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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

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February 18, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Jackson:

I am writing to highlight concerns with the Environmental Protection Agency's *Proposed Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units*, 75 Fed. Reg. 63260 (October 14, 2010). As currently drafted, these standards will likely disincentivize publicly owned wastewater treatment works (POTWs) from utilizing sludge in energy production and potentially result in more waste heading to the nation's landfills.

POTWs generate an enormous amount of sewage sludge each day and while municipal wastewater treatment agencies have multiple options for managing this material, the list of available options has slowly shrunk over the years. Approximately 20 percent of the nation's sewage sludge is managed in sewage sludge incinerators (SSIs). Sewage sludge has significant heating value that can be recovered through incineration paired with energy recovery, including waste heat recovery for use in treatment processes or the production of electricity that can offset a POTW's energy demand. Some early studies show as much as 12% of the nation's total electricity demand can potentially be supplied through the burning of POTW sewage sludge.

Additionally, the millions of tons of sewage sludge that are managed by SSIs are a waste stream that can be diverted from landfills and into an energy-rich secondary material.

As structured currently, the proposed emission standards for incineration could severely curtail an emerging trend among wastewater utilities toward installing technology to enable POTWs to capture and use excess heat generated by incineration and turn it into a valuable renewable energy source. The proposed standards serve as a strong disincentive for POTWs to move toward more energy recovery and the beneficial use of this high-energy material. Instead, use of incineration technology for energy recapture should be encouraged by the EPA.

In addition, the proposed standards contravene Congress's mandate to regulate publicly owned treatment works (POTWs), including the incinerators used to manage sludge, under § 112 of the Clean Air Act (CAA), rather than under § 129. Specifically, § 112(e)(5) directs the

Administrator to “promulgate standards pursuant to subsection (d) of this section [112] applicable to publicly owned treatment 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.” Congress’ use of the well-understood term “publicly owned treatment works” in CAA § 112(e)(5) limits the Administrator’s authority to regulate SSIs to § 112 of the CAA. Therefore, this clear statutory directive prohibits the Administrator from setting the Proposed Standards for SSIs under § 129 of the CAA.

Congress determined that § 112 of the CAA is the appropriate statutory framework in which to regulate hazardous air pollutants from SSIs because, in part, it affords EPA more flexibility to consider and reduce the economic impacts its emission standards would have on this essential public service. I believe that if EPA were to develop emission rules according to § 112 of the CAA, the Agency would be able to achieve its CAA objectives and enable the nation’s POTWs to better harness the benefits from this energy-rich material.

I urge EPA to reconsider the proposed standards as they relate to SSIs and continue its earlier practice of regulating hazardous air pollutant emissions from POTWs, including SSIs, under § 112 of the CAA.

Thank you for your attention to this matter.

Sincerely,



James M. Inhofe
Ranking Member
Committee on Environment and Public Works

cc: Jacob Lew, Director, Office of Management and Budget