



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Research Triangle Park, NC 27711

OFFICE OF
AIR QUALITY PLANNING AND
STANDARDS

February 28, 2023

Dear Intergovernmental Association Colleague:

The U.S. Environmental Protection Agency is developing a proposed rulemaking to review the Clean Air Act (CAA) New Source Performance Standards (NSPS) and Emission Guidelines (EG) for the Large Municipal Waste Combustors (LMWCs) source category (40 CFR part 60, subpart Eb, and 40 CFR part 60, subpart Cb, respectively). The rulemaking will impact owners and operators of LMWCs, including units that are owned and operated by state and local entities. The purpose of this letter is to seek your input on EPA's forthcoming proposal. To that end, we would like to invite you to a meeting to be held virtually on March 16, 2023, 1:00 p.m. – 3:00 p.m. Eastern Time.

We are requesting your input pursuant to Executive Order 13132, entitled "Federalism," which directs federal agencies to consult with elected state and local government officials, or their representative national organizations, when developing regulations and policies that impose substantial compliance costs on state and local governments. Options being considered for this proposed rulemaking may meet this condition requiring consultation. These options may also meet consultation requirements of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. §§ 1501 *et seq.*, which is intended to avoid imposing unfunded federal mandates on state, local, and tribal governments or, under certain conditions, the private sector. Thus, the Agency has elected to engage the UMRA stakeholders in the same consultation, as the multiple sets of stakeholders have many overlapping interests, and a joint meeting may produce more robust and efficient discussion of the proposed rule.

Section 129 of the CAA requires EPA to establish standards of performance for nonhazardous solid waste incinerators. These standards must address emissions of nine pollutants: particulate matter, sulfur dioxide, hydrogen chloride, nitrogen oxides, carbon monoxide, lead, cadmium, mercury, and dioxins/furans. In addition, the statute requires opacity monitoring. CAA section 129 directs the EPA to review, and if appropriate, revise CAA section 129 standards no later than 5 years after promulgation to determine whether there have been advances in processes, practices, and technologies in the source category. The LMWC source category encompasses incinerators that combust greater than 250 tons per day of municipal solid waste.

In December 1995, EPA promulgated the NSPS and EG for LMWCs, and EPA reviewed the standards in May 2006. The 1995 LMWC standards were based on emissions data from permits, an approach that the courts later found unlawful in a similar rulemaking. In this proposed rulemaking, EPA will recalculate the numerical emission limits for new and existing LMWC

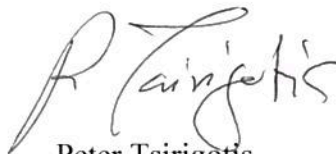
facilities. EPA will also complete the 5-year review for potential advances in processes, practices, and technologies in the LMWC source category. Additionally, EPA intends to propose standards or revisions to address other issues including requirements for startup, shutdown, and malfunctions, and technical corrections and clarifications.

In fulfillment of the consultation processes for this proposed rulemaking, the Agency is contacting the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, the County Executives of America, and the Environmental Council of States to request their input on this rulemaking. Additionally, the Agency is inviting the National Association of Clean Air Agencies, the Association of Air Pollution Control Agencies, the Association of State and Territorial Solid Waste Management Officials, and other groups representing state and local government professionals to participate in this meeting.

EPA requests your attendance at this meeting to obtain your input to inform the development of the proposed review of the LMWC NSPS and EG and associated potential regulatory requirements. At the meeting, the Agency will present background information on the proposed rule development and will respond to questions you may have. You will be able to provide input to the Agency during the meeting and may provide written input to EPA within 60 days of the meeting (by May 15, 2023). In accordance with established policy and practice, this briefing is for intergovernmental association staff only. After the meeting, you will be encouraged to forward the briefing information and materials to your members and invite them to develop and submit comments to the Agency.

Please RSVP via the electronic scheduler to which this letter is attached. If you have questions regarding the proposed rule, you may contact Charlene Spells of the Office of Air Quality Planning and Standards at spells.charlene@epa.gov or (919) 541-5255. Additional background information about the air regulations for LMWCs can be found at: <https://www.epa.gov/stationary-sources-air-pollution/large-municipal-waste-combustors-lmwc-new-source-performance>.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Tsirigotis". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Peter Tsirigotis
Director