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The Road Ahead

Trends in Transportation

The Risk of Being Last to Implement Fleet Safety Tech.... pg 8 Still Looking for Unicorn Drivers.... pg 12

Also in this Issue

2024 Mid-Year Wrap-Up.....	20
Navigating the PFAS Seas.....	26
2024 NORA Conference and Trade Show Preview	32
NEW for 2024! International Day at NORA	38



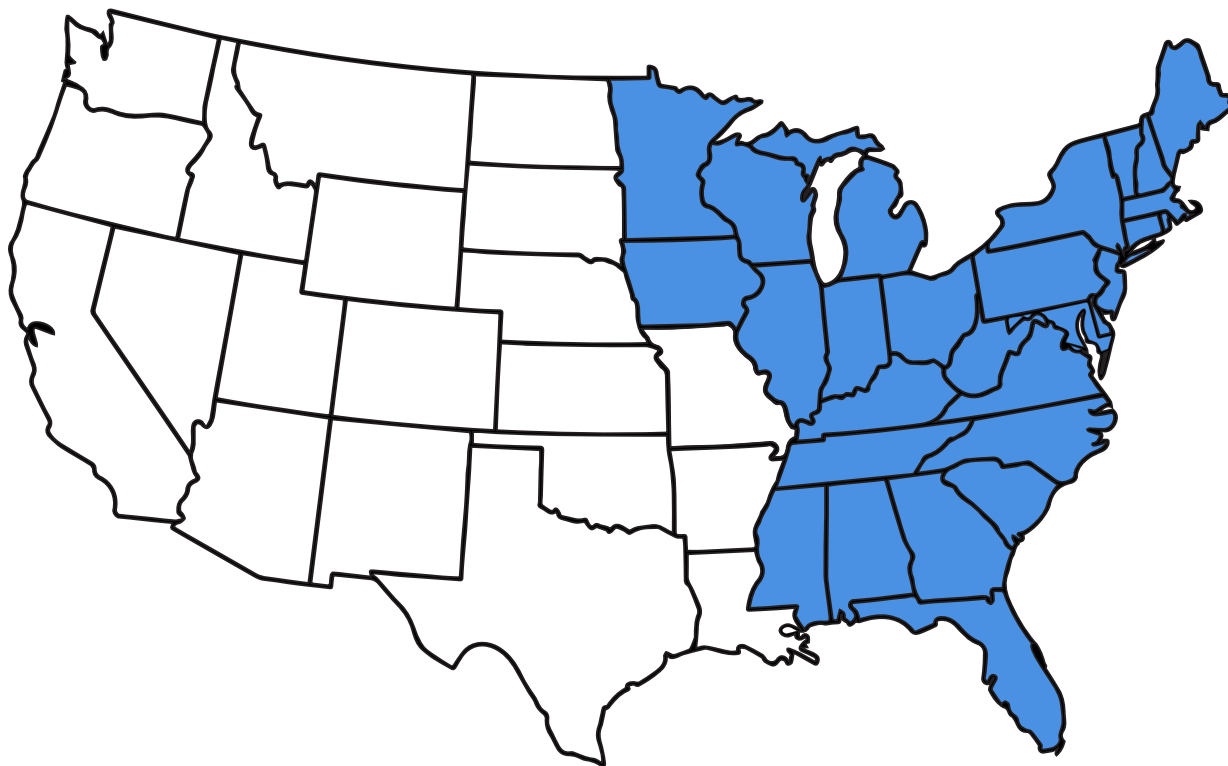


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Keep on Truckin'

It was natural for this issue of NORA's Liquid Recycling to have a transportation theme. As an industry, NORA members collect and process billions of gallons of used oil and wastewater each year. NORA members also provide industrial and environmental services such as tank cleaning, emergency services and more. This requires a lot of trucks to provide this service.

According to Transport Topics, NORA's largest member is the 14th largest private motor carrier in North America. Broken down by "Waste Management Carriers", five of the seven largest private motor carriers in North America are NORA members.



When you add in the hundreds of other association members, it is clear that the fleet of NORA member trucks is significant. That is one of the reasons why each year NORA hosts its annual EH&S Forum that focuses a large portion of the program on truck safety issues. Mark your calendar now: the 2025 NORA EH&S Forum will be held February 19, 2025 in Nashville, Tennessee.

The upcoming NORA Conference & Trade Show features numerous trucking related exhibitors. The latest list of exhibitors shows over 25% are related to trucking. See page 32 for more information and to register. The event will be held November 13-16, 2024 in Coronado Bay, California. We are fortunate to have two partner organizations contribute insightful articles for this issue.

Scott Novak, Tori Harmeyer and Emily Blanco with Mayer LLP have provided an article with great insight about dash cam liability issues and how they can help protect your company and your drivers. Mayer LLP is a regular presenter at NORA's EH&S Forum.

Leah Shaver with The National Transportation Institute has provided an article which provides a look at critical driver pay trends especially for NORA "specialty jobs". Leah is a regular presenter at NORA's Conference.

As NORA members continue their mission to protect where industry and the environment intersect, NORA members will surely keep on truckin'. And NORA will keep on providing resources to members to keep their fleets safe, efficient and modern.

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TABLE OF CONTENTS

Parker's Point 3

Welcome To NORA's Newest Members 4

Industry Calendar 4

Industry News 6

The Risk of Being Last to Implement Fleet Safety Tech..... 8

Still Looking For Unicorn Drivers? 12

NORA Mid-Year Wrap-Up..... 20

Navigating the PFAS Seas..... 26

2024 NORA Conference and Trade Show Preview 32

NEW! International Day at NORA 2024 38

Supplier/Vendor Directory 42

ADVERTISER INDEX

Buck's Oil 9

Dexsil Corporation Back Cover

Engine & Accessory, Inc. 54

Gallagher 15

GFL Environmental Inc. 33

Greenri Solutions LLC 17

Haz~Mat Environmental Services..... 19

Heritage - Crystal Clean, LLC..... 21

Imperial Industries Inc. 24

InCon Process Systems - GIG Karasek GmbH 44

Innovative Resource Management Inside Back Cover

Liberty Mutual Environmental 31

Loyal Standard LLC 35

Midwest Gas Inside Front Cover

National Chemical Supply Corp 43

Oilmen's Truck Tanks Inc. 45

Onken Inc..... 46

Par - Kan Company..... 48

PESCO 47

Radian Chemicals LLC..... 50

ReGen III Corp..... 49

Summit Environmental Technologies 23

Turn-Key Environmental..... 25

Valicor Environmental Services, LLC 5

Vertex Energy Inc 11

World Oil Corp 39

XL Insurance, Division of AXA 7

WELCOME TO NORA'S NEWEST MEMBERS

Know someone who should be a NORA member?
Contact sparker@noranews.org or 703-753-4277.

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INDUSTRY CALENDAR

(meeting dates are tentative and subject to change)

2024

ILMA Annual Meeting

September 28 – October 1, 2024
Broadmoor; Colorado Springs, CO

International Day at NORA 2024

November 13, 2024
Loews Coronado Bay; Coronado, CA

NORA Conference & Trade Show

November 13-16, 2024
Loews Coronado Bay; Coronado, CA

2025

NAPA Annual Meeting

February 2-5, 2025
Maui, HI

NORA Winter Meeting and EH&S Forum

February 19-21, 2024
The Westin; Nashville, TN



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Industry News

MORE INFORMATION ABOUT THESE NEWS ITEMS IS AVAILABLE AT WWW.NORANEWS.ORG/NEWS.
SEND ANY INDUSTRY NEWS UPDATES TO SAMANTHA@NORANEWS.ORG.

World's Most Important Oil Price Transformed

After years of skepticism, criticism and trader furor, the world's most important oil price is working better than ever thanks to an infusion of crude from west Texas. Over a year ago, the U.S. grade WTI Midland was added to the grades that are allowed to determine the price of Dated Brent, a benchmark for physical crude transactions the world over and critical to a web of derivatives.

FTC Finalizes Non-Competes Ban

A divided Federal Trade Commission (FTC) approved on April 23 final regulations that will largely prohibit employers from entering new non-compete agreements with employees and will require existing non-compete clauses to be rescinded. According to the rule's preamble, non-compete agreements are an unfair method of competition under section 5 of the FTC Act.

