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Other Solid Waste Incineration Units/New Source Performance Standards: U.S. Environmental Protection Agency Federal Register Notice Withdrawing Proposed Revision Removing Pyrolysis/Combustion Units

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The United States Environmental Protection Agency (“EPA”) in a June 5th Federal Register Notice stated it is withdrawing a proposal to modify the Other Solid Waste Incineration (“OSWI”) definition of “municipal waste combustion unit.” See 88 Fed. Reg. 36524.

The proposal would have removed pyrolysis/combustion units from the OSWI definition of municipal waste combustion unit.

EPA had previously stated that because of the increased processing of waste plastics and inquiries about the applicability of OSWI regulations to pyrolysis/combustion units, it determined that there was:

. . . considerable confusion in the regulated community regarding the applicability of OSWI to pyrolysis/combustion units.

The federal agency also noted that the term “pyrolysis/combustion” is not defined in the OSWI regulation. Further, it is not included in the definition of “Institutional waste incineration unit.”

EPA had proposed in 2020 to revise the OSWI definition of municipal waste combustion unit to remove the reference to pyrolysis/combustion units. See 85 Fed. Reg. 54178 (August 31, 2020).

Because of adverse comments, EPA subsequently issued an advance notice of proposed rulemaking on September 8, 2021, to attempt to obtain a better understanding of pyrolysis/combustion units and their utilization. The agency received 170 comments.

EPA states that based on its review of the information it has received and discussion with stakeholders it determined that pyrolysis is:

. . . a complex process that is starting to be used in many and varied industries.

The federal agency believes it needs additional time and personnel resources to fully analyze the information. In addition, EPA states that it is concurrently developing a final OSWI rule pursuant to a schedule set by the Court in *Sierra v. McCarthy*.

EPA therefore made the decision to withdraw the proposal to revise the definition of municipal waste combustion unit in the OSWI rule to remove the reference to pyrolysis/combustion units.

A copy of the Federal Register Notice can be downloaded [here](#).