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Client Alert: U.S. EPA Withdraws 'Once In, Always In' Policy

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On January 25, 2018, U.S. EPA published a [guidance document](#) altering its long-standing position on major sources of hazardous air pollutants.

The Clean Air Act defines a “major source” as a one that emits, or has the potential to emit, 10 tons per year of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants. Sources with emissions below this threshold are classified as “area sources.” Different control standards apply to the source depending on whether or not it is classified as a “major source” or an “area source.”

In a 1995 memo, U.S. EPA established a “once in always in” policy that determined that any facility subject to major source standards would always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced that facility’s potential to emit hazardous air pollutants.

U.S. EPA’s new policy allows sources that restrict their potential emissions to avoid classification as a major source. Many sources may be in position to take advantage of U.S. EPA’s new policy and become subject to less stringent pollution control standards. Please contact us with any questions or for assistance regarding your facility’s permitting and emission requirements.