

Advocacy Raises Concerns about EPA's Regulatory Flexibility Act Compliance and Suggests Flexibilities to Minimize the Impact on Small Landfills

On September 11, 2014, the Office of Advocacy's Chief Counsel, Dr. Winslow Sargeant, sent a letter to the Environmental Protection Agency (EPA) Administrator Gina McCarthy commenting on two rulemaking notices concerning air emissions from Municipal Solid Waste (MSW) Landfills. A copy of Advocacy's comment letter may be accessed at <http://www.sba.gov/advocacy>.

On July 17, 2014, EPA published two notices in the *Federal Register* on regulation of emissions of Landfill Gases from MSW Landfills: (1) a proposed rule to revise the New Source Performance Standards (NSPS) for new MSW Landfills (79 Fed. Reg. 41795), and (2) an advance notice of proposed rulemaking on Emission Guidelines for existing MSW Landfills (79 Fed. Reg. 41771). EPA certified that the revisions to the NSPS would not have a significant economic effect on a substantial number of small entities and did not prepare an Initial Regulatory Flexibility Analysis.

- Advocacy disagrees with EPA's certification of the proposed rule for the following reasons.
 - EPA does not account for the additional costs imposed at the end of a landfill's useful life.
 - EPA may not have accounted for all small entities that would be affected.
 - EPA's analysis does not demonstrate a factual basis for certification.

- Advocacy recommends that EPA adopt the recommendations suggested by small entities during the uncompleted SBREFA panel, including:
 - Maintain existing numerical thresholds and timeframes for LFG Capture and Control Systems installation and operation;
 - Maintain existing monitoring requirements;
 - Remove wellhead operational standards; and
 - Allow LFG treatment to meet the specifications required by equipment in use or LFG purchasers rather than impose one-size-fits-all numerical standards.

- Advocacy also encourages EPA to more aggressively identify and resolve permitting bottlenecks.

For more information, visit Advocacy's Web page at <http://www.sba.gov/advocacy>, or contact Assistant Chief Counsel David Rostker by email at david.rostker@sba.gov or by phone at 202-205-6966.