

DATE

The Honorable -

United States Senator

Washington, D.C. 20510

Dear Senator - :

I am writing to bring to your attention regulatory actions by the Environmental Protection Agency (EPA) that the **[NAME OF UTILITY]** believes are based on erroneous interpretations of relevant federal statutes, and to urge you to work with **[UTILITY]** and the National Association of Clean Water Agencies (NACWA) to seek legislative clarification that the Clean Water Act (CWA) is the primary environmental statute that governs the disposal of sewage sludge.

In March of this year, EPA determined that domestic sewage destined for incineration is a solid waste and promulgated rules imposing regulations under §129 of the Clean Air Act (CAA) on air emissions from incinerators burning domestic sewage at publicly-owned treatment works (POTWs) (*Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units*, 76 Fed. Reg. 15372 (March 21, 2011) and *Identification of Non-Hazardous Secondary Materials That are Solid Waste*", 76 Fed. Reg. 15456 (March 21, 2011)). If these rules go forward, the cost of compliance to **[UTILITY is expected to be at least \$\$\$\$]**, while the total cost of compliance for the 100 communities that also operate sewage sludge incinerators (SSIs) is expected to exceed several hundred million dollars. In addition to direct compliance costs, the rules could potentially lead to more environmentally hazardous disposal methods of sewage sludge and result in fewer POTWs installing energy recovery technology on SSIs because doing so could trigger even more costly compliance standards under new source performance standards.

[UTILITY] has joined NACWA to challenge these rules and to urge EPA to promulgate hazardous air pollution emission control standards according to the specific language of Clean Air Act (CAA) §112 (e)) which directs EPA to "*promulgate standards pursuant to subsection (d) of this section [112] applicable to publicly owned treatments works (as defined in title II of the Federal Water Pollution Control Act [33 U.S.C.A. § 1281 et seq.]) not later than 5 years after November 15, 1990.*"

We believe that EPA erred in determining that sewage sludge incinerators should be regulated according to §129 of the CAA for several reasons: first, in enacting CWA §405, Congress intended that the CWA as the primary statute regulating sewage sludge disposal methods; second, in 1965, Congress established that sewage sludge is not a solid waste and should not be regulated as such; and finally, in 1990, Congress directed EPA to regulate hazardous air pollutants from POTWs pursuant to §112 of the CAA.

For these reasons, **[UTILITY]** is seeking your help in working with us to clarify that the CWA is the primary statutory authority that governs the disposal of sewage sludge.

Thank you for your consideration of this matter. Please contact **[CONTACT]** if you need additional information.

Sincerely,