Waste management policy in the Trump era: where do we go from here?

di Marina Petri

Abstract: La gestione del ciclo dei rifiuti nell'era Trump: quale policy per il futuro? – Waste management policy is a composite policy area, at the crossroads of legal, economic, environmental and broader social concerns. Taking into account its multifaceted nature, this paper aims at shedding some light over the main developments of waste management policy in the first and second half of Mr Donald Trump's administration. In a multilevel legal order such as the US, striking a fair balance between environmental and economic issues is particularly challenging: laying the foundations for further research on the post-Trump regulatory scenario, this paper focusses on the "back to basics" approach to waste management policy and its possible limits within this complex context.

Keywords: waste management, back to basics, Superfund, EPA.

1. Introduction

Designing and implementing an adequate waste management strategy is crucial to the cohesive development of socioeconomic growth and individual rights protection. Thus, observing and contextualizing waste management policy, which is at the crossroads of environmental, economic, social and legal issues, is paramount when assessing the administrative practice of a given context.

Interestingly, the need to define and fulfill the goals entrenched in a thriving "circular economy", considering waste as a resource to be managed rather than a burden to be handled, is even more pressing in the current pandemic times, when the trade-off between environmental and economic concerns has become more complex and articulated.

While environmental policy during the Trump administration is presented elsewhere in this volume, this contribution is specifically devoted to analyzing waste management policy under a multifaceted light that, starting from a legal perspective, hints at the variety of social and economic policy tools needed to tackle the relevant issues at stake from a holistic perspective. Observing this topic in the US context is particularly challenging due to the intrinsically multilevel governance of the sector, which entails a close cooperation of the Federal level (in particular, through

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the regulatory action to be taken by the Environmental Protection Agency) and the State and local levels.

Consequently, this paper will first deal with the main structural aspects characterizing waste policy in the US context, in order to provide a general framework aimed at assessing the key elements qualifying the Trump administration's approach to waste management, with particular regard to the first half of Mr. Donald Trump's presidential mandate (paragraph II). Then, some light will be shed on the programs and initiatives undertaken in the second half of the Trump administration, focusing on the impacts of deregulation and budget cuts on the overall trends of waste management (paragraph III). Finally, some conclusions will provide a general assessment of the waste management policy during Mr. Trump's Presidency (paragraph IV).

2. Waste policy in the US and the "back to basics" approach

Key to this paper is presenting the main trends characterizing waste management policy in the Trump era. Notably, it is meant as an ideal follow up to the relevant chapter[1] included in the previous volume of this series, which dealt with waste policy in the first two years of the Trump administration. Therefore, this paragraph will be devoted to presenting the main characteristics of waste policy in the US, while underlining the tenets of Mr. Donald Trump's approach to this sector in the first part of his presidential mandate.

As anticipated, while waste management policy entails several multifaceted aspects and concerns, the core ratio governing waste policy is an environmental one, as shown by the structure and tone of the 1976 Resource Conservation and Recovery Act (hereinafter RCRA)[2], which is included in Title 40 of the Code of Federal Regulations, dealing with environmental protection. The RCRA, which entails a broad range of hard (laws and regulations) and soft law (policy and guidance) instruments, establishes the paramount legal framework[3] for solid waste handling

[1] M. Petri, *Back to basics*: *waste management policy and the Trump administration*, *in* G.F. Ferrari (ed.), *The American Presidency Under Trump: The First Two Years*, The Hague, 2020, 149 ff.

[2] Before the 1976 RCRA, the so-called first phase of federal solid waste law was characterised by the 1965 Solid Waste Disposal Act (SWDA) mainly focussed on the regulation of landfills and the related research and training. Then, the 1970 Resource Recovery Act (RRA) determined a first shift towards a new paradigm for solid waste management. Interestingly, however, both the SWDA and the RRA implied a limited role for the State, which did not actively regulate the sector; rather, this first legislative initiatives aimed at emphasising good practices (such as reuse and a rudimental form of recycling), in a regulatory setting which was substantially dominated by the relevant market players.

