

**2026 Arkansas Solid Waste Association of North
America - Annual Meeting: 6 Hour Update/Conway
Expo and Event Center August 6th**

**Solid Waste/Recycling
Legal/Regulatory Update**

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Discussion will address:

- ▶ A variety of federal and state decisions, litigation, rulings, regulations, policies, etc., either directly or indirectly related to solid waste management and/or recycling that have arisen over the last 12 months or so.



Source of information that often addresses issues relevant to solid/hazardous waste and recycling issues:

Arkansas Environmental, Energy and Water
Law Blog

<http://www.mitchellwilliamslaw.com/blog>

Three posts five days a week

Hazardous Waste Manifest Regulations/RCRA: U.S. Environmental Protection Agency Proposed Sunsetting Use of Paper Manifests

EPA published a proposed rule in the March 5th Federal Register to amend the RCRA hazardous waste manifest regulations. See 91 Fed. Reg. 10862.

EPA is proposing to establish a date for sunsetting use of paper manifests in favor of electronic manifests.

The e-Manifest system is a national database that similarly tracks hazardous waste shipments.

EPA is proposing the sunset the use of paper manifests 24 months after the publication of the final rule.

EPA states in the preamble to the proposed rule that phasing out paper manifests would result in an estimated \$28.5 million annual savings. The savings are stated to be derived through:

- Decreased burden to manifest users.
- Increasing human health and environmental protection through better tracking of hazardous waste.
- Greater transparency for regulators and the public.

PFOA/PFOS/CERCLA: U.S. Environmental Protection Agency Announces Intent to Retain Hazardous Substance Designation

The United States Department of Justice submitted a court filing on September 17th on behalf of the U.S. Environmental Protection Agency as part of ongoing litigation related to the designation of PFOA and PFOS as Comprehensive Environmental Response, Compensation, and Liability Act Hazardous Substances.

The filing states that EPA has decided to retain the rule that became effective in July 2024. See 89 Fed. Reg. 39124.

A number of trade associations and organizations had challenged the designation of PFOA and PFOS as CERCLA Hazardous Substances. Why?

CERCLA PRP liability categories now applicable.

Landfills/wastewater treatment plants concerned about being passive receivers.

EPA enforcement policy and proposed legislation.

Note actions such as DOD publishing an analysis identifying 7 categories of commercially available PFAS destruction and disposal options.

Reducing Risk from PFOA and PFOS in Biosolids: US Environmental Protection Agency Issues Draft Guidance

The US Environmental Protection Agency (“EPA”) on June 29th issued a document titled, *Draft Guidance for Reducing Risk from Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS) in Biosolids*.

The Draft Guidance states that if finalized, it will provide:

- Recommendations that may be helpful to operators of wastewater treatment plants and related facilities, landowners and farmers, state and Tribal water agencies, and the public.
- Voluntary recommendations for potential ways to mitigate risks from perfluorooctanoic acid and perfluorooctane sulfonic acid involving land application of biosolids.

The Draft Guidance addresses the Draft Risk Assessment (“Draft Risk Assessment”) that was issued by EPA on January 14th, 2025, by the Biden Administration. The Biden EPA document is described by the Draft Guidance as being aimed at understanding potential risk (i.e., the chance of harmful effects to humans) by PFOA and PFOS and sewage sludge.

Reducing Risk from PFOA and PFOS in Biosolids: US Environmental Protection Agency Issues Draft Guidance

By way of summary, the flaws as described by the July 6th Draft Guidance include:

- Departing from typical agency practice by failing to conduct a national survey to document occurrence of PFOA and PFOS in sewage sludge (stating that national sewage sludge surveys are helpful to determine the range of chemicals that are actually in biosolids and therefore the range of potential risks they pose).
- Only evaluated sewage sludge management practices with higher potential for human health risk in hypothetical scenarios that do not reflect the majority of land application in the U.S. (stating that the EPA did not estimate how often these higher-risk scenarios occur in the U.S.).
- Preliminary findings of the Draft Risk Assessment suggested that sometimes risks of adverse health effects were possible when using or disposing of sewage sludge containing 1 part per billion (ppb) of PFOA or PFOS (stating that this concentration was only used as a starting concentration to determine if use or disposal would result in any unacceptable risk for the hypothetical circumstances presented/use of 1 ppb was not intended to be interpreted as a “safe level” in sewage sludge in all circumstances).

Biosolids/Clean Water Act: Federal Court Addresses Citizen Suit Action Against U.S. Environmental Protection Agency Alleging Failure to Address PFAS

The United States District for the District of Columbia addressed in a September 29th Memorandum Opinion and Order an action against the United States Environmental Protection Agency, and intervenor-defendant National Association of Clean Water Agencies seeking to compel agency action regarding the regulation of sewage sludge (i.e., biosolids) under the Clean Water Act and the Administrative Procedure Act. See *JAMES FARMER, et al., v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, et al.*, No. 24-cv-1654 (DLF).

The Public Employees for Environmental Responsibility filed the action on behalf of several Texas farmers and ranchers who had allegedly been harmed by PFAS contamination in biosolids.