New PFAS Destruction Technology

NORA member AECOM and Aquatech have announced an agreement to accelerate the deployment of PFAS destruction technology. This collaboration will help accelerate DE-FLUORO as a PFAS destruction solution. See page 26 to read more about how to *Navigate the PFAS Seas*.

Maine Updating Used Oil Rules

The State of Maine is in the process of updating their used oil rules. Maine has reached out to NORA to request early comments on their proposed changes before the public comment period. In the last few months, NORA has provided comments on their proposed generator, processor and collection center changes. An update on the proposed changes was discussed at the NORA Mid-Year Meeting in June. To request information on NORA's proposed changes, contact Scott Parker at sparker@noranews.org.

Water, Chemical Industries Challenge EPA PFAS Rule

Multiple trade associations recently filed court challenges to an EPA rule that seeks to limit the presence of PFAS in drinking water. The associations include the American Water Works Association, the Association of Metropolitan Water Agencies, the National Association of Manufacturers and the American Chemistry Council. The groups said the rule exceeds the EPA's authority under the federal Safe Drinking Water Act.

Clean Water Act Response Plan Final Rule: Attention NORA Members

The US EPA has issued the final rule regarding the Clean Water Act Hazardous Substance Facility Response Plans. The final rule may require some NORA members to update their SPCC Plans. A briefing deck was provided to Members at the NORA Mid-Year Meeting. Were you unable to attend the NORA Mid-Year Meeting but would like the briefing deck? Members may contact sparker@noranews.org for a digital copy.



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The Risks of Being the Last to Implement Fleet Safety Technologies

By: Scott Novak, Esq., Partner, Mayer LLP,
with the assistance of Victoria Harmeyer, Esq., and Emily Blanco

The transportation sector is experiencing a significant transformation due to rapidly advancing technology. Electric vehicles, self-driving systems, collision mitigation, and data analytics are revolutionizing how fleets operate. Camera monitoring and collision avoidance, in particular, are increasingly popular due to their obvious advantages and low operating costs. Driving technologies are adopted at a breakneck pace and aim to enhance road safety and efficiency, but also provide fleet managers with important driver feedback for the benefit of the flier, the customer, and the public. These technological developments are shaping the future of transportation, leading toward a more sustainable, efficient, and reliable modes of travel. They have also proved fertile ground for the Plaintiffs' Bar to assert new standards of safety to capitalize on cases against companies who are behind the technological curve. This article scratches the surface on the benefits of new and emerging fleet technologies, but also the inherent risks associated with being "late to the game" when the failure to implement is made a component of a lawsuit.

In the rapidly evolving public transportation landscape, dash cameras have become crucial for ensuring safety, accountability, and compliance with state law. Despite the proven benefits of dash cameras, some transportation companies have been slow to adopt this technology, which could leave them vulnerable to significant legal liability.¹

Dashboard cameras, or dash cams, are video recording devices mounted on a vehicle's dashboard.² These cameras continuously record the view through the vehicle's front windshield and sometimes the rear or interior views. The

footage captured by dash cams can offer objective evidence of events before and during accidents, driver behavior, and other incidents on the road. Without the footage, transportation companies would have to rely on witness statements, police reports, and driver accounts, and reconstructions, all of which have components of unreliability which are offset by video evidence. Moreover, the video and data can be an important tool in driver counseling and training so that fleet management can address issues before an incident occurs. Many systems include analytics which not only describe objective measurements from the vehicles but provide real-time feedback to safety departments and management of certain road events, like following distance issues, braking events, over speeds and lane deviations.

In the context of litigation, the Plaintiff's attorney must generally show that the failure to follow reasonable standards (the duty element) caused or contributed to an injury-inducing incident or event. What if the failure to follow reasonable standards means the failure to follow emerging technological changes in fleet management and monitoring? Certainly, industry standard are as important, if not more so, that codified rules, and the failure to keep up with technological changes in monitoring drivers – and taking actions if substandard behavior is observed – represents the double-edged sword of emerging technologies in the industry.

In some cases, the absence of dash camera footage has been a significant factor in legal proceedings. For instance, in *Morris v. Seward*, the lack of dash camera footage from the officer's vehicle was a point of contention. However, it was ultimately



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explained that the vehicle in question was not equipped with a dash camera. This suggests that the absence of dash cameras can complicate legal defenses and potentially impact liability. In like kind, the absence of driver analytics technology can be exploited by the Plaintiffs' Bar to assert negligence against a carrier by suggesting through industry evidence that the defendant carrier is out of "lock step" with the industry. By extension, it can (and will) be argued that the failure to implement such analytic programs is a feature of putting profit ahead of safety, thus forming a potential basis for gross negligence claims.

Companies without dash cameras or fleet monitoring technology have limited ways to monitor and correct unsafe driving behaviors, thus leading to increased risk and the potential for retaining drivers who operate below accepted safety standards. Negligent retention is a "darling" of the Plaintiff Attorneys because it not only casts the company/carrier in a bad light for being behind the times, but suggests preventability "if only the driver monitoring program that Company X had was put in place by Company Y." If an accident happens due to a driver's negligence and the company can't show proactive monitoring efforts, it may face greater liability in legal proceedings.³ From a jury-metrics perspective, it is difficult to effectively argue that minimum DOT/FMCSA standards are sufficient when the industry has adopted better, more holistic monitoring programs. Jurors are inherently critical of motor carriers and have preconceived (and incorrect) notions of drivers, but nevertheless demand that carriers act as scions of public safety; the failure to take steps exemplifying this can open the door to disproportionate verdicts when a jury believes more could have been done to prevent the collision through the implementation of technology. That said, if technology is not implemented, a corporate representative will need ammunition to explain why, which goes beyond mere regulatory minimums or cost.

By way of example, regulations, such as § 1017.74, which covers safety camera requirements, mandates that safety camera systems in taxicabs must be operational whenever the vehicle's motor is running. This regulation highlights the expectation that specific transportation services have functional camera systems. Failure to comply with this requirement may imply liability. § 1017.74 Safety camera requirements. Some jurisdictions require the use of dash cameras in commercial

vehicles. Failure to comply with these regulations could lead to legal penalties, fines, and increased regulatory scrutiny. Installing dash cameras helps to ensure compliance and shows a dedication to safety and legal standards.⁴ While the FMCSA currently has no camera requirement, many jurisdictions do. Moreover, it is often industry, not regulation, that mandates standards by which juries determine liability.

Increased liability can have serious financial consequences for transportation companies. Lawsuits, settlements, and higher insurance premiums can significantly affect their growth and profit margins. Although implementing dash cameras and fleet tracking software requires an initial investment, reducing these costs can lead to substantial long-term savings. The potential savings include reduced legal fees, lower insurance premiums, and preventing fraudulent claims, making it a wise investment. In addition, companies that proactively follow the trend of using dashcam and fleet management software to improve driver behavior can experience reduced accident rates, further lowering liability and any associated costs.

As we progress through the third decade of the 21st Century, maintaining a safety-centric culture is increasingly important to protect employees, customers and the public. Safety-centric technology programs are useful as a sword and a shield in the litigation arena, as juries, who are not familiar with the complexities of driver and fleet management, can (and should) be educated on the efforts undertaken by carriers to vet, hire, retain, and monitor fleet operators. By that same token, a demonstrable history of technology-based monitoring and remediation through counseling and training demonstrates to the public thoughtful, evidence-based practices versus merely reactionary practices. By exploring technologies adopted within the industry, and implementing them, carriers can not only prevent accidents, but provide a robust foundation for their defense teams should litigation arise. ■

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Endnotes

1 Supply Chain Digest Newsletter June 28, 2019. <https://www.scdigest.com/assets/news/19-06-28.htm>

2 Should I Get a Dash Cam in My Vehicle? | Nagle & Associates. <https://www.naglefirm.com/should-i-get-a-dash-cam-in-my-vehicle/>

3 How Unsafe Left Turn Motorcycle Accident Occur | Las Vegas Personal Injury Attorney Law Firm. <https://www.lvpiattorney.com/practice-areas/motorcycle-accident/unsafe-left-turn-motorcycle-accident>

4 Do All Semi Trucks Have Dash Cameras? | Monarch. <https://monarchconnected.com/do-all-semi-trucks-have-dash-cameras/>



REDEFINING REREFINING





Driving jobs across all fleet types and trucking segments continue to become more specialized and unique, with many tasks included in the job beyond just driving the truck. This has shifted hiring and retention strategies to be more localized and market-driven, and it's also prompted fleets to undertake projects to re-structure their driver pay models to accommodate this changing environment. These trends have exacerbated the challenges for fleets already in specialized trucking, such as NORA members, in their driver hiring and retention programs.

