



CRWI Update July 31, 2021

MEMBER COMPANIES

Clean Harbors Environmental Services
Eastman Chemical Company
Heritage Thermal Services
INV Nylon Chemicals Americas, LLC
3M
Ross Incineration Services, Inc.
The Dow Chemical Company
Veolia ES Technical Solutions, LLC

GENERATOR MEMBERS

Eli Lilly and Company
Formosa Plastics Corporation, USA

ASSOCIATE MEMBERS

AECOM
Alliance Source Testing LLC
B3 Systems
Civil & Environmental Consultants, Inc.
Coterie Environmental, LLC
Eurofins TestAmerica
Focus Environmental, Inc.
Franklin Engineering Group, Inc.
Montrose Environmental Group, Inc.
Ramboll
Spectrum Environmental Solutions LLC
Strata-G, LLC
SYA/Trinity Consultants
TEConsulting, LLC
TRC Environmental Corporation
W. L. Gore and Associates, 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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E-manifest fees

On July 19, 2021, EPA announced the e-manifest fees for the next two fiscal years. For the most part, the fees will remain unchanged with the cost for a scanned image upload at \$20 per submittal and electronic and hybrid manifests at \$8 per submittal. The cost of data plus image uploads dropped from \$14 to \$13 per submittal.

Use of EJ in cleanup enforcement

On July 1, 2021, the Acting Assistant Administrator for the Office of Enforcement and Compliance Assurance sent a memo to the regions, site remediation managers, and Superfund directors detailing methods on using cleanup enforcement actions to further environmental justice (EJ) objectives. The memo calls for the use of EJSCREEN as a tool to help identify communities that may be disproportionately impacted. It encourages early cleanup action by using the authorities under CERCLA Section 106(a) and RCRA Section 7003 to issue unilateral administrative orders where actual or threatened releases may present an imminent and substantial endangerment. It also calls for prioritizing cleanup efforts in EJ communities and looking for ways to issue orders to address acute threats in overburdened communities. The memo outlines several procedures that can be used such as splitting the remedial design/remedial action into two parts, using unilateral administrative orders to compel cleanup when negotiations are not settled in a timely fashion, and intervening when principle responsible parties miss deadlines or are out of compliance. The memo also encourages the use of advanced monitoring equipment where appropriate to demonstrate compliance and to make that data public. Finally, the memo calls for enhanced compliance reviews at sites where EJ concerns have been documented. A copy of the memo can be found at

<https://www.epa.gov/system/files/documents/2021-07/strengtheningenvirjustice-cleanupenfaction070121.pdf>.

EPA RFA human exposure to PFAS

On July 7, 2021, EPA announced they are seeking requests for applications (RFA) for grants to monitor human exposure to per- and polyfluoroalkyl substances (PFAS). The primary goal for this work is

to develop PFAS human exposure measurement methodologies. The application period closes on August 23, 2021. Additional information can be found at <https://www.epa.gov/research-grants/collection-concordant-multimedia-measurements-evaluate-pfas-human-exposure-0>.

CCL5

Under the Safe Drinking Water Act, EPA releases lists of drinking water contaminants that are known or anticipated to occur and are currently not regulated. These are called contaminant candidate lists (CCL). CCL3 contained perfluorooctanoic acid. CCL4 contained perfluorooctane sulfonic acid. On July 12, 2021, EPA released draft CCL5. This list contains 66 individual chemicals, 12 microbes, and three chemical groups (PFAS, cyanotoxins, and disinfection byproducts). PFAS are listed as a group of more than 4000 compounds. While this notice does not create any requirements, including a chemical in the CCL often leads to regulatory requirements. EPA is accepting comments on this draft until September 17, 2021. Additional details can be found in the July 19, 2021, *Federal Register* notice.

EPA personnel

On July 14, 2021, the Senate Environment and Public Works Committee unanimously approved the nomination of Jane Nishida to be the next Assistant Administrator for the Office of International Affairs. Her nomination now goes to the Floor for full Senate approval. However, the committee failed to take action on the nomination of Jeffery Prieto to be the next General Counsel. It is not clear why a vote on Mr. Prieto's nomination was not taken. Hearing on the nominations of Amanda Howe (Office of Mission Support), Carlton Waterhouse (Office of Land and Emergency Management), and David Uhlmann (Office of Enforcement and Compliance Assurance) have been scheduled for August 11, 2021.

