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Federal Court Extends Stay of Livestock Air Emissions Reporting Obligation

On February 1, the U.S. Court of Appeals for the D.C. Circuit extended a stay of air emissions reporting from livestock wastes through at least May 1, 2018.

The U.S. Environmental Protection Agency (EPA) had asked for an additional stay of 90 days to provide the agency additional time to prepare for any reporting obligations. In its motion for stay, EPA cited a need for more time to refine guidance to industry on meeting the reporting obligations and to finalize agriculture-specific forms that would be used to report emissions from animal wastes to EPA. Livestock industry groups supported EPA's request, while environmentalist and animal rights groups, who have previously pushed the court to apply these reporting obligations to farms, took no position on this latest request for stay.

Meanwhile, industry groups are working on legislative solutions that would address the regulatory burden of reporting emissions of ammonia and hydrogen sulfide that occur on farms due to the natural breakdown of manure.

In April 2017, the D.C. Circuit ruled that farms were required to report air releases of "hazardous substances" above certain thresholds under two federal environmental laws, despite the fact that Congress likely never intended those two laws to apply to farms. EPA released guidance on those reporting obligations in November 2017. The court's mandate, or order enforcing its ruling, has been stayed periodically since its decision last spring.

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