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## INDIVIDUAL MEMBERS

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## ACADEMIC MEMBERS

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## CRWI Update March 31, 2025

### HWC MACT RTR

The Agency continues working on the HWC MACT RTR proposed rule to meet the court ordered final rule deadline (December 31, 2025). EPA has not announced a timeline for a proposed rule but it is expected sometime between the middle of April and the end of May. As of March 31, it has not been submitted to the Office of Management and Budget for review.

### EPA reconsideration of rules

On March 12, 2025, the EPA Administrator announced the Agency was going to revise 31 final rules from the Biden Administration. These include NESHAPs for iron and steel manufacturing, rubber tire manufacturing, synthetic organic chemical manufacturing, commercial sterilizers for medical devices, lime manufacturing, coke ovens, copper smelting, and taconite ore processing. The Agency is also reconsidering the Mercury and Air Toxics Standards for power generating plants and is considering adding a two year extension to that compliance date while the Agency goes through the process. In addition, the Agency will reconsider the risk management plan final rule, the 2009 endangerment finding that is the basis for all greenhouse gas regulations, particulate matter National Ambient Air Quality Standards, the social cost of carbon, and redirecting enforcement to relieve the economy of unnecessary bureaucratic burdens.

Essentially, the Agency is restarting the rulemaking process for each of these rules. This will take time and resources (personnel). It will also initiate additional legal challenges both to the process and to the final outcomes. How this will tie in with resolutions of disapproval under the Congressional Review Act (see below) is unclear.

The Agency is also encouraging industry to apply for presidential waivers for nine NESHAP rules to extend the time to come into compliance. This is being done under Section 112(i)(4) of the Clean Air Act that allows the president to exempt stationary sources from compliance for up to two years if the technology to implement the

standards is not available or if it is in the national security interests of United States. The application process closed on March 31, 2025.

In addition, EPA is extending the effective date of several NESHAP rules by 90 days, the longest period allowed under the Clean Air Act.

### **EPA personnel**

On March 13, 2025, the Senate Environment and Public Works Committee favorably reported the nominations of David Fotouchi to be the next EPA Deputy Administrator and Aaron Szabo to be the next Assistant Administrator for the Office of Air and Radiation. The date for floor votes has not been set. On March 26, 2025, the Senate Committee held a hearing on the nominations for Jessica Kramer to be Assistant Administrator for EPA's Office of Water and Sean Donahue to be EPA's General Counsel.

In February, EPA terminated more than 400 probationary workers. This was challenged and after a district judge in Maryland ordered EPA to reinstate the employees, the Agency did so. Shortly after, the Agency put all probationary workers on administrative leave meaning they are still getting paid but are not required to work.

Mr. Trump signed an executive order to end collective bargaining at EPA and other federal agencies. The order prohibits union involvement in any agency associated with national security including "energy security." The unions representing federal employees have filed suit to block this effort.

### **EPA budgets**

It was initially reported that EPA planned to cut their 2026 budget by 65%. When the fine print was examined, this was based on the large increase in funding given the Agency under the Inflation Reduction Act in 2022. A more recent estimate has been a 35% reduction based on the core fiscal year 2024 spending.

### **PFAS**

With the new administration, there is considerable maneuvering in the per- and polyfluoroalkyl substances (PFAS) regulatory world. For example, a group of industries sent a letter to Administrator Zeldin in February suggesting several modifications to the Biden policies on PFAS regulations. The letter suggested that all PFAS compounds should not be grouped together for risk assessment purposes, the Agency should accelerate non-CERCLA methods for cleanup, and the Agency should acknowledge there are critical uses of PFAS. The letter also included the following specific actions:

- Withdraw the rule designating perfluorooctanoic acid and perfluorooctane sulfonic acid as hazardous substances under CERCLA;

- Develop a rule to implement traditional TSCA exemptions (de minimis, small businesses, impurities, research, etc.) for PFAS compounds;
- Finalize a rule to re-instate the de minimis exemptions for the Toxic Release Inventory reporting requirements for PFAS compounds;
- Revise National Drinking Water Standards for certain PFAS compounds to a workable level; and
- Restart the rulemaking to add PFAS compounds to Appendix VIII and the incorporation of PFAS compounds into the Corrective Action program.

Meanwhile, the New Mexico state legislature has passed a bill that would designate discarded aqueous film-forming foam that contains PFAS as hazardous waste. The governor is expected to sign the bill in April.

EPA released new data under their fifth Unregulated Contaminant Monitoring Rule that showed that more than 37 million Americans are drinking water that exceeds the current maximum contaminant levels for certain PFAS compounds. These were from 667 drinking water systems. The current testing program measures the concentration of 29 PFAS compounds. EPA notes that this report represents 66% of the total data expected when the study is completed in 2026.

Mr. Zeldin's list of regulations to be revised did not include any PFAS regulations. Decisions on how the Agency intends to pursue the regulatory efforts on PFAS compounds in the different program offices will likely wait until each assistant administrator is in place.

