



[November 8, 2021]

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EPA-HQ-OAR-2021-0382

Nabanita Modak Fischer
Fuels and Incineration Group
Sector Policies and Programs Division (E143-05)
Environmental Protection Agency
Research Triangle Park, North Carolina 27711

Re: Potential Future Regulation Addressing Pyrolysis and Gasification Units

Dear Ms. Fischer:

The Flexible Packaging Association (FPA) appreciates this opportunity to provide its comments in response to EPA's solicitation of information regarding the potential development of regulations for pyrolysis and gasification (P&G) units used to convert solid or semi-solid feedstocks. FPA is a national trade association that represents flexible packaging (such as roll stock, bags, pouches, labels, liners, wraps, and tamper-evident packaging for food and medicine) manufacturers and suppliers to the industry in the United States. Flexible packaging, a \$34.8 billion industry, is the second largest and fastest growing segment of the packaging industry and employs approximately 80,000 workers in the United States.

FPA understands and appreciates EPA's incentive to develop a consistent approach to the regulation of P&G. However, for the reasons discussed below, EPA should not regulate P&G under the Clean Air Act (CAA) Section 129 as "other solid waste incineration units" (OSWI). FPA supports the approach EPA took in its August 31, 2020 proposed rule, in which the Agency determined that pyrolysis units were not properly regulated as OSWI because those units do not involve combustion of a solid waste.^[1] Similarly, gasification also does not involve

^[1] 85 Fed. Reg. 54178 (Aug. 31, 2020).



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combustion of a solid waste and should not be regulated as OSWI. FPA requests that EPA consider the following points that highlight why P&G is not properly suited for OSWI regulation:

- **Pyrolysis and gasification are not “combustion” of a “solid waste.”** P&G processes are fundamentally different and more versatile than the process of incineration. While incineration is used to convert waste to energy, gaseous emissions and ash, P&G processes create outputs that are intended to be captured for subsequent use. These outputs include pyrolysis oil and “synthetic gas,” respectively, which can both be used in the manufacturing of new products and plastics. Thus, EPA should finalize the August 31, 2020 proposal, which determined that pyrolysis units do not involve combustion of a solid waste and were therefore not properly regulated as OSWI, and should similarly apply this approach to gasification units.

- **P&G facilities can be properly regulated and permitted as manufacturing facilities.** Excluding P&G from OSWI regulation does not exclude them from regulation as a whole; regulation and permitting for P&G is achievable and proper when the units are defined as manufacturing facilities, as they currently are, as opposed to incinerators. EPA has not provided legal justification for altering its course to regulate P&G units as incinerators under CAA Section 129 as opposed to manufacturing facilities, and FPA can see no legal justification either. Additionally, regulating P&G sources under Section 129 is further inconsistent with EPA’s Subtitle C RCRA regulations.

- **Regulating P&G sources as “incineration” under CAA Section 129 is inconsistent with a strong trend in state regulations.** Since 2017, 14 states have enacted laws appropriately regulating advanced recycling as a manufacturing process, as opposed to solid waste disposal or incineration. EPA should take these laws into consideration when making their determination of P&G’s classification.

- **Regulating P&G facilities under CAA Section 129 would discourage the use of innovative technology, which is critical to plastics recycling in the circular economy.** Regenerative robust gasification currently has the greatest potential to enhance recovery of waste, divert waste from landfills and incineration, simplify collection and sorting, capture carbon, reduce methane emissions, and mitigate environmental litter. Additionally, both investment and innovation in traditional gasification technologies are being made in order to permit treatment of variable feedstock (i.e., municipal solid waste/MSW, medical waste, certain chemical wastes, electronic waste, etc.). EPA should take care not to repress these critical innovations, which support our shared goals of a circular economy for plastics, by inappropriately classifying and consequently regulating P&G as OSWI.

FPA Comments on Potential Future Regulation Addressing Pyrolysis and Gasification Units

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For the reasons above, FPA does not support the inclusion of P&G as an OSWI under Section 129 of the CAA. We appreciate the opportunity to comment and thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Abigail Trumpy', with a stylized flourish at the end.

Abigail Trumpy,
Director, Regulatory Affairs
Flexible Packaging Association