[3] For a general overview of waste management in the US, a comprehensive analysis of which would go beyond the scope of the present paper, see N. Kollikkathara, H. Feng & E. Stern, A *purview of waste management evolution: Special emphasis on USA*, *Waste*

operations, from gathering to final disposal. In this context, a pivotal role is played by the Environmental Protection Agency (hereinafter EPA), which sets minimum national technical standards for the design and operation of disposal facilities, while States issue permits to ensure compliance with EPA and State regulations[4].

The notion of solid waste, constituting the key structural element of the RCRA, is broad and multifaceted, as it includes a wide variety of discarded materials of solid, semisolid, liquid or contained gaseous nature, requiring different management techniques and policy tools. Notably, solid waste is classified according to its damaging potential in relation to the health and safety of individuals and the environment, following the rigid divide between hazardous (RCRA, Subtitle D) and non-hazardous waste (RCRA, Subtitle C)[5].

Non-hazardous waste, which includes municipal (solid) waste, industrial waste and agricultural and animal waste (as well as food waste)[6], is regulated through the implementation of State programs complying with federal requirements, which ban open dumping while setting design, location, finance and cleanup actions for waste landfills. In all evidence, the role played by States is crucial, while federal policies have a more systematic role, preventing land contamination as well as providing monitoring systems for groundwater contamination and landfill gases. Similarly, hazardous waste[7] regulation at federal level is fundamentally composed of a general, comprehensive, programme following the "cradle-to-grave"

Management, Vol. 29, No. 2, 2009, 974-985, where special emphasis is put on municipal waste management strategies from a diachronic perspective. *Cf.* the less recent contribution by T. Eighmya, D. S. Kosson, *U.S.A. National overview on waste management*, *Waste Management*, Vol. 16, No. 5–6, 1996, 361-366.

[4] *See* the explanatory memorandum on the EPA website, available at www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-overview#how%20does%20rcra%20work.

[5] It is interesting to note that the paramount divide is between hazardous and non hazardous waste, marking a qualifying difference in with regards to the legal orders, such as several continental European contexts, where the regulatory categorisation of waste is based upon market structure (regulated market for municipal waste/liberalised market for industrial waste), and the hazardous nature of waste has a more transversal, additional, character.

[6] Municipal waste is referred to as garbage, and it covers both items of a commercial, institutional and domestic origin, and packaging materials, including refuse. Industrial waste is mainly composed of four different subcategories: construction and demolition waste (C&D), medical waste (specifically regulated under the 1988 Medical Waste Tracking Act), treatment waste (sludge, byproducts - requiring an autonomous process to be reused – and coproducts, which are directly reusable), and "special waste", composed of six groups of special products requiring specific management techniques, such as uranium waste or fossil fuel combustion waste). Sewage is not included in the notion of industrial waste as is therefore not covered by solid waste management policy. Finally, the category of agricultural and animal waste covers the waste generated from farming to wholesaling food, including decomposed materials.

[7] Hazardous waste can either be domestic (hazardous household waste) or industrial in nature (four categories are qualified as hazardous industrial waste: listed waste; universal waste; characteristic waste; mixed waste).

DPCE online
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approach (disciplining hazardous waste from its origin to its transport, treatment, storage and disposal). Notably, however, the primary enforcement role of hazardous waste requirements is played by EPA, which may authorise States to autonomously implement the programme on an *ad hoc* basis[8].

From a more substantial point of view, it is worth underlining that, with particular regard to municipal solid waste, the key principle[9] governing waste management policy in the US should be the so-called principle of "waste hierarchy", prescribing a certain priority order be followed when considering policy options[10]: first (1) the policy should aim at reducing the generated waste (source reduction and re-use); then (2), recycling should be prioritised; thirdly (3), if recycling is not possible, waste should be composted; fourthly (4), uncompostable waste shall be treated through waste-to-energy recovery; finally (5), in case none of the other policies is viable, waste shall be treated and disposed in landfills.

