



Enforcement Against Landfill for Methane Releases and Gas Collection System Failures Underscores EPA's Climate Enforcement Initiative

The U.S. Justice Department and U.S. Environmental Protection Agency (EPA) recently announced a federal court settlement with a landfill owner involving a civil penalty nearing \$675,000, illuminating one way the EPA intends to implement its National Enforcement and Compliance Initiative (NECI) of mitigating climate change under the agency's Clean Air Act authority, through addressing methane gas emissions from landfills. Consequently, owners and operators of landfills should pay careful attention to ensuring compliance with landfill gas collection system operational requirements under the Clean Air Act, given the EPA's compliance focus on this sector.

In August 2023, the EPA announced its six NECIs^{[\[1\]](#)} for the fiscal year 2024-2027 cycle. NECIs consist of EPA efforts to focus enforcement and compliance resources on the environmental and public health subjects the EPA finds most pressing. One of the EPA's new NECIs consists of mitigating climate change by reducing noncompliance with the Clean Air Act. To implement this climate change initiative, EPA has signaled that it intends to target: "(1) methane emissions from oil and gas facilities; (2) methane emissions from landfills; and (3) the use, importation, and production of hydrofluorocarbons (HFCs)."

With respect to methane gas releases and emissions, the EPA notes that landfills are the third largest source of methane emissions in the U.S.; methane is a climate super-polluter, 25 times as potent as carbon dioxide at trapping heat in the atmosphere (and causing human health impacts); and the EPA has documented widespread non-compliance with landfill methane regulations, causing many tons of unlawful emissions. The EPA intends to address landfill methane emissions by

focusing on enforcing longstanding air pollution requirements, such as New Source Performance Standards (NSPS) including the Landfill NSPS at Part 60, Subpart WWW, and Part 62, Subpart OOO, and National Emission Standards for Hazardous Air Pollutants (NESHAP), including the Landfill NESHAP at Part 63, Subpart AAAA. HAPs in landfill gas emissions include vinyl chloride, ethyl benzene, toluene, and benzene.

The DOJ and EPA recently reached a settlement^[2] with a New York landfill in connection with this NECI, resolving allegations^[3] that the landfill failed to timely install and operate a gas collection and control system, causing excess emissions of methane and nonmethane organic compounds, violating the NSPS and NESHAP for municipal solid waste landfills; and failed to obtain required federal and state air permits. The settlement, if approved by the reviewing federal court, will require the landfill to pay a penalty of \$671,000; operate a gas collection and control system to reduce the amount of methane and other chemicals released to the air; cap the vents on parts of the landfill that have been inactive; monitor the landfill's emissions and gas wells; apply for updated state permits including a Title V major source permit; and keep records of its compliance activities.

In summary, owners and operators of solid waste landfills should consider evaluating their landfill gas and air emission NSPS and NESHAP compliance programs because the EPA will certainly be targeting regulatory inspections at landfills across the country under the agency's 2024-2027 NECI.

This post was drafted by [Paul Jacobson](#) and [Andrew Brought](#), attorneys in the Kansas City, Missouri, office of Spencer Fane LLP. For more information, visit www.spencerfane.com.

[1] <https://www.epa.gov/system/files/documents/2023-08/fy2024-27necis.pdf>

[2] <https://www.justice.gov/enrd/media/1332166/dl?inline>

[3] <https://www.justice.gov/enrd/media/1332161/dl?inline>