Still looking for unicorn drivers?

A look at the critical driver pay trends you need to know — especially for your specialty jobs

By Leah Shaver, President & CEO of The National Transportation Institute

If you read nothing beyond this line, this should hit home — the more nuanced the job, the greater challenge to recruit and retain. In 2024, NTI has completed more wage studies for folks in waste and recycling than ever before and there's a common denominator with all of them: fleets like yours need qualified CDL holders that can responsibly operate your equipment and perform the myriad of other meaningful tasks of their jobs that don't take place behind the wheel of the truck.

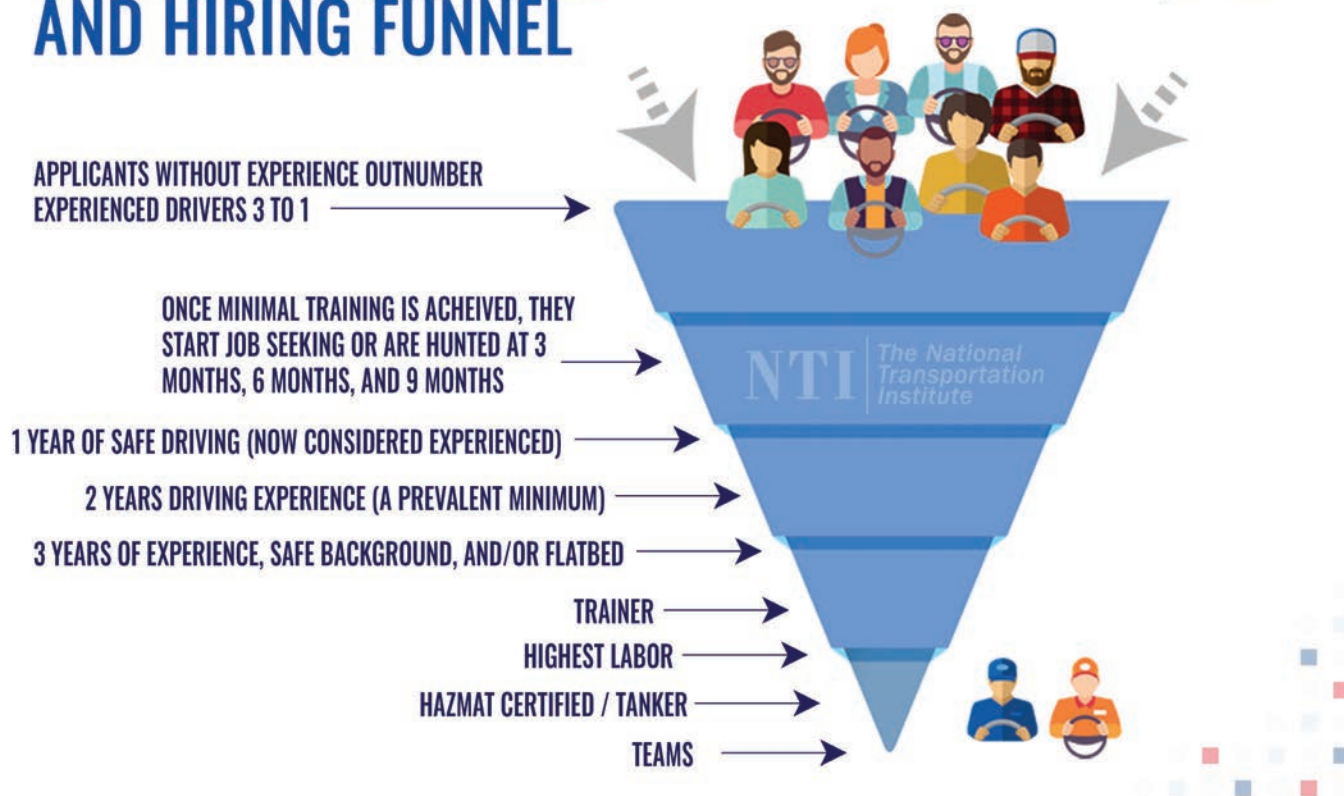
Unicorn drivers like that can be created and trained, grown through upskilling or poached from peer companies – but regardless, finding these drivers and then keeping them onboard is a challenging prospect.

One factor compounding these challenges is that the industry has and continues to quickly transition to where every driving job is becoming unique, more nuanced, more specialized and holds more tasks than just driving the truck and performing pre- and post-trip inspections.

As always, it's a unique time in trucking. The industry has changed, shifted and evolved dramatically over the past two years, five years and even 10 years. No two jobs are alike. No two locations (or markets, as we refer to them at The National Transportation Institute) are alike. No two pay models are alike. That's especially true for private trucking fleets, dedicated 3PLs and the myriad of for-hire trucking companies working *anything* outside of general truckload in OTR and long-haul. And even those jobs are shifting, too.

No longer is a trucking job just a trucking job, and I'd venture to say that no one knows that better than NORA members! While the "driver market" and "trucking

NTI'S DRIVER SUPPLY AND HIRING FUNNEL



While there generally are plenty of inexperienced CDL holders looking for opportunities in the industry, most carriers will not or cannot hire a driver with less than two years of experience. Thus, many of the drivers who enter the industry cycle out due to lack of opportunities that fit their preferences and expectations, and choose not to work in the opportunities that are available to reach the two-year experience mark. Thus, the two-year experienced drivers is a highly sought after commodity, yet the driver supply funnel has started to narrow significantly at that mark. Beyond that, the driver supply funnel continues to narrow, especially for jobs requiring labor and specialized endorsements — the point in the funnel where many NORA members' hiring needs are focused.

economy” are often spoken of, referred to and thought of as a monoculture (or... mono-economy? mono-market? Hopefully you’re catching my drift) — it absolutely is not. Every job is unique, and every market poses different challenges.

Driver compensation benchmarking activity by fleets of all types — especially those with specialty or nuanced jobs like those reading Liquid Recycling — in recent years has shifted to focus directly on the job types fleets are hiring for within the locations where they’re hiring and retaining drivers. Companies have become highly granular and detailed with their pay adjustments due to how the industry and the driving job have evolved, as well as how fleets are pricing their business with shipper partners, how they’re structuring their driver pay models and how these changes are used to attract and retain the

drivers they need, when and where they need them.

Let’s dive further into what I mean: I’ve sketched out for you here the trends our analysts at **The National Transportation Institute** are documenting that have enveloped the market for professional truck drivers, as well as where those trends are headed in the coming years, how they are and will continue to impact the wages and total rewards you offer those drivers, and of course a few best practices and policies you can consider and evaluate to help you navigate and thrive amid these cultural, societal and economic changes.

