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Municipal Solid Waste Landfills/NESHAP: U.S. Environmental Protection Agency Proposal Addressing Residual Risk/Technology Review

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The United States Environmental Protection Agency (“EPA”) published a July 29th Federal Register Notice proposing amendments to the Clean Air Act (“CAA”) National Emission Standards for Hazardous Air Pollutants (“NESHAP”) related to the Municipal Solid Waste (“MSW”) Landfills source category. See 84 Fed. Reg. 36670.

The statutory authority for the MSW landfill NESHAP is found in Sections 112 and 301 of the CAA.

As EPA notes, Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of hazardous air pollutants from stationary sources. They include:

- Establish technology-based standards; and
- Evaluate such standards that are based on Maximum Achievable Control Technology (MACT) to determine whether additional standards are needed to address any remaining risks associated with HAP emissions (i.e., the “residual risk review”).

EPA is required by the CAA to review standards set under CAA section 112 every 8 years to determine if there are developments in practices, processes, and control technologies that may be appropriate to incorporate into the standards (i.e., the “technology review”).

The July 29th Federal Register Notice encompasses EPA’s decision concerning the residual risk and technology review for this NESHAP source category. The federal agency is also proposing amendments to what it describes as “correct and clarify” regulatory provisions related to:

- Emissions during periods of startup, shutdown, and malfunction
- Wellhead operational standards and corrective action to improve effectiveness and provide compliance flexibility
- Reorganize rule text to incorporate provisions from the New Source Performance Standards within this subpart
- Add requirements for electronic reporting of performance test results

Changes characterized as minor are also proposed to the MSW Landfills New Source Performance Standards and Emission Guidelines and Compliance Times for MSW Landfills.

EPA states that it is proposing to add provisions to the most recent MSW Landfills New Source Performance Standards and Emission Guidelines that would:

Allow affected sources to demonstrate compliance with landfill gas control, operating, monitoring, recordkeeping, and reporting requirements of the most recent New Source Performance Standards and Emission Guidelines by following the corresponding requirements in the MSW Landfills NESHAP.

A copy of the Federal Register Notice can be downloaded [here](#).