The Court granted EPA's and NACWA's motion to dismiss stating:

- ...Although the plain language of the CWA imposes a non-discretionary duty on EPA to review its regulations on a biennial basis, it does not mandate that EPA also identify and regulate sewage-sludge pollutants within the same time frame. And neither the Biennial Report nor EPA's failure to list pollutants in that report constitutes a final agency action subject to APA review.

The Texas farmers and PEER appealed and is now before a federal appellate court.

Scrap Tires Combusted in Cement Kilns/Non-Hazardous Secondary Materials Regulations: U.S. Environmental Protection Agency Proposed Designation as Non-Waste Fuel

The United States Environmental Protection Agency is proposing a rule designating scrap tires (including previously abandoned scrap tires) that are combusted in cement kilns as non-waste fuel. See 91 Fed. Reg. 13804 (March 23, 2026).

EPA is also proposing to revise the definition of a tire collection program to include abandoned scrap tires that are recovered for use as fuel so they can be managed in the same manner as collected scrap tires.

The agency argues that the proposed rule supports goals of the federal Resource Conservation and Recovery Act by:

- Facilitating the use of abandoned scrap tires as a non-waste fuel and ingredient in Portland cement manufacturing.
- Simultaneously reducing risks to human health and addressing environmental harms caused by tire piles.

The proposed rule constitutes amendments to the Non-Hazardous Secondary Materials (“NHSM”) regulations. These regulations provide the standards and procedures for identifying whether non-hazardous secondary materials are solid wastes when legitimately used as fuels or ingredients in combustion units.

They are found at 40 CFR Part 241 under the authority of Sections 2002(a)(1) and 1004(21) of RCRA.

Scrap Tires Combusted in Cement Kilns/Non-Hazardous Secondary Materials Regulations: U.S. Environmental Protection Agency Proposed Designation as Non-Waste Fuel

ADEQ and Arkansas regional solid waste districts have played a role for many years in seeking the appropriate collection and disposition of scrap tires.

ADEQ operates the Tire Accountability Program whose goals include:

- Reducing the amount of waste tire sites by promoting individual and corporate responsibility.
- Eliminating the need for waste tire landfills and monofills.
- Transforming the business of waste tires to one that utilizes tires as reusable and eco-friendly resources.

Scrap tires are managed locally by the states' regional solid waste management districts. Each district is allowed to operate their own program or form an inter-district program with other districts.

Arkansas regional solid waste management boards are required by state law to have a plan for the disposal and recycling of tires within their districts.

Universal Waste Rule/Solar Panel and Lithium Battery Universal Waste Proposed Rule: Association of State and Territorial Solid Waste Management Officials Submit Comments to U.S. Environmental Protection Agency

The Association of State and Territorial Solid Waste Management Officials submitted comments to the United States Environmental Protection Agency addressing a Solar Panel and Lithium Battery Universal Waste Proposed Rule.

EPA had previously stated that it was considering proposing:

- Adding hazardous waste solar panels to the Resource Conservation and Recovery Act Universal Waste Regulations.
- Establishing a new/distinct category of universal waste specifically tailored to lithium batteries.

Universal Waste Rule/Solar Panel and Lithium Battery Universal Waste Proposed Rule: Association of State and Territorial Solid Waste Management Officials Submit Comments to U.S. Environmental Protection Agency

ASTSWMO's comments indicate support of EPA promulgating regulations to include solar panels are universal waste.

The organization notes:

- Solar panels can be challenging to handle at end-of-life.
- Some solar panels contain hazardous constituents including lead and silver.
- Constituents can vary by manufacturer or vary within the same manufacturer, depending on the raw materials used.
- Making an accurate hazardous waste determination on each solar panel sent for recycling and disposal can be challenging.
- Allowing solar panels to be managed as universal waste will reduce the burden associated with making a hazardous waste determination.
- A large number of solar panels will reach their end-of-life in the upcoming years.
- Arkansas and some other states requiring solar farm developers to meet certain closure requirements.

Bat Conservation Strategy for the State of Arkansas/Endangered Species Act: U.S. Fish and Wildlife Service Biological Opinion

Endangered Species Act

An Arkansas environmental professional recently referenced in a meeting I was attending two documents that were issued in early 2026 titled:

- Biological Opinion - Bat Conservation Strategy for the State of Arkansas 2025.
- Bat Conservation Strategy for the State of Arkansas.

The documents were prepared by the United States Fish and Wildlife Service (“Service”) Arkansas Ecological Services Field Office.

The Strategy is stated to provide proponents with:

- Flexibility to address adverse effects from their projects.
- Facilitates meaningful conservation and recovery actions for the covered species in Arkansas.
- Establishes an Endangered Species Act (“ESA”) Section 7 nexus and the associated programmatic biological opinion, recovery-focused conservation options that a proponent can voluntarily select and use to help:
 - Recover the species.
 - Enable sustainable development.
 - Efficiently comply with section 7(a)(2) of the ESA.