Driver availability and pay trends — what fleets are contending with

The underlying dynamics that caused so many headaches for fleets trying to hire drivers to maintain or



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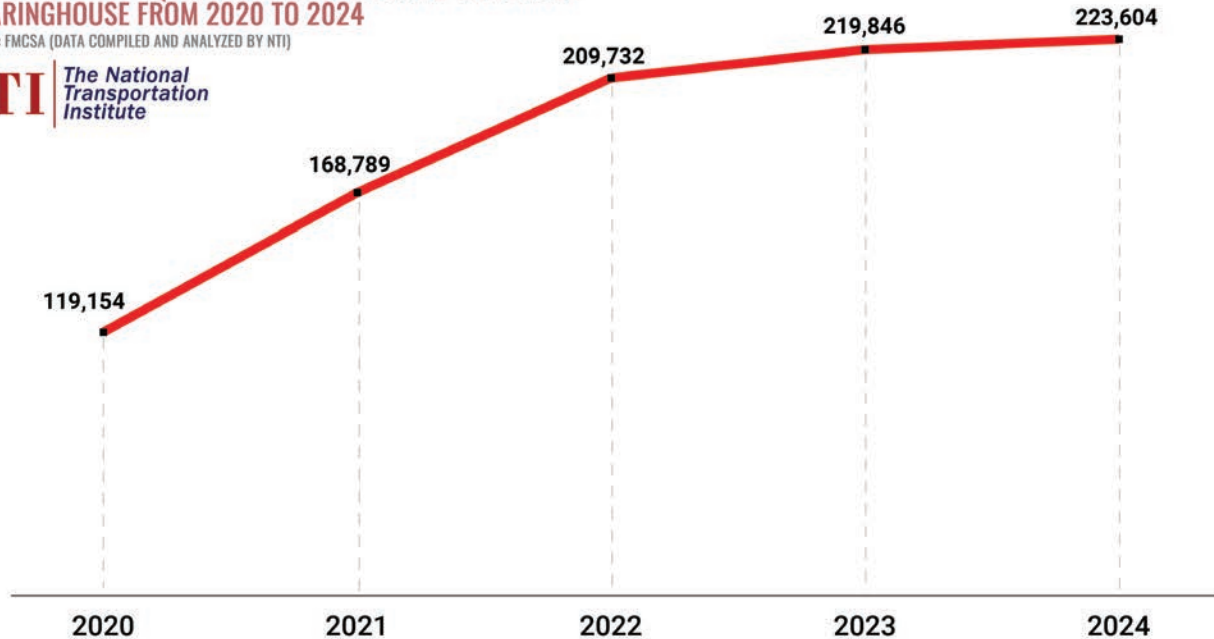
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DRIVER HIRING ACTIVITY STILL GROWING IN 2024

MONTHLY HIRING ACTIVITY IN 2024 IS OUTPACING RECENT YEARS. THIS CHART SHOWS THE AVERAGE MONTHLY PRE-EMPLOYMENT QUERIES TO THE CDL DRUG & ALCOHOL CLEARINGHOUSE FROM 2020 TO 2024

SOURCE: FMCSA (DATA COMPILED AND ANALYZED BY NTI)

NTI The National Transportation Institute



Despite the ongoing freight correction cycle that's caused rates to slip and driver hiring demand to ease, driver hiring volume remains higher than in any year since 2020. Comparing the monthly average of 2024 through total year averages from the prior four years, 2024 is elevated — and that includes two of typically slowest hiring months of the year, January and February.

grow their headcount from late 2020 through early 2022 are still here in 2024. Those trends caused driver pay to spike nearly 20% in a short time. The same factors are lurking in the background, and they'll be front and center again as soon as this freight cycle correction ends. Those trends revolve around two primary factors that affect driver availability: The **macro labor market** and **constraints on driver supply**.

The macro labor market: The defining issue, in my opinion, for businesses of all types, stripes and sizes over the past five years centers on one word: Labor. Availability thereof, people willing to do jobs at the wages offered, retention of those people once they're hired, hiring their replacement(s) once they depart — The labor market has been stuck in a spin cycle since early 2020, and the revolutions continue. Unemployment remains near record lows, while job openings remain at record highs. Jobs are plentiful throughout the economy, limiting interest in trucking careers among new entrants

and drawing workers away from trucking, especially at the local, market level where your company is competing for drivers against other industries and jobs.

Driver supply and demand: Are drivers in demand? *That's rhetorical.* Of course they are. People are still eating, clothing themselves, furnishing their homes, building homes, shopping for themselves and others, buying cars, and so on. There are massive construction projects underway across the country from the infrastructure funding bill, which moves freight. And of course the manufacturing elements and import/export of all of the aforementioned activities contribute heavily to freight volumes, as well as those like your company that collect and haul away liquids, wastewater, chemicals, recycling, etc.

Trucks obviously don't just deliver the end products. They deliver all the raw goods, parts, and pieces along the way, too. At a conference a few years ago, I heard a trucking economist say that every finished product we



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However, while all of the above factors are true and freight is still moving, there has been a marked slowdown in the freight market over the past 18 months due to an imbalance in supply (trucking capacity) and demand (freight volumes), and those factors have also caused driver pay gains to mostly stall. We have tracked this cycle many times over our 30 years of research.

One labor economist said in 2022 that transportation's workforce "depleted." The current down freight market is only masking that issue — it hasn't gone away. In fact, the contributing dynamics have become even further entrenched:

- We're struggling to attract younger generations to replace those who are aging out and retiring.
- There's significant churn among new entrant drivers to our industry who enter seeking a rewarding career with good pay.
- Increasing regulation and oversight by federal and state governments, which creates frustrations and barriers.
- Unpaid, unproductive time in drivers' schedules chips away at their earnings and makes trucking jobs less appealing.
- Lastly, changing attitudes and laws around marijuana. The U.S. DOT's Drug & Alcohol Clearinghouse has (rightly) sidelined an average of 5,000 drivers a month for nearly 4 years, and legalization laws at the state level allowing for recreational marijuana sale and use make federally regulated jobs even more unappealing to those who want to take advantage of those changes. We expect this trend to continue as 90% of US states have legalized marijuana use in some way, whether medical or otherwise.

Looking ahead, the stage being set for another wage pinch

NTI expects muted driver wage activity to continue through this year.

Capacity is exiting the market in terms of carrier count and driver count, and several large publicly traded

carriers have reported cutting vehicle counts intentionally to rebalance. However, carrier and driver supply still outweigh demand, and until those supply and demand dynamics rebalance more into carriers' favor, companies will continue to conservatively approach the market, make decisions, and evaluate costs, including those related to driver pay changes.

NTI sees private fleets and dedicated 3PL carriers continue to be active in benchmarking their pay and adjusting to attract the drivers they want and need. While capacity has exited the market in the for-hire segment, that has not happened for private fleets. Trucking companies are shrinking but private fleets like retailers, energy companies, manufacturers and food distributors are using the current market to hire and grow their fleet, and even to restructure pay models to simplify them, make them easier for drivers to understand, and to better market their job opportunities to prospective hires.

One element NTI is watching within the next year to 18 months is what happens with wages when capacity and demand rebalance or shift the other direction.

The timing of such a freight rebound and inflationary market could align with many drivers who are earning their needed one to two years of experience to qualify for higher-paying jobs, and they will likely be quick to jump to those jobs when hiring demand surges again.

When a freight market rebound occurs, demand for capacity returns, and freight rates begin to climb, driver hiring activity will follow, and the need for newcomers will become a point of emphasis again. Thus, wages for drivers with one year of experience or less will also jump. Throughout the pandemic recovery era of late 2020 through early 2022, wages for drivers with one year of experience had the most momentum, with year-over-year percentage growth sometimes double that of cap earners (drivers with the most experience and the highest pay).

The next freight market rebound will likely see eerily similar dynamics play out.

Fleets also report on a daily basis to NTI that they continue to struggle with retention, particularly for-hire motor carriers, though private fleets have also reported that turnover remains higher than they would like, particularly within a new hire's first weeks and months on the job.

Data also shows driver hiring remains higher in 2024

than any year over the past five years.

Fleets aren't trying to grow in this market — such as adding trucks and drivers to meet higher demand from customers. NTI contends the hiring activity signaled by the data is replacement demand driven by continued elevated turnover.

With the new entrant pipeline being depleted and turnover still elevated, the trends spelled out above could converge to build strong pressure on driver pay across experience levels when the freight market begins a recovery and enters a more robust market.

♦♦

So what can your fleet do amidst these challenges?

NTI has prepared a punch list of best practices to aid in your ongoing employee endeavors. If you want free access, head to driverwages.com/contact and we will gladly send them over to you.

Leah Shaver is President and CEO of The National Transportation Institute. NTI is the trucking industry's authority on driver compensation, best practices and programs, providing comprehensive benchmarking reports for earnings, and nearly 200 other attributes that make up a driver's total pay package, such as bonuses, safety and performance incentives, components like activities and detention, and much more. Learn more about NTI's surveys and data solutions at DriverWages.com.

Contact Info:

Leah Shaver, President & CEO of The National Transportation Institute
lshaver@driverwages.com



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NORA Mid-Year Meeting Recap – June 19-21, 2024

The NORA Mid-Year Meeting, held from June 19-21, 2024, in Providence, Rhode Island, was a resounding success. Despite the sweltering heat, the event still brought together over 100 members and attendees for insightful discussions, committee meetings and networking opportunities.

