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Commercial and Industrial Solid Waste Incineration Units/Disaster Recovery: Environmental Organizations Judicial Challenge to U.S. Environmental Protection Agency Interim Final Rule Addressing Temporary-Use/Air Curtain Incinerators

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The United States Environmental Protection Agency ("EPA") published on August 22nd an [interim final rule/request for comment](#) providing for the temporary use of incineration units subject to commercial and industrial solid waste incinerators ("CISWI") regulations during disaster recovery. See 90 Fed. Reg. 41,508.

An EPA news release stated that the purpose of the interim final rule is to:

... cut red tape on the temporary-use of commercial and industrial solid waste incinerators (CISWI) for natural debris removal, provide state, local and tribal governments with the ability to quickly and effectively clean up their communities.

EPA stated that only Other Solid Waste Incinerators are authorized to combust debris from a disaster or emergency on a temporary basis without having to comply with applicable Clean Air Act Section 129 requirements. The interim final rule would authorize such temporary use for incinerators subject to CISWI regulations by adding temporary-use provisions that are described as essentially mirroring those in the OSWI regulations to existing federal CISWI rule subparts.

Air curtain incinerators would be included.

Environmental organizations filing a Petition for Review in the United States Court of Appeals for the District of Columbia Circuit challenging the interim final rule include:

- SIERRA CLUB
- AIR ALLIANCE HOUSTON
- HEALTHY GULF
- CONCERNED CITIZENS AROUND MURPHY

A copy of the Petition for Review can be downloaded [here](#).