A wide array of policy tools, which are not substantially different from those employed as long-term policy measures to foster the hierarchy of waste generation (and, thus, generation prevention) in the European context[11], have been used, to varying degrees, in the US legal order. In particular, both economic incentives[12] (such as pay-as-you-throw tariffs in the case of household waste[13]) and command-and-control regulatory

[8] *See* the explanatory memorandum on the EPA website, available at www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-overview#how%20does%20rcra%20work.

[9] While the principle is not explicitly included neither in the RCRA nor in the SWDA, it has been consistently referred to by EPA as a paramount principle to be followed, starting from the late 1980s. *See* US Environmental Protection Agency, *Orientation Manual* 2014, available at www.epa.gov/hwgenerators/resource-conservation-and-recovery-act-rcra-orientation-manual.

[10] The waste reduction potential of the principle of waste hierarchy is not uncontroverted, as thoroughly analysed in S.Van Ewijka & J.A.Stegemannb, *Limitations of the waste hierarchy for achieving absolute reductions in material throughput*, *Journal of Cleaner Production*, Vol. 132, 2016, 122-128.

[11] For an incomplete account of the policy mechanisms that have been suggested in this regard at supranational level within the EU, *Cf.* Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 *amending Directive 2008/98/EC on waste*, Annex IVa. For a conceptualisation of waste hierarchy in the European context, *see*, *ex multis*, J. Hultman & H. Corvellec, *The European Waste Hierarchy: from the sociomateriality of waste to a politics of consumption*, *Environ. Planning-Part A*, Vol. 44, 2012, 2413-2427.

[12] It is worth recalling, in this context, that in order to achieve an environmentally sustainable waste management system, Congress proposed the implementation of deposit refunds for specific plastic goods (the so-called "bottle-bills"), allowing for a composite tax/subsidy incentivising mechanism. A key example of this policy attempt, which did not become law, is the 1994 proposed National Beverage Container Reuse and Recycling Act.

[13] The link between a pay-as-you-throw tariff model, more economically efficient than a fixed tax on waste generation imposed over households, and the reduction of waste generation is linked to both the incentivising nature of the measure and the different perception of the individual's polluting impact induced by the implementation of this

mechanisms (such as the permits regime in place for hazardous waste) have been coupled with the definition, at federal level, of a composite set of technical and performance standards (for instance, emissions regulation for waste combustion and incineration) aiming at implementing an environmentally sustainable integrated and multi-level waste management system. As a matter of fact, while the focus on the regulation of landfills, as a primary mechanism for (municipal) waste disposal, remains crucial, a tangible legislative evolution has led to the development of a holistic approach to waste, as a potential resource within the economic cycle[14].

The legal framework defined by the RCRA and its amendments[15] is complemented by the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA), usually referred to as "Superfund", providing an *ad hoc* discipline for abandoned and historical dumping sites, often contaminated[16], which are not covered by the RCRA. Superfund plays a crucial role in waste management policy, as the regulation applicable to historical sites has tangible consequences on the sustainability of the sector, in a context so strongly characterised by the centrality of landfills[17]. Moreover, it is worth underlining that Superfund has only been amended once to date, with the 1986 Superfund Amendments and Reauthorisation Act (SARA), introducing stronger State participation and incentivising a bottom-up approach to regulation, given the key role assigned to citizens' empowerment.

This brief account, albeit not exhaustive, should provide a useful framework when observing the key features of Mr. Trump's "back to basics"

tool. Among the many studies highlighting the positive correlation between pay-as-you-throw tariffs and positive behavioural patterns for citizens, *see* A. Bucciol, N. Montinari, M. Piovesan, *Do Not Trash the Incentive! Monetary Incentives and Waste Sorting*, *The Scandinavian Journal of Economics*, Vol. 117, No. 4, 2015, 1204 – 1229.

