

EPA to Be Sued by Environmental Defense Fund to Update Landfill Gas Regulations

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In the fall of 2008, the Environmental Defense Fund announced its intentions to sue the Environmental Protection Agency for failure to update their air pollution standards for landfills. According to Section 111(b)(1)(B) of the Clean Air Act the EPA must review its new source performance standards every eight years. The last time these standards were updated was in 1996. Section 111 of the Clean Air Act requires EPA to set a best demonstrated technology standard for controlling emissions. EDF's position is that technology has advanced significantly over the past decade and the new standards should reflect these changes. In 1996, methane emitted from landfills was mostly controlled by flaring. Today, much of this methane can be captured to create energy.

In their notice EDF claimed "EPA action to update these standards is statutorily required, and it also represents an enormous opportunity to address a variety of serious environmental hazards while also addressing the nation's urgent need for economic revitalization through expansive reliance domestic sources of energy." When the standards were created in 1996, capture and energy usage of LFG was not an economically viable option as it is with today's technology and EDF believes EPA's best demonstrated technology should be updated to reflect that.

A large portion of EDF's notice is dedicated to outlining the hazards that methane poses as a greenhouse gas. As written the new source performance standard only regulates non-methane organic compounds and makes no mention of greenhouse gases. If the EDF lawsuit attempts to force EPA to use the Clean Air Act to regulate methane as a greenhouse gas, this would be precedent setting and contrary to the position that EPA has repeatedly taken on this issue.

EDF has stated they would like to resolve the issue without litigation and as of press time they had not filed suit. A full copy of EDF's notice can be found here

http://edf.org/documents/8713_NOILandfillINSPSOct2008.pdf.