



CRWI Update January 31, 2024

MEMBER COMPANIES

Bayer CropScience
Clean Harbors Environmental Services
Eastman Chemical Company
Heritage Thermal Services
INV Nylon Chemicals Americas, LLC
Ross Incineration Services, Inc.
The Dow Chemical Company
Veolia ES Technical Solutions, LLC
Westlake US 2, LLC

GENERATOR MEMBERS

Eli Lilly and Company
Formosa Plastics Corporation, USA
3M

ASSOCIATE MEMBERS

AECOM
Alliance Source Testing LLC
B3 Systems
Civil & Environmental Consultants, Inc.
Coterie Environmental, LLC
Envitech, Inc.
Eurofins TestAmerica
Focus Environmental, Inc.
Franklin Engineering Group, Inc.
Montrose Environmental Group, Inc.
Ramboll
Spectrum Environmental Solutions LLC
Strata-G, LLC
TEConsulting, LLC
Trinity Consultants
W.L. Gore and Associated, Inc.
Wood, PLC

INDIVIDUAL MEMBERS

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

ACADEMIC MEMBERS

(Includes faculty from:)

Clarkson University
Colorado School of Mines
Lamar University
Louisiana State University
Mississippi State University
New Jersey Institute of Technology
University of California – Berkeley
University of Dayton
University of Kentucky
University of Maryland
University of Utah

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HWC MACT RTR

As of January 31, 2024, the judge had not released his decision on the deadline suit. EPA continues to work on the rule based on an August 2025 proposed rule.

Late on January 31, 2024, EPA sent letters to nine companies requesting additional testing. It was the same nine companies that received the initial questionnaire. However, each company was not asked to test all units. For halogen acid furnaces, EPA is asking for emissions data on polycyclic aromatic hydrocarbons (PAH), polychlorinated biphenols (PCB), total hydrocarbon (THC), hydrogen cyanide, oxygen, carbon dioxide, and moisture. For all other source categories, EPA is asking for PAH, PCB, THC, hydrogen fluoride, hydrogen bromide, hydrogen cyanide, oxygen, carbon dioxide, and moisture. Facilities have until March 1, 2024 to request alternate test methods. Testing will be conducted under normal operating conditions with feed rates of halogens to be between average and maximum. Spiking is allowed but not required. Operating parameter limits are not waived during the test. Sampling for PAH, PCB and THC are to be done concurrently. EPA wants to know if THC can be used as a surrogate for these two pollutants. Test results are to be submitted by August 30, 2024. All data is to be reported using EPA Electronic Reporting Tool. The letter also includes two additional questions pertaining to whether each facility is subject to 40 CFR part 63, subpart GGGGG, the site remediation NESHAP, or if they accept any remediation material from a site subject to this NESHAP. EPA requests answers from these two questions by March 1, 2024.

Large MWCs proposed rule

On January 23, 2024, EPA proposed revisions to the emission guidelines for large municipal waste combustors (MWC). Section 129 of the Clean Air Act requires that the emission guidelines for this source category be reviewed every five years. These guidelines were last revised in 2006. After being challenged on the 2006 guidelines, the Agency took a voluntary remand in 2008. The current proposed rule is in response to the remand and a petition for reconsideration, among other things. The majority of the data used to set the emissions guidelines was collected from 2000 to 2009.

With the exception of carbon monoxide (CO) limits, the proposed emission guidelines are significantly more stringent. All values in the table below are at 7% oxygen.

Pollutant (units)	Current values	Proposed values
Cd (ug/dscm)	35	1.5
Pb (ug/dscm)	400	56
PM (mg/dscm)	25	7.4
Hg (ug/dscm)	50	12
PCDD/PCDF (ng/dscm)	30/35	7.2
HCl (ppmdv)	29	13
SO ₂ (ppmdv)	29	20
NO _X (ppmdv)	180–250	110

EPA did not propose any changes to the CO emission guidelines. The Agency is also proposing to remove the startup, shutdown, and malfunction provisions and require electronic reporting of performance tests. The Agency concluded that these units could meet the proposed emission guidelines during startup and shutdown because all use some form of clean fuel during those periods. As such, work practices for these periods are not needed. Comments are due on March 25, 2024.