[14] Notably, the key elements of the Resource Conservation Challenge (RCC) launched by EPA in 2002 include pollution prevention (through reuse and recycling), as well as energy and material conservation. The recycling target included in RCC amounted to 35% of municipal waste. The RCC has been defined a "forum of leadership" within EPA's solid waste office, aiming at enacting the 2020 Vision and Pollution Prevention programmes enshrined in RCRA (*see National Service Center for Environmental Publications* (NSCEP), *Resource Conservation Challenge: Strategic Plan; What Can You Save Tomorrow?*, retrievable from nepis.epa.gov).

[15] The RCRA has been further developed through the 1984 Hazardous and Solid Waste Amendments (HSWA), promoting waste prevention rather than waste disposal, and it has been amended twice more: with the 1992 Federal Facility Compliance Act (focussing on federal enforcement) and with the 1996 Land Disposal Program Flexibility Act.

[16] Arguably, the development of Superfund is connected to a series of environmental accidents in contaminated and hazardous dumping sites, widely covered by American media between 1978 and 1979, the most famous of which being the so-called *Love Canal tragedy* of 1979 (*see* E. C. Beck, *The Love Canal Tragedy*, *EPA Journal*, January 1979, available at archive.epa.gov/epa/aboutepa/love-canal-tragedy.html).

[17] *See* G. Valaoras, *Waste Management Policies in the United States of America*, *in* P. Nicolopoulou-Stamati, L. Hens & C. V. Howard (eds.), *Health Impacts of Waste Management Policies*, Berlin, 2007, 121-131.

DPCE online
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approach[18] to waste management policy, which, in line with the Trump administration's wider take on administrative regulation and environmental policy, aims at defining a cohesive set of priorities to concentrate the regulatory action upon, even in terms of allocated budget, while deregulating the sector.

This is particularly true with regard to the first two years of the Trump administration, when, according to the EPA's 2018 annual review[19], a striking $2 billion have been saved, as a consequence of steady deregulation[20]. This minimal role defined for the EPA in the implementation of substantive environmental regulation has been embraced by both Mr Pruitt and Mr Wheeler during their leadership of the Agency[21]. President Donald Trump's focus on the imperative to proceed with sector specific deregulation, while cutting public expenditure, is indeed in line with the approach taken in an array of different policy areas, such as energy and the environment[22].

In the waste sector in particular, however, this approach is coupled with the launch and implementation of high-profile programmes,

[18] Former EPA Acting Administrator Scott Pruitt's legacy is famously linked to the launch of his "back to basics" agenda on air quality (S. Pruitt, *Memorandum – Back-to-basics process for reviewing National Ambient Air Quality Standards*, 9th May 2018, available at www.epa.gov/sites/production/files/2018-05/documents/image2018-05-09-173219.pdf), prompting the EPA to concentrate on its core mission ("environment, economy, engagement"). While this "back to basics" perspective did not explicitly encompass a specific focus on waste management, it is possible to affirm that President Donald Trump's EPA has pursued a limited list of high-profile objectives in its waste policy, which are arguably linked to the very structural functions of the Agency.

[19] The EPA year in review 2018, which summarises the main regulatory and strategic outcomes of the relevant fiscal year, focussing on the steps forward pursued in environmental matters, published in early 2019, is available at www.epa.gov/sites/production/files/2019-01/documents/epa_2018_yearinreview_0128-4.pdf. Hereinafter, "EPA year in review 2018". *See EPA year in review* 2018, 5. This trend is in line with President Donald Trump's 2020 budget 'A Budget for a Better America' (available at www.whitehouse.gov/wp-content/uploads/2019/03/budget-fy2020.pdf), issuing a 31% budget cut for EPA.

[20] In the case of waste policy, in 2018 the EPA removed several products (such as copper filter cakes) from the list of hazardous waste, it reviewed the technical rules on coal ash waste from power plants and it suspended (through a 90-day stay) the application of the Obama administration's regulation of landfill emissions. According to EPA's year in review 2018, 33 major deregulatory initiatives where finalised during the first two years of the Trump administration (*see* 2).