The meeting kicked off with a compelling presentation on “Maximizing Circularity in Waste Oil and All Things Hazardous,” presented by Mike Battles, Co-Chief Executive Officer of Clean Harbors. During the lunch session, attendees engaged in a dynamic panel discussion titled “Ideas to Grow Your Business in 2024 - Leveraging Current Assets to Increase Future Revenue and Profits.”

Another key session included an update on PFAS presented by Trihydro. This session provided critical information on the latest developments, regulatory updates, and best practices for managing PFAS contamination.

Committee meetings were held, providing members with the opportunity to discuss specific issues, share updates, and collaborate on initiatives. These meetings facilitated deeper engagement and helped advance the goals of NORA members.

For those who wish to explore additional photos, powerpoint copies of the presentations given or more details about the meeting, information can be found on the NORA website under the Past Events tab.

The NORA Mid-Year Meeting 2024 in Providence was a remarkable event that reinforced the industry's commitment to sustainability, innovation, and growth. NORA thanks all attendees, speakers, and organizers for making it a success.



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MILLION

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Used Oil
Re-Refined
Per Year



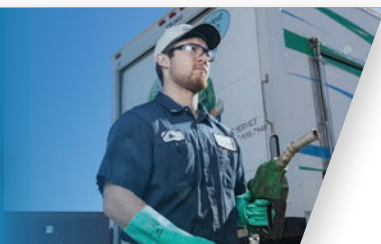
80
MILLION

Gallons of
Wastewater
Collected
Per Year

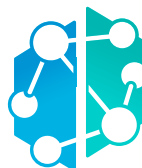


5
MILLION

Gallons of
Antifreeze
Recovered
Per Year



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2024 NORA Mid-Year Meeting Presentations

These presentations were made at the 2024 NORA Mid-Year Meeting. Visit the Members Only Resource Center at noranews.org to view online.

Morning Speaker

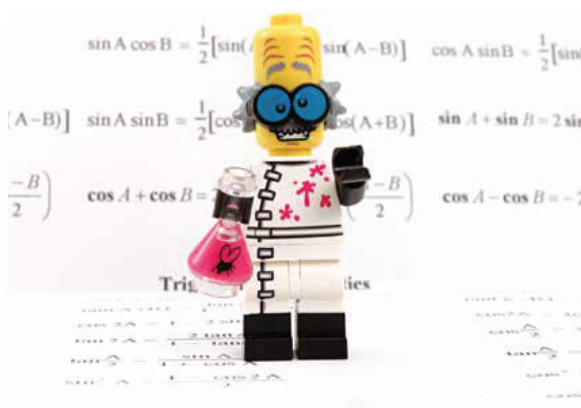


Maximizing Circularity in Waste Oil and All Things Hazardous
Mike Battles, Co-Chief Executive Officer Clean Harbors

Description:

Clean Harbors, through its subsidiary Safety-Kleen, is the largest collector and recycler of waste oil in North America, including managing the largest re-refinery on the planet – one of the nine re-refineries it operates today. Co-CEO Mike Battles, spoke about the company's approach to sustainability and how it maximizes recycling in its operations while protecting the environment from hazardous substances, including waste oil which represents a significant threat to drinking water when released into the environment. Mike addressed lubricant market's shift toward greener products and Safety-Kleen's recent collaboration with Castrol to help them launch their MoreCircular lower-carbon lubricants to large fleets and business customers.

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PFAS Update: Recent Updates, Looking Ahead to 2024 and Opportunities & Threats for Members

Presented by Trihydro Corp

NORA members who collect wastewater and/or operate Centralized Waste Treatment (CWT) facilities play a vital role in ensuring water stays clean and safe. Each year, NORA members responsibly manage billions of gallons of wastewater efficiently and in compliance with all applicable environmental regulations. NORA CWT members are required to meet numerous and stringent discharge limits set forth in their permits.

The active movement around the technical and regulatory landscape surrounding per- and poly- fluoroalkyl substances (PFAS) can be overwhelming. Regardless of how the PFAS regulations eventually get finalized, NORA members will be impacted. This session helped to bring members up to speed on the current state of PFAS regulations, previewed what to expect in 2024 and reviewed potential opportunities and threats for NORA members.



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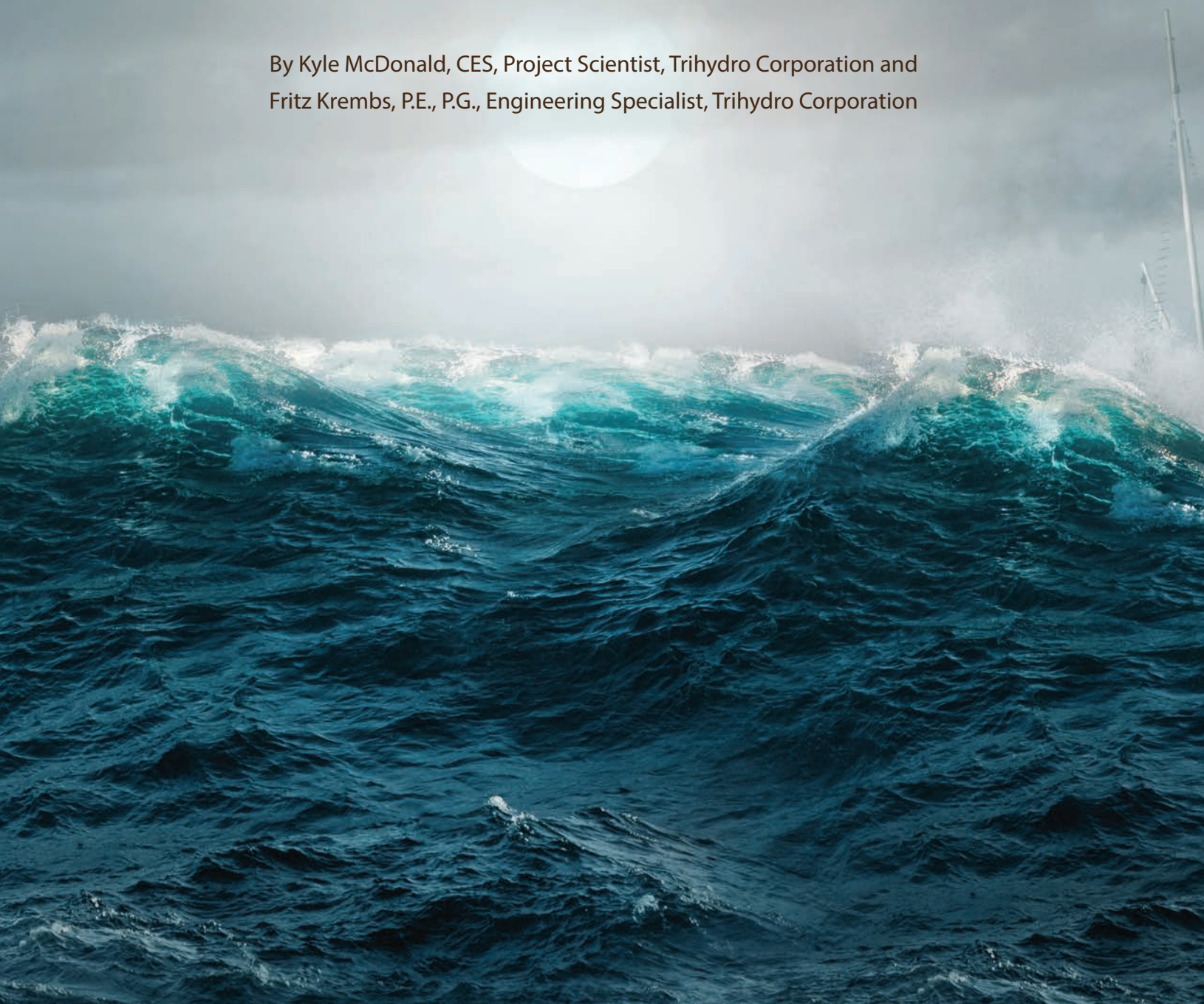
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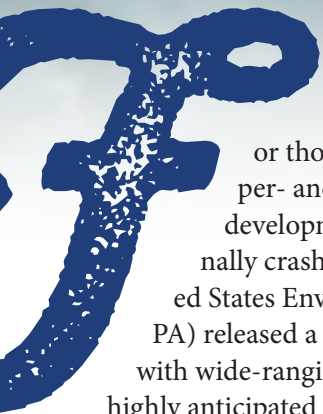
Charting Your Course Amidst the Recent Wave of PFAS Regulations

By Kyle McDonald, CES, Project Scientist, Trihydro Corporation and
Fritz Krembs, P.E., P.G., Engineering Specialist, Trihydro Corporation



PFAS Seas





For those navigating the ever-changing sea of per- and polyfluoroalkyl substances (PFAS) developments, it may seem like the wave has finally crashed ashore. In recent months, the United States Environmental Protection Agency (USEPA) released a series of significant announcements with wide-ranging implications, including finalizing highly anticipated maximum contaminant levels (MCLs) and hazardous substance designations under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; also known as Superfund). Alongside these major rulings, the USEPA has issued additional guidance and policies to clarify their implementation. In this issue of PFAS Perspectives, we dive into the murky depths to help NORA members stay afloat amid these recent federal developments.

