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Bayer CropScience
Clean Harbors Environmental Services
Eastman Chemical Company
Formosa Plastics Corporation, USA
INV Nylon Chemicals Americas, LLC
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W.L. Gore and Associated, Inc.
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INDIVIDUAL MEMBERS

Ronald E. Bastian, PE
Ronald O. Kagel, PhD

ACADEMIC MEMBERS
(Includes faculty from:)

Clarkson University
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University of Maryland
University of Utah

43330 Junction Plaza, Suite 164-641
Ashburn, VA 20147

Phone: 703-431-7343
E-mail: mel@crwi.org
Web Page: http://www.crwi.org

CRWI Update
June 30, 2025

HWC MACT RTR

The hazardous waste combustor (HWC) maximum achievable control technology (MACT) risk and technology (RTR) proposed rule was not sent to the Office of Management and Budget in June. EPA will ask for an abbreviated review and plans for a signed rule sometime this summer.

OSWI final rule

EPA published the initial Other Solid Waste Incinerator (OSWI) rule in 2005. That rule set emissions guidelines for two source categories: units burning less than 35 tons per day of municipal waste; and institutional facilities burning institutional waste. This rule was challenged and in 2016 EPA took a voluntary remand. In 2018, the court ruled that EPA had failed to undertake the mandatory review of the emission guidelines and established a schedule to complete that action. EPA published a proposed rule in 2020 addressing the require review. In response to issues that were raised during the comment period, EPA took three actions. The first was to modify the proposed definition of “municipal waste combustion unit” by removing pyrolysis/combustion units from the definition. The second removed the requirement that air curtain incinerators that only burn wood waste, clean lumber, and yard waste must obtain Title V permits. The third was a supplemental proposed rule that added the definition of “rudimentary combustion device.”

On June 30, 2025, EPA published the final rule. In this final rule, EPA determined that there were no new cost-effective controls available for these two source categories. They did not make any modifications to the air curtain incinerator requirements nor did they address whether pyrolysis of solid waste should be included under this source category. It also subdivided the units burning municipal waste into units that burn less than 10 tons per day and those that burn between 10 and 35 tons per day. Institutional incinerators were also subdivided at the 10 tons per day feed rate. EPA did not make any changes to the emission guidelines for either the municipal waste units or the institutional units that burn more than 10 tons per day. EPA set new limits for those that burn less than 10 tons per day for both categories. By changing the definition, small remote incinerators combusting at least 30% municipal waste are now

covered by this rule instead of the commercial and industrial solid waste incinerator rule. EPA defined a "rudimentary combustion device" as a device with a capacity of less than 10 tons per day that is constructed without a stack or chimney, mechanical draft, burners designed to initiate or assist the combustion process, or an ancillary power supply to operate. EPA also removed the startup, shutdown, and malfunction provisions and added electronic reporting of test results. These guidelines are not effective until implementation plans are developed by the states and/or the federal government.

EPA updates on hazardous waste tools

Three things got overlooked in May that may be of interest to readers. First, EPA published the third module in the RCRA Model Permit. This new permit module contains conditions covering the general facility standards and is applicable to all RCRA permits. Access can be found at https://www.epa.gov/hwpermitting/resource-conservation-and-recovery-act-model-permit. Second, EPA updated its treatment, storage, and disposal facilities (TSDF) toolkit. This toolkit consolidates most of the publicly available hazardous waste permitting resources into a single location. The toolkit can be found at https://www.epa.gov/hwpermitting/toolkit-reference-document-requirements-related-hazardous-waste-treatment-storage-and. Third, EPA created a new webpage with nearly 300 notices for rulemakings related to hazardous waste, TSDFs, and permitting. The table is searchable and sortable. It can be found at https://www.epa.gov/hwpermitting/list-federal-register-notices-pertaining-hazardous-waste.

E-manifest fees

The user fees for the e-manifest system is part of the phased approach to sunset paper manifests. On June 27, 2025, EPA announced the user fees for FY 2026 and FY 2027. The fee for the image only options is $25, the fee for data plus image option is $7, and the fee for electronic/hybrid option is $5. The new fee structure applies to any manifest that originates on or after October 1, 2025.