[21] On this issue, it has been convincingly argued that, in light of the trends characterising enforcement data in 2017 and 2018, 'the switch in EPA leadership from Pruitt to Wheeler has turned out to be more superficial than substantive. It has not so much halted as sustained the pro-industry, antiregulatory remaking of the EPA begun under Pruitt' (*see* L. Fredrickson *et al.*, *A Sheep in the Closet. The Erosion of Enforcement at the EPA*, 20th November 2018, available at envirodatagov.org/wp-content/uploads/2018/11/Sheep-in-the-Closet.pdf hereinafter, "EDGI report", 9).

[22] Notably, a deregulating approach to environmental policy, coupled with severe budget cuts, constitutes one of the qualifying assets of the 'America First Energy Plan', which has been duly taken into account elsewhere in this volume.

characterised by a strong communicative potential, counterbalancing an otherwise steady deregulation. One primary example of this trend in the first part of Mr. Trump's Presidential mandate is the definition and implementation of a wide-ranging program to tackle food waste[23].

Perhaps the most tangible example of this dynamics is, however, the implementation of Superfund. As anticipated, Superfund regulates closed and abandoned hazardous waste sites, while providing for liability for those responsible for the release of in-site hazardous waste and establishing a trust fund for cleanup where no responsible subjects can be identified. In this regard, both short-term removals and long-term remedial response actions are envisaged by law, reducing in a stable and permanent way the threats associated with the release of hazardous substances[24]. Notably, the EPA is responsible[25] for defining a National Priorities List (NPL), updated annually[26], spelling out the sites where long-term cleanup activities can be carried out. In 2017, the EPA launched the "Superfund task force"[27], defining a key role for the implementation of Superfund as a way to "protect[…] human health and the environment, at the core of EPA's mission"[28], and in December 2017 an Administrator's Emphasis List was developed (and dynamically updated), identifying the sites to be prioritised.

Accordingly, the remediation and demolition of NPL Superfund sites has represented the key waste policy achievement of Trump administration's EPA, resulting in the deletion of 22 NPL sites in 2018 alone[29]. Following a "back-to-basics" approach, the success of the Superfund programme has been welcomed as a tangible implementation of the paramount principles guiding the EPA's regulatory action[30]. It is worth noting that the remediation of key NPL sites is coherent with a global strategy aiming at focussing on high-profile programmes, in spite of a consistent decline in EPA's performance of

[23] EPA launched the 'Winning on Reducing Food Waste' initiative in late 2018, in partnership with the U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA). According to EPA's review 2018, the programme aims to 'improve coordination and communication across federal agencies as we work to better educate Americans on the impacts and importance of reducing food loss and waste' (*see EPA year in review* 2018, 14).

[24] *See* EPA, *Superfund: CERCLA overview*, available at www.epa.gov/superfund/superfund-cercla-overview.

[25] The site assessment leading to an NPL listing is a multi-phase process guided by Hazard Ranking System (HRS) criteria, which also focus on potential remedial actions to be undertaken.

[26] In November 2020, there are 1327 NPL sites on the US territory, 157 of which have a federal nature. EPA data, available at www.epa.gov/superfund/superfund-national-priorities-list-npl.

[27] *See* EPA, *Superfund task force*, available at www.epa.gov/superfund/superfund-task-force.

[28] *Ibidem.*

[29] EPA Year in Review 2018, 11.

[30] *See, ex multis*, J. Hopkins, *Trump is eliminating Superfund sites at faster pace than Obama*, *The Daily Caller*, 10th October 2018, available at dailycaller.com/2018/10/10/epa-deleting-superfund-sites/.

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other enforcement actions in the (hazardous) waste sector[31]. What is more, even Superfund administrative orders for cost recovery, addressed to responsible companies in order for them to reimburse the Agency for cleanup costs, are registering a steady decline[32].

In line with the aforementioned considerations, it should be underlined that the Trump administration seems to lack a global view for environmental enforcement in the waste sector, with particular regard to the implementation of the waste hierarchy, as shown by the available data on the main trends characterising the relevant dynamics. Notably, while it has been noted[33] that 2018 marks the second lowest amount of reduced or treated and disposed hazardous waste in a decade (the lowest *ratio* pertaining to 2017, the first year of the Trump administration), a similar trend is also confirmed by municipal solid waste dynamics, where no clear implementation of the principles linked to waste hierarchy is envisaged[34]. Even though this data is not available for the 2018 – 2020 bracket, it is interesting to point out that no specific policy has been enacted by the Trump administration to tackle the most sensible issues at stake[35].