Bat Conservation Strategy for the State of Arkansas/Endangered Species Act: U.S. Fish and Wildlife Service Biological Opinion

The Habitat Conservation Plan is the planning document designed to accommodate economic development to the extent possible by authorizing limited and unintentional take of listed species when it occurs incidental to otherwise lawful activities. The Habitat Conservation Plan in general does the following:

- Describes the anticipated effects of the proposed taking.
- How the impacts will be minimized and mitigated.
- How the conservation measures included in the Plan will be funded.

Environmental Criminal Enforcement/Clean Air Act: Erie, Pennsylvania Coke Manufacturing Plant Owner Guilty Plea

The United States Attorney's Office, Western District of Pennsylvania issued a June 20th news release stating that Erie Coke Corporation has pleaded guilty in federal court to two counts related to alleged criminal air emission violations.

ECC is stated to own and formerly operate a now-shuttered coke manufacturing plant in Erie, Pennsylvania.

The news release alleges that ECC:

...conspired with its employees to violate the Clean Air Act by, among other things, removing caps on heating flues atop the coke oven batteries in order to allow combustion gases to vent directly into the air and avoid the plant's environmental monitoring system.

The results of such actions are stated to have been the emission of pollutants in violation of specific provisions of the Title V Permit governing:

- Opacity limits.
- Discharge of raw coke oven gas.

ECC is stated to have subsequently knowingly submitted emissions monitoring data to regulators each quarter that did not reflect the actual amount of emissions.

ECC has agreed to pay a fine of \$700,000.00.

The fine called for under the plea agreement is stated to have been determined in part based on the funds currently available to the corporation, which ceased business in 2019.

Environmental Criminal Enforcement: Eugene, Oregon Wood Treatment Facility Operators Sentenced for Alleged Hazardous Waste/Clean Air Act Violations

The United States Department of Justice issued an April 23rd news release stating that a federal judge in Oregon sentenced two companies responsible for the operation of the J.H. Baxter wood treatment facility in Eugene, Oregon, and their president, for hazardous waste and Clean Air Act violations.

J.H. Baxter & Co. Inc. and J.H. Baxter & Co., A California Limited Partnership are stated to have previously pleaded guilty to charges of illegally treating hazardous waste and knowingly violating the Clean Air Act's regulations for hazardous air pollutants.

The president of the company is stated to have pleaded guilty to two counts of making false statements in violation of the Resource Conservation and Recovery Act.

DOJ states that on more than 100 different days:

- ... J.H. Baxter knowingly and illegally boiled off hazardous waste, emitting the discharge into the air.

The news release further states that the president made false statements about the unlawful practice.

Environmental Criminal Enforcement: Pennsylvania Attorney General Announces Charges Against Natural Gas Company for Alleged Violations

Pennsylvania Attorney General Dave Sunday announced in an October 31st news release charges against Seneca Resources, LLC.

The news release states that the charges involve multiple violations of Pennsylvania's environmental protection laws in several counties.

Seneca is stated to be charged with 64 counts of violations of the Pennsylvania Solid Waste Management Act and 36 counts of violations of the Pennsylvania Clean Streams Law.

Activities or actions addressed are stated to include:

- A rupture in Cameron County resulting in drinking water being contaminated at a couple's home (recognizing that Seneca responded to the spill quickly, but alleges that the procedure to flush the spill area with water had not been approved by the Pennsylvania Department of Environmental Protection).
- Operations in several Counties that the Department of Environmental Protection warned that Seneca's practices were not in line with Pennsylvania law, but those warnings were ignored or disputed.

Environmental Criminal Enforcement/Clean Water Act: Georgia Wastewater Operator Indicted for Alleged Violations

Christopher Samuel Jones was the subject of a criminal indictment in the United States District Court for the Middle District of Georgia for allegedly violating the Clean Water Act. See Criminal No. 4:26-CR-8(CDL).

Jones is described as having created a business (Jones Water and Wastewater Consulting.

Through JWWC, Jones is stated to have entered into an agreement where he acted on behalf of the City of Fort Gaines, Georgia public owned treatment works as its operator. Jones is stated to have been responsible for ensuring compliance with the permit and for accurately reporting testing results on the required Clean Water Act Discharge Monitoring Reports.

The Indictment alleges in part that Jones:

- Discharged and caused the discharge of effluent into the Chattahoochee River at the Fort Gaines POTW outfall point which exceeded the applicable limitation on coliform bacteria.
- Provided false written information to the Georgia Environmental Protection Division on behalf of the U.S. Environmental Protection Agency by statutory grant of authority to effectuate the Clean Water Act, relevant state law, and state and federal regulations – prepared and presented a Discharge Monitoring Report which purported that coliform testing had been performed by him and that the results were in compliance with the effluent limitations of the applicable NPDES permit when, in truth and in fact as he then knew, the effluent contained an amount of coliform bacteria well in excess of the permitted amount.

Cadmium/Lead/OSHA Enforcement: Janesville, Wisconsin Recycling Facility Cited for Alleged Violations

The Occupational Safety and Health Administration issued an October 9th news release addressing a Universal Recycling Technologies LLC facility.

URT operates a recycling facility in Janesville, Wisconsin.