Deregulation

The Trump Administration has started the formal deregulatory process. In 2024, EPA redid the risk and technology review of the Mercury and Air Toxics Standards for the coal and oil-fired electric generation source category. They did not add any restrictions based on risk but made three modifications based on the technology review. These were: 1) revising the filterable particulate matter (PM) limit from 0.030 lbs/MMBtu to 0.010 lbs/MMBtu; 2) requiring all coal- and oil-fired electric generation units use PM CEMs for compliance (previous rules allowed a facility to use quarterly stack testing, continuous parameter monitoring systems, or PM CEMs); and 3) revising the mercury emission limits for lignite-fired coal units from 4.0 lb/MMBtu to 1.2 lbs/MMBtu. On June 17, 2025, EPA proposed a rule to remove these three provisions. On the same day, EPA proposed to repeal all greenhouse gas emission limits for fossil-fuel fired power plants.

On June 30, 2025, EPA sent a proposed rule to repeal the 2009 greenhouse gas endangerment finding to the Office of Management and Budget for review. If finalized, it would remove the legal foundation for all greenhouse gas emission limits.

PFAS

EPA is not giving any clear signals on how it intends to handle per- and polyfluoroalkyl substances (PFAS) issues. EPA asked for and received another 45 day delay on the litigation of the drinking water limits for six PFAS compounds. This is the fourth delay. This one expires on July 21, 2025. The current delay on the litigation of the rule adding perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) to the list of hazardous substances under CERCLA expires on July 2, 2025. EPA is expected to ask for another extension. These delays are also impacting Department of Justice settlement talks on cost recovery claims at Superfund sites.

In May, EPA announced they would retain the current maximum contaminant levels (MCL) for PFOA and PFOS but would revise the MCLs for hexafluoropropylene oxide dimer acid (HFPO-DA), perfluorononanoate (PFNA), and perfluorohexane sulfonic acid (PFHxS) as well as the use of a hazard index for these three compounds plus perfluorobutane sulfonic acid (PFBS). EPA has not given any indication on how or when they would address these changes.

States continue to push for federal guidance and take steps on their own to address the PFAS issues. The Illinois legislature has passed a bill (HB 2516) to ban certain PFAS containing consumer products by January 1, 2032. It was sent to the governor on June 24, 2025. New Mexico is suing the Air Force over PFAS contamination based on the recently passed state law that makes aqueous film-forming foam containing PFAS compounds a hazardous waste when discarded. Three states have petitioned EPA to list PFOA, PFOS, PFNA, and HFPO-DA as hazardous air pollutants under section 112 of the Clean Air Act.

CRA – major source reclassification rule

In 1995, EPA developed a policy that major sources of hazardous air pollutants could switch to area sources at any time before their first date of compliance. If they did not switch by that date, they would remain major sources for the rest of their operational life, no matter what their emission levels were after that date. This was called the “once in, always in” policy. In 2018, EPA replaced that policy with one that allowed major sources to reclassify as area sources at any time as long as their emissions remained below the major source threshold. That policy was codified in 2020. The Biden Administration decided that the 2020 rule would not prevent reclassified area sources from increasing emissions and published a final rule in September 2024 that made two modifications. The first was to add paragraph 63.1(c)(6)(iii) that does not allow certain source categories to reclassify from major to area source. These are 40 CFR Parts 63 Subparts F, G, H, I, L, R, X, CC, GG, II, JJ, KK, LL, MM, EEE, HHH, JJJ, LLL, RRR,

UUU, FFFF, JJJJ, MMMM, PPPP, ZZZZ, CCCCC, DDDDD, FFFFF, IIIII, LLLLL, YYYYY, JJJJJJ, and EEEEEEE. The second modifies the notification provisions in 63.9(j) and (k) and adds a new paragraph (k)(3) on submitting confidential business information.

On June 20, 2025, President Trump signed the Congressional Review Act (CRA) resolution of disapproval for the September 2024 amendments. As such, the 2024 amendments have no effect or force. EPA will likely codify this in the near future.

Challenges to the 2020 final rule in the U. S. Court of Appeals for the District of Columbia Circuit were put on hold during the Biden Administration. It is likely that this litigation will be reactivated.

EPA personnel

The Senate confirmed David Fotouhi to serve as EPA's Deputy Administrator by a 53-41 vote. Mr. Fotouhi is the third EPA nominee to be confirmed by the Senate. The other two are Lee Zeldin, Administrator, and Sean Donahue, General Counsel.

