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Latest Posts

09.18.2016 [Retail and Consumer Product Hazardous Waste – Update on Reverse Distribution and Aerosol Cans by EPA](#)

By Andrew C. Brought

On September 12, 2016, EPA issued its "Strategy for Addressing the Retail Sector under RCRA's Regulatory Framework." The strategy document sets forth three actions the agency is expected to finalize in the short-term to help ease the RCRA burden on managing retail and consumer products that may trigger RCRA hazardous waste characteristics or RCRA listings once a decision to discard is made.

08.21.2016 [Avoiding Cleanup Liability for Industrial and Commercial Properties Under New Kansas Law](#)

By Andrew C. Brought, James T. Price

Effective July 1, 2016, buyers of industrial and commercial properties in Kansas may qualify for a Certificate of Environmental Liability Release (CELR) under the state's new Contaminated Property Redevelopment Act. This liability release for pre-existing contamination is important for prospective purchasers of industrial and commercial properties by helping to facilitate those transactions and allow the buyer to avoid state cleanup responsibility. But not only buyers benefit, as sellers can also demonstrate a framework that allows the transaction to proceed and maximize the property value without the buyer or seller taking on unnecessary risk if the proper steps to obtain the CELR are followed.

03.26.2016 [EPA to Focus on RMP Chemical Accident Prevention and Safety, Issues Proposed Rule and Will Increase Enforcement](#)

By Andrew C. Brought

Businesses that store and use flammable and toxic chemicals that are regulated under EPA's Risk Management Plan (RMP) Program at 40 CFR Part 68 need to be aware of recent actions by the U.S. Environmental Protection Agency aimed at curtailing chemical accidents and releases through new proposed regulations and also enforcement. Facilities potentially subject to EPA's initiatives include chemical plants and refineries, POTWs that use chlorine as a disinfectant, as well as those companies that use and store bulk anhydrous ammonia as an industrial refrigerant (dairy operations, food and pharmaceutical manufacturing, cold storage warehousing) or as fertilizer (agricultural cooperatives, fertilizer distribution).

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.

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.

07.01.2015 [EPA's Air Rules Must Consider Costs, Says U.S. Supreme Court](#)

On June 29, 2015, the United States Supreme Court announced its decision in *Michigan v. Environmental Protection Agency*, holding that EPA unreasonably interpreted a provision of the Clean Air Act regarding the regulation of power plants under the EPA's Mercury and Air Toxics Standard (MATS) (also referred to as the Utility MACT).

06.25.2015 [EPA Issues Final Vapor Intrusion Guidance and Declares EPA, not OSHA, in Charge of Indoor Air Quality at the Workplace](#)

By Baerbel E. Schiller

At long last, after operating under the draft Vapor Intrusion Guidance of 2002 for almost 13 years, EPA finally issued final vapor intrusion guidances on June 11, 2015, a specific guidance for petroleum vapor intrusion at leaking underground storage tank sites, and a more general technical guide for assessing and mitigating the vapor intrusion pathway at chlorinated solvent sites. (Technical Guide). In response to criticism that EPA did not subject the guidances to the public scrutiny of the administrative rule-making process, EPA allowed for a longer public comment period than is customary for guidances. Additionally, both vapor intrusion guidances were the subject of extensive discussions between EPA, various sister agencies, private industry, environmentalists, and the White House.

06.13.2015 [Home Builder's Stormwater Violations at Construction Sites Result in \\$1 Million Enforcement Settlement](#)

By Andrew C. Brought, David C. Seitter

A residential home builder, Garden Homes, has agreed to resolve alleged stormwater violations with the EPA and U.S. Department of Justice, according to a June 8, 2015, Federal Register Notice. The settlement involves a civil penalty of \$225,000 and a Supplemental Environmental Project valued at \$780,000 involving the acquisition of 108 acres of land for preservation.

06.06.2015 [Warehouse and Distribution Center Fined \\$3 Million for Anhydrous Ammonia Releases from its Industrial Refrigeration System](#)

By Andrew C. Brought

On June 2, 2015, the U.S. EPA and DOJ announced a \$3 million dollar settlement with Millard Refrigerated Services, a company specializing in refrigeration and distribution services to retail, food service, and food distribution companies. The settlement resolves alleged violations of the EPA's Risk Management Program, the Clean Air Act's General Duty Clause, and CERCLA and EPCRA release reporting requirements stemming from three releases of the industrial refrigerant anhydrous ammonia from the facility's Mobile Marine Terminal in Alabama. Among the release incidents was an August 2010 release involving hospitalization and medical treatment of individuals who were offsite working on decontaminating ships in response to the 2010 oil spill in the Gulf of Mexico.

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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