OSHA states that workers were being exposed to unsafe levels of lead and cadmium while they dismantled cathode ray tubes from older TVs.

OSHA alleges that the facility has failed to implement adequate engineering controls and did not keep services as free as practicable from lead and cadmium accumulations.

Cadmium/Lead/OSHA Enforcement: Janesville, Wisconsin Recycling Facility Cited for Alleged Violations

OSHA alleges that the URT facility failed to do the following:

- Provide biological monitoring of employees for overexposure every six months.
- Collect samples for representative full shift exposures to both lead and cadmium.
- Ensure workers removed protective clothing contaminated with lead and cadmium at the completion of the shift and left the clothing at the workplace.
- Require workers exposed to lead and cadmium to shower at the end of their shift.
- Establish a regulation area to reduce the spread of contamination when employees were exposed to lead or cadmium over the permissible exposure limit.
- Train employees on the additive effects of lead and cadmium.

\$202,820.00 in penalties has been proposed by OSHA for the alleged violations.

OSHA Enforcement: Franksville, Wisconsin Disposal/Recycling Company Proposed Penalties for Alleged Violations

The Occupational Safety and Health Administration (“OSHA”) issued a July 18th news release stating that it had proposed penalties for alleged violations for John’s Disposal Service Inc. and John’s Recycling Inc.

The companies are stated to operate waste removal and recycling facilities in Franksville and Brookfield, Wisconsin.

Alleged violations cited include:

- Lacking energy control procedures.
- Not providing fall protection on an elevated platform.
- Failing to train forklift operators.
- Not providing hazardous communication training.
- Lack of a hearing conservation program.
- Failure to adequately install emission guards.

OSHA has proposed penalties in the amount of \$367,401.00.

OSHA Enforcement: Florida Petroleum Tank Services Contractor Cited for Alleged Violations

OSHA issued a March 3rd news release stating that it has cited PCE Petroleum Contractors Enterprises Inc. (“PCE”) for alleged violations.

PCE is described as a Land O’ Lakes, Florida based petroleum services contractor.

OSHA investigators are stated to have cited PCE with 12 serious violations for failing to develop and implement a written permit-required space entry program. Such a program is designed to ensure those authorized to enter the space know the hazards, and signs or symptoms of exposure.

PCE is also stated to have been cited for:

- Allowing employees to enter a confined space without an atmospheric evaluation or a required permit.
- Not having a written respiratory program for workers required to wear full-face respirators.
- Not implementing a hazard communication program when exposed to chemicals.

PCE is stated to have contested the findings before the independent Occupational Safety and Health Review Commission.

Outdoor/Indoor Heat-Related Hazards: Occupational Safety and Health Administration Announces Updated National Emphasis Program

The Occupational Safety and Health Administration (“OSHA”) announced in an April 10th news release that it was updating a National Emphasis Program for *Outdoor and Indoor Heat-Related Hazards* (See Directive Number: CPL 03-00-024).

OSHA NEPs are temporary programs that focus its resources on particular hazards on what it believes are high-hazard industries. Existing and potential new NEPs are evaluated by OSHA using inspection data, injury and illness data, National Institute for Occupational Safety and Health reports, peer-reviewed literature, analysis of inspection findings, and other available information sources.

Outdoor/Indoor Heat-Related Hazards NEP’s purpose has been described as protecting employees from heat-related hazards and resulting injuries and illnesses in outdoor and indoor workplaces in general industry, construction, maritime, and agriculture.

The NEP when issued was stated to expand on OSHA’s ongoing heat-related illness prevention initiative by setting forth what it stated was a targeted enforcement component and reiterating compliance assistance and outreach efforts.

Aboveground Storage Tanks/Unmanned Aircraft Systems: Louisiana Department of Environmental Quality Approves Drones for Visual Inspections

The Louisiana Department of Environmental Quality issued a May 21st news release stating that it has approved the use of unmanned aircraft systems (i.e., “drones”) to conduct visual inspections of aboveground storage tanks.

A number of state environmental agencies (including Arkansas) have utilized drones for various purposes for a number of years.

For example, an Environmental Council of the States report notes that state environmental agencies have used drones to undertake activities such as:

- Surveillance.
 - Enforcement.
 - Permit support documentation.
 - Waste and landfill inspections.
 - Illegal dumping of chemicals, oils, or waste tires.
 - General emergency response functions including at facility discharges, train derailments, truck accidents, and oil spills.
 - Investigation of unusual events.
-
- LDEQ states that drone technology utilized in semiannual AST inspections has the potential to save Louisiana’s regulated community an estimated \$4 million annually by reducing the need for traditional methods such as scaffolding, cranes or manned access equipment.
 - Worker risk and more timely identification response to environmental concerns is accomplished.

Large Environmental Site Investigations: Georgia Environmental Protection Division Video Illustrating Use of Drones

The Georgia Environmental Protection Division (“GEPD”) issued a July 2nd news release discussing the use of drones to complete large site investigations more efficiently and protect its waterways.

The news release features a video of a certified drone pilot who uses the craft to assist with inspections of sites greater than 400 acres.