### **Environmental justice**

EPA Administrator Zeldin has eliminated the Office of Environmental Justice and External Civil Rights. The memo closes all "diversity, inclusion, and equity" and environmental justice offices in each region. In addition, he dissolved the Office of Inclusive Excellence within the Office of Mission Support. It appears that these personnel were terminated.

Mr. Zeldin also canceled \$2 billion in related environmental justice grants. In addition, EPA has canceled two components of the \$20 billion in grants to Greenhouse Gas Reduction Fund. It is not clear if he has the authority to not spend money that Congress specifically allocated. Environmental groups and others are pushing back arguing that EPA has statutory and court ordered requirements that cannot be ignored.

Any Representative or Senator can ask the Congressional Research Service (CRS) to develop a report on the implications of any federal action. The CRS is a non-partisan research organization. On February 24, 2025, CRS released an appraisal of the Trump executive orders concerning environmental justice. The report concluded that some environmental statutes require an environmental justice-like analysis. For instance, TSCA requires EPA to consider "potentially exposed or susceptible subpopulations" as a part of their evaluations. The Clean Air Act requires that EPA must consider at-risk

subpopulations when reviewing national ambient air quality standards. The report also points out that environmental justice has been a part of EPA's work since the Clinton executive order in 1994.

While the federal efforts on environmental justice may wane under Mr. Trump, efforts in some states are not likely to change. New Jersey, New York, Florida, Colorado, Michigan, and Montana have established environmental justice programs some of which are required by state laws. It is unlikely these states will modify their requirements. Some states will follow the federal government lead, other will not.

## **CRA**

As of the end of March, there have been a total of 40 resolutions of disapproval under the Congressional Review Act (CRA) introduced in the House and the Senate. Some of these are duplicative. Of this, two have been passed by both houses and signed into law by the President. One was to remove the rule on the protection of marine archeological resources and the other was to remove the rule for the petroleum and natural gas sectors setting up a system for collecting fees for methane emissions that exceeded an annual threshold. Once a resolution of disapproval has been signed by the President, the agency is not allowed to develop a substantially similar rule in the future. One other resolution for an IRS rule has passed both houses but has not yet been signed by the president. The only other resolution for EPA rules that has passed the House is the rubber manufacturing NESHAP. Resolutions of disapproval have also been introduced for the following EPA rules:

- Greenhouse gas emissions standards for heavy-duty vehicles – phase 3;
- National primary drinking water regulations for lead and copper;
- Trichloroethylene regulations under TSCA;
- New source performance standards review for volatile organic liquid storage vessels (including petroleum liquid storage vessels);
- Reconsideration of the dust-lead hazard standards and dust-lead post-abatement clearance levels;
- Phasedown of hydrofluorocarbons: management of certain hydrofluorocarbons and substitutes under the American Innovation and Manufacturing Act of 2020;
- Decabromodiphenyl ether and phenol, isopropylated phosphate (3:1); revision to the regulation of persistent, bioaccumulative, and toxic chemicals under TSCA;
- Withdrawal of the technical amendments for the approval of an Ohio air plan;
- Update to new chemical regulations under TSCA; and
- The reclassification of major sources into minor sources.

The original deadline to file these resolutions was March 31, 2025. Sometimes there is a lag in getting bills posted so a few more may surface in the next few days. Do not expect all to get passed.

## **Enforcement**

Although the Office of Enforcement and Compliance Assurance does not yet have an Assistant Administration confirmed, the Acting Assistant Administrator released a memo on March 12, 2025, that re-aligned the current National Enforcement and Compliance Initiatives to Administrator Zeldin's five pillars (announced in February and discussed in the February Update). Some of the changes include: environmental justice will no longer inform enforcement; enforcement on the energy sector will only address imminent and substantial endangerment; methane emissions will no longer be a priority; hydrofluorocarbon enforcement will focus on unlawful import; climate enforcement for landfills will return to its core program; enforcement for coal ash at active power plants will be restricted to imminent and substantial endangerment; will no longer focus enforcement of NESHAPs on communities that are "already highly burdened;" and inspections under risk management programs will focus on anhydrous ammonia and hydrogen fluoride. One should expect further modifications once the Assistant Administrator has been confirmed.

The Biden Administration filed suit against the Denka Performance Elastomer production facility in Louisiana to force the company to reduce emissions it claimed were an imminent threat to a nearby environmental justice community. A trial was to start on April 14, 2025. On March 7, EPA and the company reached an agreement that dismissed the case.

## **CRWI meetings**

The next CRWI meeting will be held on May 21-22, 2025, in Longview, TX. It will feature a tour of Texas Eastman's hazardous waste combustors. Please contact CRWI (703-431-7343 or [mel@crwi.org](mailto:mel@crwi.org)) if you are interested in attending.