Anchoring Regulations: Finalization of MCLs for PFAS Compounds

On April 26, 2024, the USEPA published final PFAS MCLs in the Federal Register, making the rule effective on June 25, 2024. This significant Safe Drinking Water Act (SDWA) development concerns the National Primary Drinking Water Regulation (NPDWR) for six PFAS compounds: PFOA, PFOS, PFNA, HFPO-DA, PFHxS, and PFBS. The final rule aims to place further controls on PFAS as outlined in the USEPA's PFAS Action Plan and Strategic Roadmap, which together aim to better prevent and manage human health and the environment.

The NPDWR includes legally-enforceable MCLs and non-enforceable MCL Goals (MCLGs). MCLs set the maximum allowable concentration of a contaminant in public drinking water systems, while MCLGs represent the level at which there is no known or expected risk to human health. While MCLGs are generally set to lower, more stringent levels, MCLs are intended to consider logistical challenges, such as the types and costs of available treatment technologies and analytical detection limits. Promulgated MCLs require public drinking water systems to complete initial monitoring for these PFAS compounds by 2027 and to implement processes to prevent these contaminants from exceeding the MCLs by 2029. Non-compliance can lead to potential USEPA enforcement actions.

USEPA has set final individual MCLs for five PFAS compounds: PFOA and PFOS at 4 parts per trillion (ppt) each and PFHxS, PFNA, and HFPO-DA (commonly referred to as Gen-X) at 10 ppt each. Additionally, the MCLs include a Hazard Index (HI) approach to regulate cumulative exposures. This approach requires calculating a Hazard Quotient (HQ) for four co-occurring PFAS (PFNA, PFHxS, PFBS, and HFPO-DA), with the HI being the sum of HQs for the four constituents. If the cumulative HI equals or exceeds 1, MCL compliance conditions are violated, necessitating corrective actions. Notably, PFBS is included only in the mixture HI approach and does not have an individual MCL.

This final ruling marks a significant regulatory development, originating from USEPA's examination of potentially regulating certain PFAS chemicals over two decades ago. Federal health-based standards for PFAS have been a moving target over the past fifteen years fluctuating from sub-parts per billion levels (2009 non-enforceable health advisory levels) down to the parts per quadrillion level (2022 interim updated health advisory level). Stakeholders and state agencies have awaited these criteria, which provide standards for PFAS, though USEPA periodically reviews NPDWRs and may adjust MCLs based on new scientific evidence.

A 2023 US Geological Survey (USGS) study estimates that at least 45% of the country's tap water may have detectable PFAS and data from the ongoing Fifth Unregulated Contaminant Monitoring Rule (UCMR5) indicate that 10% of the responding public water systems (PWSs) have reported concentrations of PFAS exceeding the newly regulated MCLs. The UCMR5 program requires sampling for 29 PFAS compounds in PWSs across the country with final results expected by 2026. Compliance costs are also anticipated to be substantial with a 2023 American Water Works Association (AWWA) study estimating costs to exceed \$3.8 billion annually to treat PFOA and PFOS to 4 ppt, which is refuted by USEPA in the final ruling as "substantially overestimated."

The USEPA evaluated Best Available Technologies (BAT) to comply with the new MCLs and identified granular activated carbon (GAC), ion exchange (IX), and high-pressure membrane separation via reverse osmosis or nanofiltration (RO/NF) for drinking water treatment.

Many of these technologies are additionally appropriate with other matrices, such as groundwater and landfill leachate, though complex chemistries complicate their efficacies. The USEPA's BAT evaluation concludes that while these technologies are generally effective for removing newly regulated PFAS compounds from drinking water streams, they lead to PFAS-concentrated residuals that require disposal or destruction.

Casting a Wide Net: Implications of PFAS Designations under CERCLA

Shortly after the issuance of final MCLs, on May 8, 2024, USEPA designated PFOA and PFOS (and their salts and structural isomers), as hazardous substances under CERCLA, effective July 8, 2024. This ruling has broad implications for release notifications, transportation manifesting, and reporting under other regulations like the Clean Water Act and the Toxics Release Inventory. The designation aims to hold "significant polluters" accountable and increase transparency about these compounds' release.

CERCLA grants USEPA authority to require potentially responsible parties (PRPs) to investigate and cleanup contaminated sites and to pursue cost recovery and contributions under joint and several liability. In the past, these compounds required USEPA and other authorized agencies to prove "imminent and substantial" danger to public health or the environment before responding to releases. The finalization of this designation eliminates that requirement for PFOA and PFOS, enabling response to a broader range of releases. The designation of a hazardous substance does not, in and of itself, require further investigation or cleanup, but the rule is expected to impact existing and closed CERCLA sites via the five-year review process, with the possibility of re-opening formerly closed CERCLA sites and delays for sites nearing closure. Many states adopt CERCLA hazardous substances into their own cleanup statutes, potentially mandating state-level remediation of PFOA and PFOS. While the USEPA's CERCLA listing is separate from the drinking water standards codified with drinking water MCLs, the CERCLA ruling states that the MCLs may be applicable or relevant and appropriate requirements (ARARs) for cleanup at contaminated sites.

The designation includes mandatory reporting of

releases over the reportable quantity (RQ) of 1 pound or more over a 24-hours to the National Response Center. It also affects real estate transactions and mergers by resuming the suspended rulemaking of the Standards and Practices for All Appropriate Inquiries regulations and requiring covenant warranties for Federal property transactions.

The USEPA's PFAS Enforcement Discretion and Settlement Policy, released alongside the CERCLA designations, aims to hold "major PRPs" accountable while exempting "passive receivers" where equitable factors do not support seeking response action or costs. This includes various entities such as community water systems, publicly-owned treatment works, municipal facilities, and farmland owners who've applied PFAS-laden biosolids. The enforcement discretion may be extended to additional entities based on factors like governmental status, public service role, involvement in PFAS activities, and manufacturing or industrial use of PFAS. Importantly, the policy is just that – a policy – and it does not hold equivalent weight of a codified regulation allowing for future deviations. Additionally, the USEPA's enforcement policy holds no bearing on preventing private party torts, litigation, or cost recovery actions under the new CERCLA ruling.

EPA has stated that the CERCLA ruling does not evaluate costs when designating hazardous substances. However, direct and indirect costs resulting from enforcement of the CERCLA ruling were included in the final regulation. USEPA estimates that nationwide notification of PFOA and PFOS releases may cost \$2,658 per release (\$1.63 million annually) and indirect costs for response at non-National Priorities List (NPL) sites may range between \$327,000 to \$18.1 million per year. This is in stark contrast to estimates provided by the US Chamber of Commerce that private sector CERCLA liabilities may cost between \$700 to \$800 million per year, and could exceed \$17 billion in total.

The CERCLA listing does not classify PFOA or PFOS as hazardous constituents or hazardous wastes under the Resource Conservation and Recovery Act (RCRA), but mandates hazardous materials classification of the two chemicals for the purpose of transportation under the U.S. Department of Transportation (USDOT). In

response to petitions by the University of California Berkeley, the Public Employees for Environmental Responsibility (PEER), and the governor of New Mexico, RCRA hazardous constituent listings for PFOA, PFOS, and seven additional PFAS compounds were proposed by USEPA on February 8, 2024.