The use of a drone to assess a large site is stated to potentially reduce staff time from a day on foot to 30 minutes by drone.

A number of state agencies (including Arkansas) have utilized drones for various purposes for a number of years. For example, an Environmental Council of the States report notes that state environmental agencies have used drones to undertake activities such as:

- Surveillance
- Enforcement
- Permit Support Documentation
- Waste and Landfill Inspections
- Illegal Dumping of Chemicals, Oils or Waste Tires
- General Emergency Response Functions Involving Facility Discharges, Trail Derailments, Truck Accidents, and Oil Spills
- Investigation of Unusual Events

CIRCLE Act: U.S. House of Representatives Legislation Introduced to Expand Recycling Capacity

Congressman Brian Fitzpatrick (Pennsylvania) and Tom Suozzi (New York) introduced into the United States House of Representatives legislation styled:

Cultivating Investment in Recycling and Circular Local Economies (CIRCLE) Act.

The CIRCLE Act is described as bipartisan legislation that would:

- Create a targeted investment tax credit.
- Expand and modernize our nation's recycling infrastructure.
- Strengthen domestic manufacturing.
- Reduce the volume of waste sent to landfills and incinerators.

The CIRCLE Act establishes a 30% investment tax credit that would be phased out over 10 years for qualified investments in new or upgraded recycling infrastructure.

Municipalities investing directly in waste reduction efforts would receive a direct rebate.

Reported out of Committee.

Streamlined, Clear, Expeditious Permitting: Arkansas Governor Sanders Signs Executive Order

Arkansas Governor Sanders signed on February 16th an Executive Order 26-04 (“EO”) styled, *EXECUTIVE ORDER TO MAKE ARKANSAS THE BEST STATE IN AMERICA TO DO BUSINESS THROUGH STREAMLINED, CLEAR, AND EXPEDITIOUS PERMITTING PROCESSES THAT PROTECT NATURAL RESOURCES AND FOSTER ECONOMIC DEVELOPMENT*.

The EO requires that:

- Each cabinet-level state agency, along with any state board or commission thereof that issues permits, licenses, certifications, or other such regulatory approvals, including but not limited to the Arkansas Department of Agriculture, the Arkansas Department of Energy and Environment, Arkansas Department of Labor and Licensing, and the Arkansas Department of Health, shall conduct a comprehensive review of all such processes within 120 days of this Order.
- The review shall identify:
 - Unnecessary steps that can be eliminated, consolidated, or digitized;
 - Statutory or regulatory barriers to faster processing;
 - Opportunities to align timelines across agencies for multi-permit projects;
 - Innovative methods to expedite permitting in coordination with permittees, licensees, and other relevant parties;

Streamlined, Clear, Expeditious Permitting: Arkansas Governor Sanders Signs Executive Order

- Innovative use of artificial intelligence or electronification of certain processes which otherwise delay issuance of permits, licenses, certifications, and other regulatory approvals;
- Recommendations for setting clear, predictable timelines for agency decisions; and
- Recommendations for processes or initiatives to streamline or simplify rules, permits, licenses, certifications, and regulatory approvals, including ways to reduce the cost of regulatory compliance and encourage opportunities to modify existing permits.
- Within 180 days of this Order, each relevant cabinet-level agency, board, and commission shall submit a written Improvement Plan to the Governor that includes:
 - Specific process improvements;
 - Any legislative changes needed to implement recommendations;
 - Any rule changes needed to implement recommendations;
 - A timeline for implementation; and
 - Performance metrics such as average turnaround time.

The referenced agencies are required to engage with relevant stakeholders from the regulated community and industry to ensure permitting processes are informed by real-world experience and economic growth.

ADEQ is actually working on this, and AEF has put forth ideas.

Solid Waste Removal Service/Temporary Waste Projects: Arkansas Supreme Court Addresses Whether City of Holiday Island Can Exclude Supplemental Waste Management Services

The Supreme Court of Arkansas addressed in a December 4th Opinion an issue involving a municipality's authority to exclude other waste management providers. See 2025 Ark. 194.

The question considered is whether the Arkansas Solid Waste Management Act provides the municipality the ability to select a waste provider and exclude all other providers.

Steven Hendrick and X-Dumpsters filed a Complaint in Carroll County, Arkansas Circuit Court against the City of Holiday Island, Arkansas alleging a violation of civil rights under the Arkansas Constitution. See Case NO. 08WCV-23-85.

The Complaint alleged that an ordinance adopted by the Holiday Island City Council violates the Arkansas Constitution's prohibition on monopolies and guarantees Plaintiffs' due process.

The Plaintiffs' business is described as delivering portable dumpsters to job sites for individuals to dispose of construction or other waste.

Solid Waste Removal Service/Temporary Waste Projects: Arkansas Supreme Court Addresses Whether City of Holiday Island Can Exclude Supplemental Waste Management Services

The business is stated to be licensed under the Solid Waste Hauler Licensing Program of the Carroll County Solid Waste District to collect/dispose of solid waste in Carroll County.