OTM-50

On January 18, 2024, the Agency released OTM-50. This is a canister method designed to sample and analyze for volatile PFAS compounds. The method currently lists 30 targeted compounds. EPA had intended to release this method at the same time as the revised PFAS disposal and destruction guidance was released. However, that guidance is still at the Office of Management and Budget. While the method is now available for use, the only laboratory that can compete the analysis is at EPA's RTP facility. This method will not get significant use until commercial laboratories obtain the necessary standards and develop the internal procedures to complete the analysis. It may take some time before this method is routinely used. A copy can be found at https://www.epa.gov/system/files/documents/2024-01/otm-50-release-1_0.pdf.

OB/OD compendium

EPA sent their proposed revisions to the use of open burn/open detonation (OB/OD) to the Office of Management and Budget on May 8, 2023. It is still under review. Late last month, EPA posted a "Compendium of Alternative Technologies to Open Burning and Open Detonation of Energetic Hazardous Wastes" on their website. A copy can be found at https://www.epa.gov/system/files/documents/2023-12/alt_tech_compendium_2023.pdf.

PFAS

The City of Lebanon, TN has an NPDES discharge permit into a tributary of Spring Creek from an inactive municipal landfill. Recently, an environmental group hired a consultant to sample the water before and after the outfall specifically looking for per- and polyfluoroalkyl substances (PFAS). The consultant sampled 10 feet upstream and at the outfall. The results of the analysis were very similar for both locations in the pollutants and concentrations found. The environmental group concluded that the City had an unregulated discharge site and filed suit. The case has been referred to a magistrate judge.

EPA has added six more PFAS chemicals to the list of chemicals to be reported under the Toxics Release Inventory. The six chemicals are:

- Ammonium perfluorohexanoate;
- Lithium bis[(trifluoromethyl)sulfonyl] azanide;
- Perfluorohexanoic acid;
- Perfluoropropanoic acid;
- Sodium perfluorohexanoate; and
- 1,1,1-Trifluoro-N-[(trifluoromethyl)sulfonyl] methanesulfonamide.

On January 31, 2024, the EPA Administrator signed two proposed rules. One would amend the definition of hazardous waste in 40 CFR 264 and 270 as applicable to corrective action for RCRA treatment, storage, and disposal facilities. These will make it clearer that EPA has the authority to apply the statutory definition to the requirements of the corrective action program. This would include all materials that meet regulatory definition of hazardous waste and all substances that EPA believes meets the statutory definition of hazardous waste. This proposed rule will have a 30 day comment period once published in the *Federal Register*. A copy can be found at <https://www.epa.gov/hw/proposal-clarify-authority-address-releases-hazardous-waste-treatment-storage-and-disposal>. The second proposed rule would add nine PFAS chemicals to the list of hazardous constituents under Appendix VIII. The nine compounds are perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS), perfluorobutanesulfonic acid (PFBS), hexafluoropropylene oxide-dimer acid (HFPO-DA or GenX), perfluorononanoic acid (PFNA), perfluorohexanesulfonic acid (PFHxS), perfluorodecanoic acid (PFDA), perfluorohexanoic acid (PFHxA), and perfluorobutanoic acid (PFBA). Once published, this proposed rule will have a 60 day comment period. A copy can be found at <https://www.epa.gov/hw/proposal-list-nine-and-polyfluoroalkyl-compounds-resource-conservation-and-recovery-act>.

Also on January 31, 2024, EPA's Office of Water posted final Methods 1633 and 1621. Method 1633 measures 40 PFAS compounds in wastewater, surface water, groundwater, soil, biosolids, sediment, landfill leachate, and fish tissue. Method 1621 measures the aggregate concentration of organofluorines in wastewater. While neither method is "officially" final until published in the *Federal Register*, EPA is encouraging

their use now. Both methods can be found at <https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas#method-1633>.

Environmental justice

Ohio EPA granted a draft air permit for SOBA Energy Solutions to build a facility to convert 88 ton per day of tire-derived chips into syngas in Youngstown. Region 5 expressed concerns and asked Ohio EPA to conduct a more thorough environmental justice analysis before finalizing the permit. Before that process could be completed, the City of Youngstown enacted a one-year moratorium barring the construction of any facility that seeks to convert plastics, tire-derived chips, tire chips, and/or electronic waste into fuel or chemical feed stock using either pyrolysis or gasification.

