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November 17, 2009

Peter Tsirigotis

Director

Sector Policies and Programs Division

Office of Air Quality Programs and Standards

U.S. Environmental Protection Agency

Mail Code D205-01

Research Triangle Park, NC 27711

Via e-mail: tsirigotis.peter@epa.gov

Dear Mr. Tsirigotis:

The National Association of Clean Water Agencies (NACWA) would like to express its concerns over the recent Information Collection Request (ICR) your office sent to nine municipal wastewater treatment agencies across the country, pursuant to authority under Section 114 of the Clean Air Act (CAA), as Office of Air personnel work to develop potential emissions standards for sewage sludge incinerators (SSIs) under Section 129 of the CAA. Most of the nine agencies selected for this data collection effort are NACWA members and we have serious concerns about the February 17, 2010, deadline for data collection and the representativeness of a national emissions program that would be based on air emissions data from only a handful of incinerators.

NACWA and its members are committed to protecting human health and the environment and are willing and interested in participating in any data collection effort that is done in a reasonable manner and that will lead to robust and valid emissions standards where necessary to protect human health and the environment. Unfortunately, the timeframe mandated in the ICR for the comprehensive testing you are requiring and the reliance on data from less than ten percent of the more than 230 SSIs across the U.S., raise major concerns.

NACWA understands that EPA is under pressure to meet a list of court-ordered deadlines for its air regulations. However, this does not mean that all of these wastewater treatment agencies will be able to expedite the scheduling of testing or dispense with time-consuming bidding processes that are mandated by local or state law. Much of the background information that is being requested can be compiled in a timely and straightforward manner. However, the emissions testing, for all of the agencies and a majority of the air emission parameters, will require the initiation of new air emission tests – recent existing data will not be available. Some of these

agencies will be required by utility-specific or state rules to conduct a public bidding process for the testing and analytical work. This will take months to complete and will make meeting the February 17 deadline difficult, if not impossible.

With the winter months upon us and the cold temperatures expected in many of the cities where testing is being required, scheduling will become even more difficult. NACWA is requesting that EPA provide the nine wastewater treatment agencies selected for participation in the ICR with additional time to conduct the necessary testing. We would like to discuss with you the timeframe we feel would be reasonable.

NACWA also believes that the validity of the development process for the potential MACT emissions standards is being undermined by the Agency's efforts to meet a court-ordered deadline. Nine facilities, though encompassing 20 SSIs, cannot be representative of the more than 230 SSIs in the country. By selecting only nine facilities to receive the ICR, EPA has avoided the review of the White House's Office of Management and Budget, which is required of all ICRs of a certain size. This certainly will save EPA months of review time and discussion with OMB, but unfairly burdens these nine utilities with the cost of testing and providing EPA with data without the certainty that the standards are being developed in a reasonable and valid manner. Developing a data collection plan to accommodate a schedule rather than ensuring that the data collected will be truly representative and result in environmentally protective standards falls well short of EPA's goal of basing policy on valid science.

NACWA and its members understand that EPA needs this new information to update the data it currently has on SSI emissions that are now a decade or more old. Any attempt to develop the Section 129 standards based on this out-dated information would be an even worse alternative to the current ICR effort. Developing Section 129 standards based on decades-old data or data from only a very small subset of the SSI community will only expose the Agency to additional legal challenges. NACWA believes that EPA must let only the science, not the schedule, drive its efforts to develop potential Section 129 standards for SSIs.

NACWA suggests that a conference call with the nine utilities involved with the ICR, NACWA personnel, and your staff to discuss how best to proceed. Please contact me at chornback@nacwa.org or 202/833-9106 to arrange a call, or with any questions about NACWA's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Hornback", written in a cursive style.

Chris Hornback
Senior Director, Regulatory Affairs