Individuals rent the dumpsters to be filled and subsequently picked up by Plaintiffs within 10 days unless otherwise agreed upon.

The Complaint alleged that Ordinance 202-004, which was adopted by the Holiday Island City Council, requires all residents and businesses within the City to contract with a selected entity for the collection of solid waste in Holiday Island.

The Ordinance authorizes the City Council to award an exclusive franchise for the collection of solid waste.

The selected contractor is the Carroll County Solid Waste District.

The Complaint alleged that:

- There is no legitimate basis for the exclusive monopoly granted to Carroll County Waste Management District.
- Violation of the Arkansas Constitution's prohibition against monopolies.
- Violation of the Arkansas Constitution's guarantee of due process.
- Violation of the Arkansas Constitution's guarantee of the fundamental of life, liberty, and property.

Solid Waste Removal Service/Temporary Waste Projects: Arkansas Supreme Court Addresses Whether City of Holiday Island Can Exclude Supplemental Waste Management Services

The SCT framed the issue as whether:

- ... the General Assembly has authorized Holiday Island's actions – and only if it has to do what we need to decide the broader Constitutional question about whether Holiday Island's actions violates the prohibition on monopolies.

Holiday Island argued that the Act provides it the power to select a single waste-removal provider and bar anyone from providing any kind of solid-waste-removal services.

The SCT states that nothing in the Act states that a municipality opting to contract with a single provider can bar City residents from using other providers to collect solid waste.

It is interpreted to simply permit municipalities to contract with one or more contractors capable of collecting and disposing of the City's solid waste.

The SCT interprets the Act as merely requiring:

- ... the city to ensure a trash collection, and no one suggests that the existence of supplemental providers, like X-Dumpsters, prevents the city from doing that.

Solid Waste Removal Service/Temporary Waste Projects: Arkansas Supreme Court Addresses Whether City of Holiday Island Can Exclude Supplemental Waste Management Services

Therefore, the SCT rejects Holiday Island's argument that Section 8-6-211 of the Act authorizes it to bar alternative supplemental solid-waste-removal providers.

The City is held to have lacked the statutory authority to enact the portion of the Ordinance barring City residents from contracting with X-Dumpsters or to provide solid-waste-removal services.

Flow Control/Landfill: Federal Court Addresses Challenge to Shreveport, Louisiana Ordinance

A United States District Court (W.D. Louisiana) addressed in an April 16th Memorandum Ruling (“Ruling”) addressing a Shreveport, Louisiana ordinance requiring all municipal solid waste collected within the city to be disposed of at the Republic Woolworth Landfill (“Woolworth Landfill”). See *Texas Regional Landfill Company, LP, et al. v. City of Shreveport*, 2026 WL 1031843.

The question considered was whether this ordinance was an unconstitutional flow-control law.

Texas Regional Landfill Company, LP and other companies (collectively, “Plaintiffs”) alleged that the City of Shreveport, Louisiana enacted an unconstitutional flow-control ordinance. The ordinance required that all municipal solid waste collected within the City to be disposed of at the Republic Woolworth Landfill.

Shreveport is stated to have maintained some version of a flow-control ordinance requiring locally collected waste to be delivered to the Woolworth Landfill since 1993. However, the prior version of the ordinance contained an exemption permitting waste to be transported out of state for disposal.

Flow Control/Landfill: Federal Court Addresses Challenge to Shreveport, Louisiana Ordinance

The ordinance being challenged eliminated this out-of-state-disposal exemption. The removal of the exemption had the effect of requiring all waste collected within the City to be processed at the Woolworth Landfill. This is stated to have prevented transport of waste to out-of-state facilities.

Plaintiffs filed a complaint alleging:

- The Woolworth Landfill is owned by the City.
- Woolworth Landfill is operated by BFI Waste Systems of Louisiana, LLC (“BFI”).
- BFI is a private corporation.
- BFI performs all substantive landfill operations and receives a significant portion of the landfill's tipping fee revenues.
- River Cities Disposal Company, Inc. also receives a share of those revenues.

Plaintiffs alleged that the ordinance forces waste to be directed to the privately operated facility, resulting in increased costs, elimination of competition, and preventing Plaintiffs from transporting waste to out-of-state facilities.

Flow Control/Landfill: Federal Court Addresses Challenge to Shreveport, Louisiana Ordinance

Plaintiffs argued that the ordinance violated the Dormant Commerce Clause by discriminating against and unduly burdening interstate commerce.

The Court noted that two United States Supreme Court decisions addressed flow-control ordinances:

- *C & A Carbone, Inc. v. Town of Clarkstown*
- *United Haulers Ass'n, Inc. v. Oneida-Herkimer Solid Waste Mgmt. Auth.*

The Court holds that *United Haulers* does not necessary establish a categorical rule that public ownership alone renders a flow-control ordinance constitutional. Rather, *United Haulers* emphasized the public nature of the facility and the governmental function being performed.

The Court states that in this case, the Plaintiffs have plausibly alleged that private entities play a substantial role in the operation and financial structure of the Woolworth Landfill. Cited are Plaintiff allegations that Republic performs all substantive landfill operations, receives a significant share of tipping fee revenues, and River Cities also benefits financially from the tip fee revenue.

