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BLOG EDITORS

[Andrew C. \(Drew\) Brought](#)

T 816.292.8886

abrought@spencerfane.com

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02.01.2018 [EPA Asks States to the Take the Lead in Environmental Enforcement](#)

By Baerbel E. Schiller, Ryan Pulkrabek

Recently, EPA issued an Interim OECA Guidance on EPA and state roles on managing enforcement and compliance assistance. See, [Interim OECA Guidance on Enhancing Regional—State Planning and Communication on Compliance Assurance Work in Authorized States](#). While EPA is seeking to emphasize cooperative federalism in modifying the emphasis of the 1986 revised policy on state/EPA enforcement agreements, as provided in the first footnote of the Guidance, the policy issued on January 22, 2018, appears to make the states the primary enforcer of environmental laws and provides a secondary role for EPA in that regard.

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").

02.05.2017 [EPA and OSHA Increase Civil Penalties – Days Before New Administration](#)

By Andrew C. Brought

In January 2017, both EPA and OSHA increased civil penalties for new enforcement cases. While the increases became effective just days before the new Administration took office, the increases are a result of Congressional action in 2015 to annually adjust civil penalties for inflation by January 15 of each new calendar year.

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.

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.

03.27.2016 [New OSHA Silica Dust Rule to Impact Over 675,000 Workplaces, Biggest Impact on Construction Industry](#)

By Andrew C. Brought

On March 25, 2016, 81 Fed. Reg. 16286, OSHA issued a new final rulemaking to reduce silica dust exposure that will directly affect more than 2 million construction workers who drill, cut, crush, or grind silica-containing materials such as concrete and stone, and 300,000 workers in general industry operations such as brick manufacturing, foundries, and hydraulic fracturing. OSHA explains that silica dust exposure occurs in common workplace operations involving cutting, sawing, drilling, and crushing of concrete, brick, block, rock, and stone products (such as construction tasks), and operations using sand products (such as in glass manufacturing, foundries, sand blasting, and hydraulic fracturing).

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.

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.

02.25.2015 [Next Generation Compliance—EPA Strategy to Delegate Enforcement to Third Parties?](#)

By Baerbel E. Schiller

In a recent January 2015 Memorandum to EPA's Regional Enforcement Managers from Cynthia Giles, EPA Assistant Administrator for Enforcement, EPA is touting its Next Generation Compliance strategy as "an integrated strategy" intended to "bring together the best thinking from inside and outside EPA."

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