

CLIENT ALERT

D.C. Circuit Rejects Challenges to CAFO Air Consent Agreements

July 17, 2007

The D.C. Circuit today dismissed all petitions that challenged the legality of the 2,568 Animal Feeding Operations Air Consent Agreements between EPA and thousands of animal farms across the country. The petitions were brought by several citizen activist groups (including the Sierra Club and the Association of Irrigated Residents) and asserted that the air consent agreements were rules, not enforcement agreements, and that the agreements (and the legal protections they provided) were invalid because they did not comply with applicable statutory and regulatory requirements.

The D.C. Circuit rejected the petitions on jurisdictional grounds, holding that the agreements are not rules but are "enforcement actions within EPA's statutory authority." Because "exercises of EPA's enforcement discretion are not reviewable," the court dismissed the petitions.

Crowell & Moring attorneys represented Intervenor National Pork Producers Council and Roe Farms, Inc. in the litigation.

For a copy of the D.C. Circuit's opinion, [click here](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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