Waste Disposal/Alleged Future Damages: Federal Court (Mississippi) Addresses Landfill Owners' Judicial Action Against Generator

A United States Federal District Court (N.D. Miss.) addressed in a February 4th Memorandum Opinion an issue arising out of the past disposal of remediated soils and associated materials into a landfill. See LEFLORE COUNTY BOARD OF SUPERVISORS v. MERITOR, INC., ET AL, 2026 WL 297969.

The issue considered is whether the generator of the referenced soils and associated materials could be held liable for potential investigative and/or remedial expenses to be incurred by the landfill because of the alleged mischaracterization of the waste.

Meritor, Inc. disposed of approximately 7,243 tons of buff-compound soils and associated materials from the Moose Lodge Road Disposal Area (“MLRDA”) in Grenada, Mississippi.

The disposal is stated to have occurred pursuant to a Removal Work Plan prepared by MI's consultant.

The Removal Workplan was reviewed and approved by the Mississippi Department of Environmental Quality.

Waste Disposal/Alleged Future Damages: Federal Court (Mississippi) Addresses Landfill Owners' Judicial Action Against Generator

MDEQ issued a written a “Non-Hazardous Determination” concluding that the buff compound and contaminated soils did not contain listed hazardous waste and could be managed as nonhazardous “special waste”. provided they did not exhibit a hazardous characteristic.

Approximately 20 years later, the Leflore County Board of Supervisors filed suit in federal court alleging that the waste was hazardous. As a result, Leflore County alleged that MI’s disposal of the waste:

- ... caused the County to incur—or in the future might incur—investigative and remedial expenses.

The Court holds that the threshold defect in Leflore County’s judicial action is the absence of proof of legally cognizable damages. The Court held that there is a requirement to:

- Show an actual, present injury (Harm that might exist/arise in the future is insufficient).

Waste Disposal/Alleged Future Damages: Federal Court (Mississippi) Addresses Landfill Owners' Judicial Action Against Generator

The allegation that the prior disposal contained hazardous constituents or an investigation/remediation might have to be undertaken is characterized by the Court as “entirely hypothetical.”

The Court bases this conclusion on the following:

- Absence of sampling, testing, or subsurface investigation at the landfill directed at the disposed material and inability to identify the location of the material within the landfill footprint.
- Absence of regulatory consequence since MDEQ has issued no notice of violation, directive, compliance order, or request for additional investigation/corrective action.
- No evidence of property damage or loss of use as the landfill continues to operate with the same capacity.
- No evidence of diminution in value, nor have any third-party claims been asserted against Leflore County, meaning there is no present economic injury.

Antitrust/Consumer Protection: Five State Attorney Generals Allege Violations by Environmental Organizations Promoting Recycling Standards

Attorney Generals for five states transmitted October 29th letters to several environmental organizations alleging that they are violating federal and state antitrust laws.

The Attorney Generals from the following states signed the letters:

- Florida
- Texas
- Iowa
- Nebraska
- Montana

The organizations receiving the letters include:

- U.S. Plastics Pact Inc.
- The Consumer Goods Forum
- Green Blue Institute

Antitrust/Consumer Protection: Five State Attorney Generals Allege Violations by Environmental Organizations Promoting Recycling Standards

The AG's allege that the three Environmental Organizations are pressuring corporations to align on restrictive plastic production and packaging standards. They further allege that such actions could unlawfully:

- Restrain competition.
- Increase costs.
- Limit consumer choice.

The Environmental Organizations are alleged to be doing so by collectively dictating what materials are deemed “recyclable” and setting uniform production and packaging targets, distorting product quality and driving up prices for consumers.

Insurance Coverage/Perchloroethylene: Federal Court Addresses Whether Duty to Defend Triggered Through Insured's Actions Addressing Contamination

The United States District Court in a September 23rd Order addressed insurance coverage issues associated with an apartment complex contaminated by perchloroethylene. See *Thompson Thrift Development, Inc., et al., v. The Cincinnati Insurance Company*, 2025 WL 2711770.

The questions addressed included:

- Did actions requested by the Arizona Department of Environmental Quality (“ADEQ”) constitute a “suit” triggering a duty to defend?
- Was there an obligation to indemnify because of the insured’s payment of certain environmental and legal costs?

Watermark at Peoria AZ, LLC and Thompson Thrift Development, Inc. own and manage an apartment complex in Peoria, Arizona. A dry-cleaning business was determined to be next to the apartment complex.

Environmental sampling in 2022 is stated to have identified a high concentration of PCE on the apartment complex property.

The source of the PCE was not definitively determined to be the dry cleaners.

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Additional environmental investigative work at the apartment complex including air sampling inside a vacant unit 1061, was stated to identify PCE concentrations at levels posing a risk to human health.

Thompson submitted a notice of claim to Cincinnati Insurance Company stating that tests have confirmed the presence of PCE.

Cincinnati asked to be informed immediately if Thompson Thrift received any third-party claim or notice from any governmental agency.