Nominations for Aaron Szabo, Assistant Administrator for the Office of Air and Radiation, Jessica Kramer, Assistant Administrator for the Office of Water, Catherine Hanson, Chief Financial Officer, and John Busterud, Assistant Administrator for the Office of Land and Emergency Management, have cleared the Senate Environment and Public Works Committee. These four are waiting on a vote by the full Senate. Nominations for Jeffery Hall, Assistant Administrator for the Office of Enforcement and Compliance Assurance, and Usha-Maria Turner, Assistant Administrator for the Office of International and Tribal Affairs, have been submitted to the Senate but no committee hearings have been scheduled. Senator Alex Padilla (D-CA) has expanded his hold to include all EPA nominees. This hold does not block the Senate from voting on a nominee, but it forces the Senate to use limited floor time to advance the nomination.

On January 1, 2025, EPA had approximately 17,000 employees. A little over 500 applications for the first round of buyouts have been accepted. The Agency is also attempting to terminate another 130 environmental justice employees and several hundred Office of Research and Development employees through a reduction in force. These terminations are currently on hold based on a court injunction. Probationary workers have been terminated, reinstated, and then put on administrative leave. More than 300 current employees sent a dissent letter to EPA Administrator Zeldin claiming the current administration is undermining public trust, ignoring scientific consensus to benefit polluters, reversing progress made in protecting the most vulnerable, and promoting a culture of fear. One hundred thirty nine signed the document, the rest were anonymous. Those 139 have been placed on administrative leave. An additional 2,629 have applied for the second round of buyouts. The trade press is estimating that as much as 25% of EPA's work force will be eliminated by the time all of these activities are completed. The reduction in staff and reorganizations will make it more difficult for the administration to carry out its deregulatory agenda.

Citizen suits

Two citizen enforcement suits, one under the Clean Air Act and the other under the Clean Water Act, were on the Supreme Court's docket this term. The Clean Air Act citizen enforcement suit was against ExxonMobil's Baytown refinery. The original case involved 241 reportable emission events between 2005 and 2013, all self-reported by ExxonMobil. TCEQ investigated and assessed penalties of $1,142,399. Harris County added penalties of $277,500. Not satisfied with TCEQ's actions, several environmental groups sued ExxonMobil (*ExxonMobil Corp, et al. v. Environmental Texas Citizen Lobby, et al.*) for over a billion dollars under the citizen suit provisions of the Clean Air Act seeking maximum penalties for each of the 16,386 days of violations reported or recorded by ExxonMobil. After a 14 day bench trial, a district judge found that the company had violated Clean Air Act requirements for 44 days and that TCEQ and Harris County's penalties were adequate. As such, the plaintiffs were not awarded any additional relief. Plaintiffs appealed and the U.S. Court of Appeals for the 5th Circuit vacated and remanded the case to the district judge saying they erred in finding only 44 actionable violations and abused its discretion in finding the current penalties adequate. The district court then deemed all 16,386 violation days claimed by the plaintiffs as actionable and imposed a $19.95 million civil penalty. ExxonMobil appealed and the 5th Circuit vacated and remanded this decision. This time, the district court found traceable evidence to 3,651 violation days that may have caused harm to the plaintiffs and awarded a $14.25 million penalty. ExxonMobil appealed but this time the 5th Circuit upheld the district court ruling. ExxonMobil appealed this ruling to the Supreme Court. On June 30, 2025, the Supreme Court denied the appeal and let the 5th Circuit ruling stand. ExxonMobil must now pay the additional $14.25 million civil penalty.

The path for the Clean Water Suit (*Port of Tacoma, et al. v. Puget Sound Alliance*) was not quite as tortuous but ended the same manner. In this lawsuit, the district court had allowed citizens to sue to enforce state mandates that were more stringent than federal requirement.

The one clear message from this is that the Supreme Court failed to overturn appeals court decision allowing citizen enforcement suits under both the Clean Air Act and the Clean Water Act. This may embolden these groups to continue using citizen suits as an enforcement tool.

CRWI meetings

The next CRWI meeting will be held on August 20-21, 2025, in Joplin, MO. It will feature a tour of Arcwood's hazardous waste combustors. Please contact CRWI (703-431-7343 or mel@crwi.org) if you are interested in attending.