3. Reversing rules and the second part of the Trump administration: what's new?

The main elements characterising the US waste policy, with particular regard to the first two years of the Trump administration, have been briefly analysed in the previous paragraph. Notably, while conclusive evidence is still to be measured and assessed with regard to Trump's global waste management strategies, a few underlying trends have already been observed:

[31] According to the EDGI report, the Resource Conservation and Recovery Act (RCRA) hazardous waste program showed a 17 percent decline in case initiations and a 23 percent decline in case conclusions during 2018, suggesting a tangible decline in the EPA's enforcement effectiveness. *See* L. Peterson, *Enforcement of Environmental Laws Drops Under Trump Administration*, *Project on Government Oversight*, 20th February 2018, available at www.pogo.org/analysis/2018/02/enforcement-of-environmental-laws-drops-under-trump-administration and A. Rosenberg, *EPA Can't Stop Polluters When The Trump Administration Cuts Enforcement Staff*, *Union of Concerned Scientists*, 13th September 2018, available at blog.ucsusa.org/andrew-rosenberg/the-epa-cant-stop-polluters-when-the-trump-administration-cuts-enforcement-staf.

[32] EDGI report, 27.

[33] *Ibidem.*

[34] According to the last available data in the MSW sector, collected and elaborated by EPA with regard to the period 1960 – 2017 and available at www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/national-overview-facts-and-figures-materials, in the first two years of the Trump administration no reduction of landfilling as a paramount disposal technique has occurred (around 50% of generated MSW is landfilled), and a small decline of the ratio of recycled products over general waste is observable (with particular regard to plastics, paper and glass). Moreover, waste generation has increased, in line with a general trend from 2010.

[35] *Ibidem.* The case of plastic is particularly paradigmatic: while no specific hard policy on plastic generation and disposal has been proposed, 13% of generated waste is plastic, and only 8% of it got to be recycled in 2017.

while some specific programmes aimed at tackling waste management dynamics impacting on American citizens (such as food waste, still crucial in the last two years of the Trump administration) have been implemented, the main characteristics of Trump's "back to basics" approach revolved around administrative deregulation and budget cuts.

Interestingly, these elements do not seem to have entailed[36] (nor generated) a striking discontinuity with the past, in terms of waste generation and disposal on a national scale. A crucial element, in this regard, could be determined by the different governance levels (federal, State, and local) involved in waste management policy, making it hard to pinpoint and highlight the specific impact of federal (Presidential) policies in this sector. This consideration is made more poignant by the stark polarisation[37] strongly characterising Mr Trump's Presidential mandate. This phenomenon is particularly relevant when considering the controversies arising from Mr Trump's policies on highly sensitive matters relating to waste management, such as the handling of nuclear waste. In this context, the paradigmatic case of the much-opposed[38] reopening of a nuclear waste disposal facility in the Yucca mountain, Nevada, is particularly telling of the clash, both in terms of long-term vision and with regard to political dialectics, between local, regional and federal authorities over the implementation of waste management policy.

The last two years of Mr Trump's presidential mandate confirmed these trends, with particular reference to deregulation. Indeed, the EPA's main goal for the years 2019 and 2020 has been the definition of a "commonsense regulatory environment"[39], boasting 49 deregulatory actions

[36] *Ibidem*. The data, with particular regard to MSW management, shows that, even though some slight fluctuations occurred at the beginning of the Trump administration, the overall waste management trends were confirmed, both in terms of generation and disposal. Of course, the data is not conclusive as no evidence is presented with regard to 2018 – 2020.

[37] Thoroughly analysed elsewhere in this volume, starting from the paramount contribution by G. F. Ferrari.