Thompson informed Cincinnati that it was going to report the PCE contamination to ADEQ.

Thompson stated that the law required this to be reported and also decided to inform the property's tenants.

The tenant in unit 1026 asked that her apartment be tested.

Elevated levels of PCE were identified. Upon request of the tenant, Thompson terminated her lease and covered her moving expenses.

Because unit 1026 was on the opposite side of the property from the dry cleaners, the Court indicated that there was concern that the dry-cleaning business was not the only source of the PCE contamination. 43

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ADEQ requested that Thompson:

- Keep the unit unoccupied because of the sampling results while the agency pursues legal investigations.
- Requested the results of the environmental tests into the following year, including when data was requested ASAP.

Thompson viewed ADEQ's request to keep the unit vacant as a "soft command" and an implication that if this was not done the agency could shut down other units.

Further, Thompson's environmental consultant testified that ADEQ typically allowed engaged parties to perform testing and share data, rather than by prescribing exact steps that needed to be taken.

Thompson also enrolled the apartment complex in ADEQ's Joint Voluntary Remediation Program.

The Court stated that Cincinnati had a "duty to defend" only in the event of a "suit" seeking covered damages.

Insurance Coverage/Perchloroethylene: Federal Court Addresses Whether Duty to Defend Triggered Through Insured's Actions Addressing Contamination

Cincinnati argued that there was no “suit” against Thompson that triggered the duty to defend.

Thompson responded that ADEQ’s demands were sufficiently coercive to qualify as a suit.

Indiana law is stated to have interpreted “suit” to include both actual lawsuits and coercive and adversarial administrative proceedings.

The proceeding is required to have cognizable degree of coerciveness or adversariness or a substantial entry-level burden of coercion.

The Court, however, determined:

- No designated evidence that ADEQ told Thompson that it faced liability, formal enforcement actions, or civil penalties for not complying with ADEQ’s requests.
- ADEQ called the activities an investigation.
- There was no evidence of an administrative order or formal demand.
- ADEQ’s requests for data from Thompson’s testing was characterized as the type of information gathering expected in an ongoing investigation rather than a formal proceeding aimed at legal liability.
- Thompson’s “goal” was to avoid imposed liability (i.e., to make sure ADEQ was satisfied so that it would not pursue anything further).

Captured Biogas in the United States: American Biogas Council Addresses Landfill Gas Capture Systems

The American Biogas Council (“ABC”) issued a July 7th news release discussing the role of landfills in generating renewable natural gas production (“RNG”).

The data is based on research undertaken by ABC.

ABC describes its organization as serving as the voice of the U.S. biogas industry, representing all companies working to recycle organic waste into clean, locally made energy and fertilizer.

Biogas is an energy-rich gas produced by anaerobic decomposition of biogas. Solid waste from landfills a source of biogas which is produced naturally by anaerobic bacteria within the landfills. Information included:

- 598 landfill gas capture systems provide about three-quarters of all biogas captured in the U.S. and produce 64% of the nation’s RNG.
- Developers brought 20 new landfill gas projects online in 2025.
- The referenced facilities added 39.9 billion cubic feet of new biogas capture capacity, which is stated to constitute about 75% of all new U.S. biogas capture capacity added last year across all biogas sectors.
- Although landfill gas systems represent fewer than one-quarter of the nation’s 2,580 operating biogas facilities, they account for approximately three-quarters of all biogas captured for energy.
- More than 559 billion cubic feet (Bcf) of landfill gas is now captured annually across the U.S.

Captured Biogas in the United States: American Biogas Council Addresses Landfill Gas Capture Systems

- Since the end of 2020, 93 new landfill gas projects have come online, an 18.4% increase. All but nine of these newest facilities produce RNG.
- Landfill-derived RNG supplies approximately 143.7 million MMBtu annually.
- Total estimated investment in landfill gas facilities has reached nearly \$14.9 billion, including nearly \$1 billion invested in projects entering service during 2025.
- All landfill gas facilities capture enough energy to meet the annual needs of nearly 3.9 million U.S. households.
- Approximately 705 additional landfills remain suitable for landfill gas development.
- Untapped sites are estimated to be able to provide as much as 455 billion cubic feet of additional biogas annually.

Interim Guidance on the Destruction and Disposal of Perfluoroalkyl and Polyfluoroalkyl Substances and Materials Containing Perfluoroalkyl and Polyfluoroalkyl Substances: U.S. Environmental Protection Agency Issues 2026 Version

The United States Environmental Protection Agency (“EPA”) announced on April 28th the availability for comments on the following document:

Interim Guidance on the Destruction and Disposal of Perfluoroalkyl and Polyfluoroalkyl Substances and Materials Containing Perfluoroalkyl and Polyfluoroalkyl Substances – 2026 Version.

The Interim Guidance focuses on updates to the current state of science and what it describes as associated uncertainties for three large-scale capacity technologies that can destroy PFAS or control PFAS release into the environment, which include:

- Thermal treatment.
- Landfills.
- Underground injection.

The Interim Guidance also discusses emerging technologies and a framework for evaluating these technologies for PFAS destruction or disposal.