EPA submitted their "return-to-work" plan to the Office of Management and Budget (OMB) on July 19, 2021. Neither EPA nor OMB has released the contents of that document. The official response was that details would be released after gathering additional information from supervisors, employees, and union representatives. Observers expect EPA to be one of the last agencies to physically return to the work place, given some of the earlier friction between the political leadership and the employees.

PFAS legislation

The House approved HR 2467, the PFAS Action Act, on July 21, 2021, by a 241-183 vote. Twenty three Republicans joined 218 Democrats to vote for the bill. The legislation would require EPA to designate PFAS compounds as hazardous substances under CERCLA, set national drinking water standards under the Safe Drinking Water Act, add requirements for incineration of PFAS containing wastes, require that EPA include PFAS compounds in the list of hazardous air pollutants, revise the list of source

categories under the Clean Air Act, and gives the Agency 180 days to require each covered entity to submit an analytical reference standard for every PFAS compound manufactured. The Congressional Budget Office projects this legislation, if enacted, would add about \$280 million to the Department of Defense direct spending through 2031.

This legislation now goes to the Senate for consideration. In the last Congress, the Senate Majority Leader declined to bring similar legislation before the Senate. That will not be the case this session. One should expect this legislation to be taken up by the Senate Environment and Public Works (EPW) Committee in the next couple of months. However, the legislation coming out of the Senate may be substantially different from the House version. The key players in the Senate debate will be EPW Committee Chair Tom Carper (D-DE) and ranking member Shelley Moore Capito (R-WV). Both have worked together on PFAS legislation in the past. Once the Committee develops their draft, the next hurdle will be to get 60 votes needed to limit debate. There is strong political pressure for the Senate to act. Several Great Lakes governors are pushing for action and Senators from both parties have PFAS contamination in their states. Should the hurdles become too high for this legislation to pass on its own, some or all of it may get incorporated into other “must pass” legislation such as appropriations legislation or national defense authorization legislation.

In addition, the Senate Armed Services Committee included an amendment in the FY 2022 defense authorization bill to set deadlines for the Department of Defense to test for PFAS contamination at all military bases, develop schedules cleaning up PFAS contamination, and develop a status report on cleanup efforts.

EJ monitoring legislation

On July 27, 2021, a group of eight Senators (all Democrats) announced legislation (“Environmental Justice Air Quality Monitoring Act”) to authorize \$100 million for local air monitoring programs. If enacted, this legislation would set up a process where state and local regulators could partner with local groups to identify air pollution hot spots, track pollutant levels in those locations, and develop “equity maps” linking pollution levels with resident’s race, income, and ethnicity. The bill does not include specific technologies that the projects could use but does require that the monitoring equipment be sensitive enough to track pollution in the smaller of either a residential block or a 100 meter radius. This bill does not yet have a number.

CSB hearing

On July 29, 2021, the Senate Environment and Public Works Committee held a hearing on the nominations of Jennifer Sass, Sylvia Johnson, and Stephen Owens to be members of the Chemical Safety and Hazards Investigation Board (CSB). While the Democrat members of the Committee supported the nominations, the Republican members raised concerns about the qualifications of the nominees, largely based on the lack of experience by all three in investigating chemical industrial incidents. Dr. Sass is

toxicologist currently working as a senior scientist at the Natural Resources Defense Council. Ms. Johnson is an epidemiologist who currently serves as a lobbyist for the National Education Association. Mr. Owens is currently an attorney with Squire Patton Boggs and was the Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention during the Obama Administration.

EPA FY 2022 funding

On July 29, 2021, the House of Representatives passed a bundle of seven appropriations bill. This included FY 2022 funding for EPA of \$11.4 billion. In addition, the bill transferred \$2 million from other areas to fund EPA PFAS research. The bill now goes to the Senate for consideration. The Senate has not given any indication on what levels of funding they are considering for EPA. Congress typically goes on recess for most of August through Labor Day. The fiscal year ends on September 30. Although Congressional staff will be working during the recess, there is not much "legislative" time between now and when the fiscal years ends. One should expect at least one continuing resolution before the final appropriations legislation is passed and signed.

CRWI meetings

Our August 18-19, 2021, meeting will be virtual. Please contact CRWI (mel@crwi.org or 703-431-7343) if you have interest in attending.