[38] The proposed re opening of the Yucca nuclear waste disposal site in Nevada has been faced with multilateral criticism and backlash from local communities and governance authorities alike, leading to several up and downs in the confrontation with the several actors involved in the process, as reported by several commentators in the years 2018 – 2020. *See, inter alia*, J. Bogie, *Trump Budget Cuts Size of Federal Government, but Bolder Reforms Needed, The heritage foundation*, 10th February 2020, available at www.heritage.org/budget-and-spending/commentary/trump-budget-cuts-size-federal-government-bolder-reforms-needed; J. Conca, *Trump Rejects Yucca Mountain Nuke Dump In Bid For Nevada Votes, Forbes*, 10th February 2020, available at www.forbes.com/sites/jamesconca/2020/02/10/trump-dumps-nevada-nuclear-dump-in-tweet/?sh=73514f41492e ; S. Zhang, *The White House Revives a Controversial Plan for Nuclear Waste, The Atlantic*, 21st March 2017, available at www.theatlantic.com/science/archive/2017/03/yucca-mountain-trump/519972/ ; B. Hulac, *The waste problem continues to weigh down nuclear power, Roll Call*, 26th February 2020, available at www.rollcall.com/2020/02/26/the-waste-problem-continues-to-weigh-down-nuclear-power/.

[39] The EPA Year in Review for 2019, published in early 2020, is available at

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that, in the case of waste management, mainly revolved around the re-categorisation and de-qualification of waste products and by-products[40]. Notably, reclassifying hazardous and nuclear waste products may likely have a strong impact on waste handling dynamics, both in terms of State and local government programme implementation under the RCRA. It will thus be paramount to assess the fallback of these deregulatory interventions on the broader development of a sound waste hierarchy strategy in the US context.

Still in line with the main tenets characterising the action taken at the beginning of President Trump's administration, Superfund implementation remained a top priority in the EPA's agenda in years 2019 and 2020, with 27 sites deleted from the National Priority List in 2019 alone pursuant to the so-called "Superfund Task Force". It is interesting to stress that the main ideological theme framing the development, implementation and prioritarisation of Superfund is, in EPA's words[41], the revitalisation of land for reuse. This element is paramount in that it shows how this policy is not aimed at achieving environmentally savvy goals, rather it points towards a business-oriented approach to land use and exploitation. In this sense, it may be possible to affirm that President Trump's waste policy, at least with regard to Superfund, shares with his broader environmental policy action an underlying and qualifying no-nonsense business approach[42], rather than an ecologically oriented one.

In this context, the lack of a proper and structured strategy on the development of circular economy, ranging from waste generation to waste reuse, recycling and disposal, becomes even more apparent[43]. Notably, the international implications of the implementation of such a policy could be

www.epa.gov/sites/production/files/2020-02/documents/hq_2019_year_in_review.pdf. Hereinafter, "EPA year in review 2019". *See* ii.

[40] Following the path already designed in 2017 and 2018, Trump's deregulatory approach in the waste sector revolved around excluding specific categories of products from specific categories of waste, especially in the context of hazardous waste and nuclear waste (both through actual deregulation and by interpretation, *see* A. Kasprak, *Is Trump Administration Reclassifying High-Level Radioactive Waste as Low-Risk?*, *Snopes*, 12th June 2019, available at www.snopes.com/news/2019/06/12/nuke-waste-reclassified-trump/) thus following a case by case approach privileging rules reversal and deregulation in key sectors. For a complete overview, see N. Popovich, L. Albeck-Ripka & K. Pierre-Louis, *The Trump Administration Is Reversing More Than 100 Environmental Rules. Here's the Full List*, *The New York Times*, 10th November 2020, available at www.nytimes.com/interactive/2020/climate/trump-environment-rollbacks-list.html. More information can be found on the Regulatory Rollback Tracking system put in place at the Environmental and Energy Law Program of Harvard Law School, available at eelp.law.harvard.edu/regulatory-rollback-tracker/.

[41] EPA year in review 2019, 14.

