minnesota, Iowa, Missouri, Arkansas, North Dakota, South Dakota and Nebraska\)](#)**  
By Kathleen M. Whitby
- On April 10, 2015, the U.S. Court of Appeals for the Eighth Circuit gave a northwestern Minnesota peat mining operation something the company wanted very much — judicial review of a wetlands jurisdictional decision issued by the U.S. Army Corps of Engineers. *Hawkes Co., Inc., et. al v. U.S. Army Corps of Engineers*, slip op. No. 13-3067 (8th Cir. April 10, 2015). In so doing, the Eighth Circuit built on the U.S. Supreme Court's decision in *Sackett v. EPA*, 132 S. Ct. 1367 (2012), which had made Clean Water Act administrative orders subject to court scrutiny, and continued the Eighth Circuit's focus on curtailing what it sees as government agency overreaching, as recently expressed in *Iowa League of Cities v. EPA*, 711 F.3d 844, 868 (8th Cir. 2013).
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- 04.07.2015** **[EPA Revises its Supplemental Environmental Project – SEP Policy](#)**  
By Andrew C. Brought
- On March 10, 2015, EPA issued a new revised 2015 Update to its Supplemental Environmental Project (SEP) Policy, thereby superseding prior SEP policies.
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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.
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- 05.26.2014** **[Stormwater Violations at Concrete Ready-Mix Plants, Enforcement Nets More than \\$4 Million](#)**  
By Andrew C. Brought
- EPA Region 2 and the U.S. Justice Department have resolved a stormwater enforcement case against CEMEX, associated with stormwater violations at 18 ready-mix concrete plants. The settlement will result in a civil penalty of \$360,000, compliance upgrades of approximately \$1.8 million, and a supplemental environmental project (SEP) involving the conservation of more than 400 acres of land valued at approximately \$2.36 million.

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