In August 2022, EPA accepted two complaints associated with how the Texas Commission of Environmental Quality (TCEQ) handled the permitting of concrete batch plants in Harris County. The parties entered into an informal resolution agreement but TCEQ withdrew from that agreement in October 2023. On January 2, 2024, EPA sent a letter to TCEQ informing them they were closing both investigations stating that “the changing circumstances make continuing investigation unjustified at this time.” On January 24, 2024, TCEQ issued its final permit for concrete batch plants that includes additional requirements of a 100-foot setback, a 100 cubic yard hourly maximum production rate, and a 1.5 million cubic yard annual production rate. It also includes a “protectiveness review” that will primarily look at particulate matter as compared to a background concentrations.

Formosa has proposed to build a chemical manufacturing complex in St. James Parish, Louisiana. Formosa submitted applications for 15 permits to construct the facility. On January 6, 2020, the Louisiana Department of Environmental Quality (LDEQ) issued all of the permits. Several environmental groups challenged these permits alleging a number of errors and challenging the LDEQ environmental justice analysis to support the issuance of the permits. On September 8, 2022, a state district judge vacated all of the permits. Both LDEQ and Formosa appealed that decision. On January 19, 2024, a state appeals court overturned the district court decision and reinstated all permits. The appeals court found that the permits were not in violation of any constitutional or statutory law, were not arbitrary or capricious, and did not abuse any discretion allowed to LDEQ. Unless challenged in the state Supreme Court, Formosa should be able to go forward with building the facility.

EPA opened two probes into LDEQ permitting actions, both based on environmental justice concerns. Louisiana responded by filing suit in federal district court alleging that EPA had overstepped their authority. In June 2023, EPA filed an administrative closure to the two complaints stating that “EPA will not initiate under Title VI or other civil rights laws any further action, enforcement or otherwise, in response to these Complaints.” Louisiana is continuing to challenge EPA’s initial action because “EPA is broadly seeking to enforce disparate impact and cumulative impact permitting requirements that are not authorized by any statute...” EPA countered by asking the court to dismiss the suit

arguing that the two probes were closed and there is no reason for the suit to continue. On January 23, 2024, the federal district judge released his opinion where he rejected EPA's motions to dismiss and granted Louisiana's request to block the Agency's to use the Civil Rights Act to address disparate impacts. This will significantly curtail the Agency's environmental justice program. It is anticipated that the Agency will appeal this ruling to the 5th Circuit.

EPA initiated their first "roadshow" to help communities figure out how to access funding and technical assistance to address climate change and environmental justice on January 19, 2024, in Albany, NY. The second is planned for February 18, 2024, in San Bernadino, CA. The third will be in Denver, CO. Additional details can be found at <https://www.epa.gov/community-equity-resiliency/regional-roadshows>.

EPA is looking for persons to review grant applications submitted under the Environmental and Climate Justice Community Grants program. Additional information can be found at <http://new.grantreviewinfo.net/FY24-EPA-OEJECR-Climate-Justice-Community-Change-Grants>.

In addition, EPA is hosting a series of webinars on Community Change Grants Program. The first was held on January 30, 2024 and will be held weekly through at least March. Additional information can be obtained at <https://www.epa.gov/inflation-reduction-act/community-change-grants-technical-assistance>.

Continuing resolutions

In November 2023, Congress passed a second continuing resolution to fund the government at FY 2023 levels through January 19 and February 3, 2024. Congress did not succeed in passing any appropriations bills during that time period and on January 18, 2024, Congress passed a third continuing resolution. This one expires on March 1 and March 8, 2024. Perhaps the third time is a charm.

EPA personnel

On January 31, 2024, the Senate voted 50-49 to confirm Joe Goffman as the next Assistant Administrator for the Office of Air and Radiation. Mr. Goffman was initially nominated for the position in 2022. He has been the Principal Deputy Assistant Administrator since 2021. The Assistant Administrator positions for the Office of Land and Emergency Management and the new Office of Environmental Justice and External Civil Rights are still open. In addition, the Assistant Administrator for the Office of Water announced her intentions to leave the Agency in February.

TCEQ permit modification forms

The Texas Commission on Environmental Quality (TCEQ) has revised the permit modification forms for a Class 1 modification, a Class 1ED modification, and a Class 2 modification. The new forms should be used immediately and can be found at

https://www.tceq.texas.gov/permitting/waste_permits/ihw_permits/ihw_permit_forms.html.

CRWI meetings

Our next meeting will be on February 21-22, 2024 in Durham, NC. Please contact CRWI (mel@crwi.org or 703-431-7343) if you are interested in attending.