[42] This element has been comprehensive observed, with regard to environmental policy, by R. Louvin, elsewhere in this volume.

[43] Especially when coupled with budget cuts on this specific topic, as noted, in relation to EPA's 2021 proposed budget cuts, by C. Rosengren, 'EPA proposes yet another cut to waste minimization and recycling budget', *Wastedive*, 12th February 2020, available at www.wastedive.com/news/epa-fy21-budget-recycling-waste-minimization-wheeler/572136/.

interesting both for the US market and on a global scale[44], with particular regard to transnational trade.

The main step forward in this perspective has been the definition of the 2019 "National Framework for Advancing the US Recycling System"[45], following in the footsteps of the successful experience of the "America recycles" summits in 2018 and 2019, in the aftermath of which around 110 organisations signed the EPA's "recycling pledge". While the Framework, which clearly has soft law nature, includes a structured series of measures to be undertaken by a wide variety of subjects, including the EPA, it mainly shares with the recycling summits experience its heavy reliance on private investors and the key role to be played by public-private partnerships and networks.

This approach, which is quite unusual if compared to European standards, could be beneficial as it helps building and developing a flexible regulatory environment for tangible actions to be undertaken by a variety of actors. However, it needs to be coupled with and complemented by a strong long-term policy putting into effect the main tenets of the waste hierarchy (namely, tackling waste generation reduction and the wide use of landfilling as the go-to disposal strategy).

4. Conclusions: a general assessment?

This chapter aimed at presenting the main dynamics of waste management policy in the Trump era, while underlining its close relationship with broader environmental policies, both in terms of goals and regulatory tools. Indeed, no stark juxtaposition between environmental policy at large and waste management policy in particular has been identified: the deregulatory approach privileged by the Trump administration with regard to the

[44] This particular issue is central to an ongoing Chatham House project, *see Building Transformative Alliances for an Inclusive Global Circular Economy*, available at www.chathamhouse.org/about-us/our-departments/energy-environment-and-resources-programme/building-transformative. On the broader implications of waste policies and international trade, *See* H. Wu, 'Legal Development in Sustainable Solid Waste Management Law and Policy in Taiwan: Lessons from Comparative Analysis Between EU and U.S.', *National Taiwan University Law Review*, Vol. 6, No. 2, 2011, 461 – 494. On the specific issues relating to hazardous waste, *see* T. Waugh, *Where Do We Go From Here: Legal Controls and Future Strategies for Addressing the Transportation of Hazardous Wastes Across International Borders*, *Fordham Environmental Law Journal*, Vol. 11, 2000, 477, 483, 490-91. The different approach chosen in the US, as opposed to the EU model, is particularly striking in this context, and its main structural characteristics, albeit enshrined in a differentiated setting, have relevant consequences on the shape and evolution of waste management techniques in the two legal orders. *See* K. Dreher & S. Pulver, *Environment as 'High Politics? Explaining Divergence in US and EU Hazardous Waste Export Policies*, *Review of European Community & International Environmental Law*, Vol. 17, No. 3, 2008, 306 – 318.

[45] *See* EPA's official website, at www.epa.gov/sites/production/files/2019-11/documents/national_framework.pdf.

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regulatory action to be undertaken by EPA has strongly impacted the waste sector as well, with relevant fallbacks on the main market actors.

More specifically, the "back to basics" approach to waste management has entailed a heavily marketed focus on a number of core projects (Superfund, Winning Against Food Waste), as opposed to more generalized budget cuts on a bulk of wider regulatory activities. The more striking consequence of this dynamics is the lack of a conclusive and comprehensive long-term strategy on sustainable waste management, jeopardizing the implementation of the waste hierarchy and the achievement of a more mature circular economy.

Indeed, while the "National Framework for Advancing the US Recycling System", in line with EPA's broader Sustainable Materials Management strategy, may point towards an interesting way ahead, its heavy reliance on private-public partnerships and the consistent budget cuts to the recycling sector seem to suggest a bleaker reality for sustainable waste management. The next steps shall constitute an interesting starting point for possible future research.

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