



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Municipal Solid Waste Landfills/New Source Performance Standards: Environmental Organizations Challenge U.S. Environmental Protection Agency Administrative Stay

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The Natural Resources Defense Council and other environmental organizations (collectively “NRDC”) filed an August 4th Motion for Summary Vacatur (“Motion”) in the United States Court of Appeals for the District of Columbia Circuit against the United States Environmental Protection Agency challenging an administrative stay of Clean Air Act New Source Performance Standards (“NSPS”) for municipal solid waste landfills (“Landfills”).

The Motion states that EPA previously issued an administrative stay suspending implementation of two rules issued under Section 111 of the Clean Air Act for landfills:

1. Emission guidelines for existing municipal solid waste landfills
2. Standards of performance for new and modified municipal solid waste landfills

The stay of the referenced rules is for 90 days.

NRDC describes the landfill NSPS as updating the previous rules that had been issued 20 years earlier. The organization argues that:

...in the 2016 rulemaking, EPA concluded that the updated Landfill Rules will significantly reduce emissions of landfill gas, a mixture produced by the decomposition of waste that includes methane, carbon dioxide, hazardous air pollutants, and volatile organic compounds that contribute to smog. . . .The 2016 Landfill Rules cover more landfills by lowering the emissions threshold above which a landfill must install and operate landfill gas collection and control systems.

NRDC argues in support of its Motion that EPA premised the stays as necessary to cure notice defects in the prior rulemakings. They claim that no such notice defects exist and, therefore, there is no basis for mandatory reconsideration proceedings. Consequently, they state that the agency has no authority to issue a stay.

[A copy of the Motion can be downloaded here.](#)