The potential listing of a compound as a RCRA hazardous constituent does not by itself immediately impose regulatory requirements; however, RCRA hazardous constituents are cited by reference in several sections of federal hazardous waste regulations. If finalized, a primary near-term impact of the hazardous constituent rule would involve consideration for further investigation and cleanup at more than 1,700 RCRA hazardous waste treatment, storage, and disposal facilities (TSDF) with solid waste management units (SWMUs) currently being addressed under the RCRA corrective action program. The worst-case scenario for this is the potential to re-elevate sites nearing completion of RCRA corrective actions back to an assessment and evaluation stage. Further, the listing as a hazardous constituent sets the stage for potential longer-term reclassification of select PFAS compounds as a hazardous waste; a designation with significant implications across various sectors. The process of reclassification to a hazardous waste requires USEPA to consider several factors specified under 40 CFR 261.11(a)(3) including whether the hazardous constituent represents a substantial hazard if improperly managed. The timing of these subsequent steps remains uncertain and are dependent upon finalization of the currently proposed hazardous constituent rule.

Sailing in a Fog: No Lifeline in USEPA's Destruction and Disposal Guidance

While the MCL and CERCLA rulings have garnered well-deserved attention, another significant development was recently released by USEPA. On April 8, 2024, the USEPA updated its Interim PFAS Destruction and Disposal Guidance. This update builds on the original December 2020 guidance by incorporating recent treatment efficacy data, addressing public comments, and outlining

persisting data gaps. In the document, USEPA prioritizes ongoing research to achieve efficient PFAS destruction and minimize environmental release.

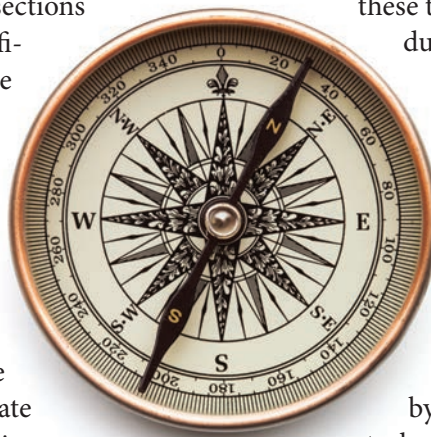
Despite over three years of additional data, a definitive solution for PFAS waste management remains elusive. The 2024 Guidance evaluates three existing technologies (incineration, landfilling, and deep-well injection) and suggests interim storage with controls may be warranted for site-specific considerations rather than use of any of

these three existing technologies. It also introduces information on four promising, but not yet commercially available emerging destructive technologies (mechanical degradation, electrochemical oxidation, gasification and pyrolysis, and supercritical water oxidation).

While the 2024 Guidance does not endorse any specific approach, it does outline a methodical process for assessing disposal and destruction options by providing a framework for case-by-case technology evaluation, considering efficacy, available analytical methods, field screening, and impacts on vulnerable communities. The USEPA emphasizes selecting technologies that minimize risk to human health and the environment. Additionally, by identifying key data gaps, USEPA sets the stage for future research, essential given the anticipated volume of PFAS-contaminated waste needing management.

Scanning the Open Seas: The Broader PFAS Perspective

There are other state and federal regulatory initiatives making headway beyond those already discussed. For example, in January of this year, the USEPA released three analytical methods to better measure PFAS in environmental samples. Perhaps the most significant is the finalization of Method 1633 for PFAS analysis in non-drinking water samples. Method 1633 is applicable for wastewater, groundwater, surface water, biosolids, soils, and other matrices and will be the go-to method for most compliance sampling purposes. In tandem with Method 1633, USEPA finalized Method 1621 for adsorbable organic fluorine (AOF) in aqueous matrices allowing



for broad screening of thousands of PFAS compounds. Additionally, draft Method OTM-50 for analysis of PFAS in air from stationary sources was released in January marking a significant step towards regulating PFAS in air emissions and better understanding incomplete combustion byproducts from thermal destruction technologies.

Furthermore, in November 2023, USEPA incorporated a new Toxic Substance Control Act (TSCA) provision requiring commercial entities that have manufactured or imported chemical substances and mixtures that contain PFAS compounds, including as byproducts or impurities, to submit one-time reports of their products retroactive to 2011. The TSCA reporting requirement is intended to characterize sources, quantities, and types of PFAS compounds used in the country and represents a significant regulatory obligation to the business community,

including many entities previously unaffected by TSCA regulations. The reporting window opens in November 2024 and closes in May 2025.

Throughout 2024, we will be tracking rule development on other regulatory fronts as well, such as potential for hazardous waste designation proposals under RCRA. Stay tuned for more insights as we continue to navigate the evolving realm of PFAS in our future PFAS Perspectives series. ■

Contact Info:

Kyle McDonald, CES, Project Scientist, [Trihydro Corporation](#)

Fritz Krembs, P.E., P.G., Engineering Specialist, [Trihydro Corporation](#)



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The 2024 NORA Annual Conference and Trade Show

The 2024 NORA Annual Conference and Trade Show is the liquid recycling industry's premier networking and education event. Now is the time to begin making plans to attend. Everything you need for your plans is included in this magazine.

AGENDA

The tentative agenda is on page 34. It includes the timing of the various networking events, trade show hours as well as the conference sessions. Most attendees will arrive Wednesday, November 13th. For those wishing to attend International Day, details can be found on page 38, a Tuesday arrival may be preferred. Depending on travel plans, exhibitors may want to arrive on Tuesday to be on site for booth set up. Most attendees will depart on Saturday, November 16th.

BOOK YOUR ROOM

The event will be hosted at the Loews Coronado Bay. A block of discounted rooms for NORA members is available through October 23 or until it sells out. See page 36 for information about the resort.

REGISTER NOW

Register online to attend the Conference using the form on page 37. To save money, register early. Please note that Non-Exhibiting Supplier/Vendor Members have a separate registration rate. Supplier/Vendor Members who exhibit receive one free registration.

TRADE SHOW

The NORA Trade Show already has over 30 companies displaying the latest products and services available to the liquid recycling industry. See page 40 for the current list of Exhibitors. There are 3 booths left. Contact Casey Parker at 703-753-4277 or casey@noranews.org to reserve your space.

SPONSOR THE EVENT

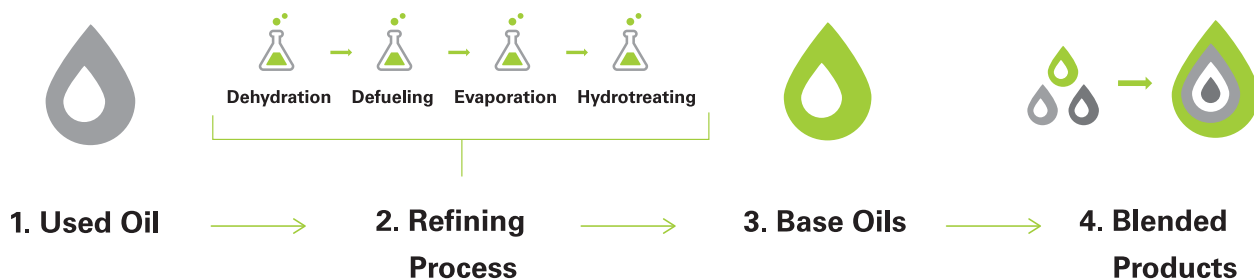
Many sponsorship and advertising opportunities are available for the 2024 NORA Conference & Trade Show. For as little as \$175, you can support your industry as well as promote your brand. See page 41 for details and how to secure your sponsorship.



