

AZ SWANA Legislative Update, August 24, 2017

Arizona Legislature/ADEQ

No update.

Definition of a Solid Waste

The DC Circuit Court of Appeals vacated a portion of the EPA's 2015 Definition of Solid Waste rule. The court held that the rule went too far in expanding the definition of discarded solid waste in trying to distinguish fake from legitimate recycling. The court also vacated the rule's permitting requirements for secondary hazardous materials sent to another company for recycling.

The rule was intended to avoid instances of "sham-recycling" of hazardous materials, wherein a recycler might include unneeded hazardous material into a final product in order to avoid proper disposal of the material. Specifically, the 2015 rule counted as "sham" a recycled product that is not comparable to a product made from analogous raw materials. The court found that EPA did not have enough evidence to show that such a regulation was necessary.

Also, even in cases where hazardous materials were legitimately used, the court found that the documentation procedures were onerous.

The ruling effectively reinstates the EPA's 2008 policy of hazardous waste recycling of reasonable efforts to ensure third party recycling of hazardous wastes.

EPA Stay of MSWLF NSPS and EG rules

Stay will remain in effect through 8/29/2017. EPA has indicated it will extend the stay for its review of the rule. On August 4, 2017, The Natural Resources Defense Council has filed suit in the DC circuit court of appeals challenging the stay.

EPA Definition of Waters of the US

EPA proposed rule to implement Executive Order from 2/28/17 to review Waters of the US Rule. First step was to rescind the 2015 definition currently being litigated. Next step will be to propose a new rule based on the concurring opinion of Justice Scalia in the 2006 Rapanos decision, which indicated that the definition should only apply to continuously flowing waters or waters that have relative permanence.

EPA Budget

President Trump's proposed budget cut EPA spending by 1/3 and eliminated the Waste Minimization and Recycling Program, an \$8.8 million program supporting municipal waste reduction and recycling projects. The House Appropriations committee approved a budget on July 18 that retained this program and cut EPA's overall budget by 6%.

Chinese Scrap Metal Ban

On July 18, 2017 China has filed with the World Trade Organization a notice of intent to ban the import of 24 categories of scrap materials by the end of the year. China imported 7.3 million tons of waste valued at \$3.7 billion. It accounted for 56% of world imports in 2016. SWANA is preparing comments to submit to the WTO, focusing on the potential Impact to Municipal Solid Waste Recycling, questions re Scope, Clarity and Timing of China's Action, and U.S. Municipal Solid Waste Sector's Offer of Assistance to China.