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From: POLITICO Pro Energy Whiteboard
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Subject: Court backs oil industry, rejects EPA solid waste rule

By Eric Wolff

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The D.C. Circuit today vacated parts of an EPA rule on solid waste and upheld other parts, delivering a partial victory to the American Petroleum Institute. The court also dismissed a petition from environmentalists that the rule was inadequate.

The case centers on EPA's 2015 rule to establish standards for dealing with secondary hazardous waste and recycling under the Resource Conservation and Recovery Act. EPA has been trying to define "discarded solid waste" for recycling and hazardous waste purposes since 2007.

The ruling accepted one disputed part of the rule, in which EPA argues that secondary discarded waste must be "contained." API asserted that EPA had no authority to make such a rule, but the court went with the agency.

The court vacated a second part of the rule to prevent companies from mixing hazardous waste with non-hazardous or recyclable materials to sidestep the disposal requirements. The court found that EPA did not have the authority to impose such a requirement.

The ruling was issued per curiam, but Judge David Tatel, an appointee of President Bill Clinton, argued in a partial dissent that in vacating part of the rule the court overstepped its bounds by deciding "a policy question Congress left to the Administrator."

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