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2024 NORA ANNUAL CONFERENCE & TRADE SHOW AGENDA

NOVEMBER 13-16, 2024 | Coronado, California

WEDNESDAY, NOVEMBER 13

10:00 AM - 4:00 PM	International Day at NORA 2024	Separate Registration Required for International Day Programming
10:00 AM - 4:00 PM	Exhibitor Check-In	
10:00 AM - 2:00 PM	Booth Set Up, Section 1	
2:00 PM - 4:00 PM	Booth Set Up, Section 2	
2:00 PM - 7:00 PM	Attendee Check-In/Registration	
3:00 PM - 4:00 PM	NORA Board of Directors Meeting	
4:00 PM - 4:30 PM	NORA Board of Directors Reception for New Members/First Time Attendees	
5:00 PM - 9:00 PM	Grand Opening Reception in Trade Show	
	All exhibitors, attendees, registered spouse/companions welcome	

THURSDAY, NOVEMBER 14

7:30 AM - 11:45 AM	Conference Check-In/Registration
7:30 AM - 8:30 AM	Continental Breakfast in Trade Show
8:30 AM - 10:00 AM	NORA Opening Session & Keynote Speaker
10:00 AM - 10:40 AM	Refreshment Break in Trade Show
10:30 AM - 11:30 PM	Spouse/Companion Brunch, Open to Registered Spouses/Companions
10:40 AM - 12:00 PM	Conference Sessions
12:45 PM - 7:00 PM	NORA Golf Tournament*
1:15 PM - 4:00 PM	Thursday Afternoon Tour*

FRIDAY, NOVEMBER 15

8:00 AM - 9:00 AM	Continental Breakfast in Trade Show
9:00 AM - 10:40 AM	Conference Sessions
10:40 AM - 11:15 AM	Refreshment Break in Trade Show
11:15 AM - 12:00 PM	Conference Sessions
11:15 AM	Trade Show Tear Down
2:00 PM - 5:15 PM	Friday Fishing*
6:00 PM - 10:00 PM	Closing Party
	All exhibitors, attendees, speakers, and registered spouses/companions are invited to attend this great event! Wristband required

SATURDAY, NOVEMBER 16

All day	Activities on your own (shopping, tours, departures, etc.)
---------	--

*Additional registration required.

Items in bold indicate the trade show is open.

Conference Presentation

Friday Morning * Full speaker list will be announced in the near future.



HARRIS or TRUMP?

The Election's Impact on the Economic Forecast & NORA Members
Presented by Elliot Eisenberg, Ph.D.

The 2024 Presidential Election will occur one week prior to the NORA Conference. A leading economist will provide attendees with an economic forecast for 2025 and beyond based on who wins the election. This session will address the overall economy, how GDP will perform, oil production and prices, the general slowing in the labor market, the behavior of inflation, the thinking of the Fed and the path of interest rates, home prices and much more of interest to NORA members. This will assist members in preparing their budgets and business strategies with the best available information.

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RESERVATION INFO

Room Rate: \$279/night

By Phone: 800-815-6397 (mention the NORA Group when booking over the phone, a \$39 daily resort fee has been waived for the NORA room block)

Group rates available through October 23 or until rooms are sold out.

Please Note: Reservations booked by individual attendees require a credit card deposit of 1 night's room and tax at time of booking. A deposit is refundable if the Hotel receives notice of individual reservation cancellation 3 days prior to scheduled arrival

A daily mandatory reduced resort charge (normally \$39.00) has been waived for the NORA room block and includes:

- Welcome beverage upon arrival
- Google Chromecast TV streaming
- High speed internet on up to 3 devices
- In-room coffee, tea and bottled water
- 24-hour Fitness Center and Studio Access
- Daily group fitness classes
- Turndown service upon request
- Shoe shine

- Free local and toll-free calls
- Shuttle service to Downtown Coronado Village
- Shuttle service to Silver Strand State Beach
- Use of beach toys, chairs, and umbrellas

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- Self Parking: \$47/Night

IMPORTANT - Companies inaccurately representing themselves as our "housing vendor" have contacted individuals in the NORA community, soliciting business. Specifically, they will offer to make hotel reservations within the NORA block on your behalf, or even offer you a discount from the NORA rate. NORA is not utilizing the services of any housing service for the Annual Conference & Trade Show. Reservations for this event should be made directly with the hotel, either by phone or via our web reservation system. If you provide your credit card information to any of these unauthorized vendors, your card may be charged but you may not have a reservation when you arrive.



Coronado, California • November 13 - 16, 2024

2024 NORA Conference Registration Form

Complete one form for each person. Only one form required to include payment information.

EXHIBITORS: Do Not Use This Form - Use Exhibit Agreement Form or Additional Booth Personnel Form.

Contact Information

Name	Badge Name, If Different		
Company			
Address	City	State	Zip
Phone	Email		

Registration Choices

Full Registration (you may assign/change names to the registration at any time) includes all conference sessions, conference materials, opening reception (members only), two continental breakfasts, breaks and Friday Night Closing Party Dinner. Payment must be faxed or postmarked by the dates to be eligible for the discounted prices.

PRICES

	Early <small>(paid by September 6)</small>	Regular <small>(paid by November 1)</small>	Late <small>(after November 1)</small>
NORA Recycler Member: First person	<input type="checkbox"/> \$855	<input type="checkbox"/> \$885	<input type="checkbox"/> \$915
NORA Recycler Member: Additional person	<input type="checkbox"/> \$755	<input type="checkbox"/> \$785	<input type="checkbox"/> \$815
NORA Non-Exhibiting Supplier/Vendor Member	<input type="checkbox"/> \$1495	<input type="checkbox"/> \$1525	<input type="checkbox"/> \$1555
Non-Member: First person	<input type="checkbox"/> \$2400	<input type="checkbox"/> \$2500	<input type="checkbox"/> \$2600
Non-Member: Additional person	<input type="checkbox"/> \$2300	<input type="checkbox"/> \$2400	<input type="checkbox"/> \$2500

EXTRAS

- ☐ Spouse/Companion: Full Package \$300*
- ☐ Spouse/Companion: Friday Only \$250**
- ☐ International Day 2024..... \$150
- ☐ Golf \$250
- ☐ Golf Club Rental \$110
- ☐ Thursday Afternoon Tour TBD
- ☐ Friday Fishing TBD
- ☐ Friday Non - Fishing TBD

If you selected spouse/companion package, please enter their name here: _____

If you selected golf, please include your average score: _____

If you selected fishing, please include your shirt size: _____

Is this your first time attending a NORA Meeting? ☐ Yes ☐ No

*This package includes access to the opening reception on Wednesday including food and drinks, the Thursday spouse brunch, a spouse gift and the Friday night Closing Party. This package is for spouses and companions of registered attendees; this may not be used for employees of an attending company.

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Payment Options

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International Day at NORA 2024

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This event will be held on November 13, 2024, immediately preceding the NORA Conference and Trade Show, November 13-16, 2024. To help you coordinate your travel plans, the Conference tentative agenda is located on page 34. Please be aware of start time if you wish to attend International Day.

Members can attend International Day by adding it to their registration for just **\$150**.

For questions on how to register, see page 37 or contact NORA Headquarters by emailing accounting@noranews.org.

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NORA Supplier/Vendor Members in good standing as of 7/24/2024 are listed below. Companies in **bold** have an ad in this magazine. Companies with a \$ are part of the **NORA \$ave** program by offering discounts/value added services to NORA members. Contact NORA to learn more about the NORA \$ave program. Companies in **red** are exhibiting at the 2024 NORA Conference & Trade Show as of 7/24/2024.

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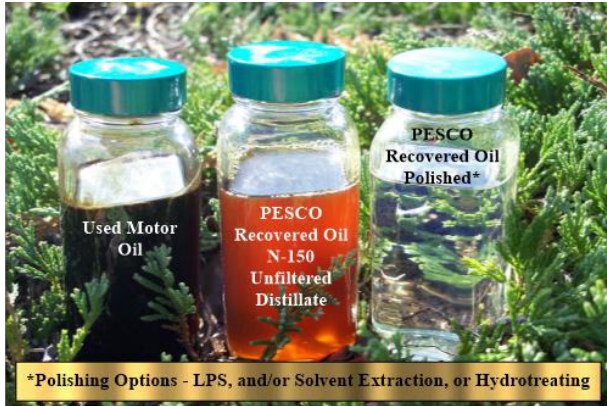


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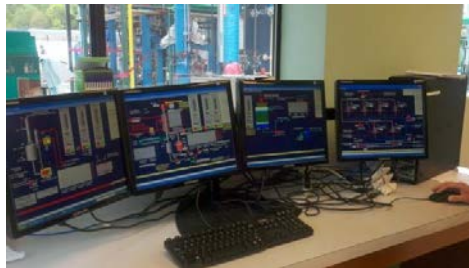
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