



June 6, 2023

Submitted electronically to: a-and-r-Docket@epa.gov

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: *Docket ID No. EPA-HQ-OAR-2022-0920 – Reviewing Emission Standards for Clean Air Act Section 129 Pollutants from Large Municipal Waste Combustor Source Category*

Dear Administrator Regan:

Thank you for the opportunity to comment on the Environmental Protection Agency’s (EPA) review of emissions standards for Clean Air Section 129 pollutants from the Large Municipal Waste Combustor (LMWC) source category (sometimes referred to Waste-to-Energy (WTE) facilities.)

The Solid Waste Association of North America (SWANA) is a not-for-profit professional association in the solid waste management field with more than 10,000 members from both the private and public sectors across North America. This includes members whose communities rely on LMWCs as part of municipal integrated solid waste management programs.

Processing municipal solid waste (MSW) at WTE facilities reduces lifecycle greenhouse gas (GHG) emissions, on average, one ton of GHG emissions for every ton of waste processed. This occurs by replacing some fossil fuels usage, avoiding methane produced by decomposing trash at landfills, and recovering metals for recycling. The nation’s WTE facilities annually reduce GHG emissions by over 30 million tons of CO₂ equivalents. When the benefits of avoided methane generation are considered, WTE is the only major source of net negative GHG emissions energy, outperforming traditional renewables like wind and solar when viewed from a lifecycle perspective.

Methane is a potent GHG and is approximately 80 times stronger than carbon dioxide over 20 years. Mitigating the generation of methane from decomposing waste by processing at a WTE facility can help to prevent the most severe impacts of waste-related climate change. WTE facilities bring these climate benefits while being protective of human health and the environment. As noted in the EPA’s March 16, 2023, presentation as part of its consultation under the Unfunded Mandates Reform Act (“UMRA”), LMWCs already achieved significant emissions reductions over the period 1990 to 2000 because of Maximum Achievable Control Technology (“MACT”) standards first promulgated in 1995 under the Clean Air Act amendments of 1990. As integral members of the communities in which our association members operate, these facts are important to them and their neighbors.

Whether owned by local governments or private companies, WTE facilities directly serve the needs of the public. They believe it imperative to not only be strong community members but to also address issues around environmental justice. Our members are fully committed to building and maintaining

partnerships with their communities, providing well-paying jobs, and having open communication within the communities served.

The continued operation of LMWCs and other WTE facilities is critical to meet the needs of the communities served. WTE improves the efficiency of metals recycling from MSW, especially the most difficult fraction between 1mm and 10mm in size, which is lost in many MRFs. By capturing the valuable energy component of MSW and improving efficiency of recycling, WTE is an increasingly important component of the Circular Economy.

Without WTE, communities would be forced to find other alternatives to manage their waste. Not only would these other options exacerbate GHG emissions, but it would also mean increasing long-haul transport of waste to other communities, which may have their own set of emissions, environmental justice, and safety implications.

If closure of LMWC facilities stemming from more stringent MACT floors or additional standards were to occur, the result would not be to increase recycling and would result in increased costs. In some cases, resources that currently fund other municipal programs, including recycling programs would be lost.

While our members continue to evaluate alternative technologies and advance towards “zero waste,” the reality is that significant amounts of post-recycled waste remain that need to be managed. If increased costs result in the closure of LMWC facilities, costs for municipalities will still rise due to the increased waste disposal demand, the need for expansion of landfilling, transportation costs, and other waste management needs.

Given how critical it is to maintain LMWC capacity in the years to come, we offer the following comments for consideration by the EPA.

We request that the EPA share additional background information beyond what is provided in its UMRA presentation to allow for constructive comments from municipal owners.

The EPA first presented information on its review of “LMWC Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources” (New LMWC Guidelines) to the U.S. Conference of Mayors on March 16, 2023. Without background information, we are unable to meaningfully comment on costs, the technology review, or available technologies considered by the EPA.

While the EPA has asked that LMWC facilities comment on the information presented in the UMRA briefing, complete comments cannot be constructed based upon that and are speculative without the benefit of reviewing such background information. Requested background information includes the emissions database, assumptions, and calculations used to develop the costs presented.

The estimated total capital costs for the three options for just the 22 municipally owned facilities range from \$40 million (Option 1) to \$661 million (Option 3). When one considers the entire universe of 57 publicly and privately owned LMWC facilities, total capital costs will increase substantially. Given these significant costs, revised MACT standards will have major impacts on the economics of LMWC facilities vital to municipal integrated solid waste management programs. This will in turn impact municipalities and communities who rely on publicly and privately owned LMWCs to manage their solid waste.

Obtaining the background information on how these costs were derived and/or calculated is crucial to understanding if these costs accurately reflect all municipal and owner costs of implementing the various options and subsequent impacts on municipal/community budgets and ultimately on taxpayers. Without an opportunity to review the database used, at this time, we cannot provide complete comments on those costs.

When assessing potential financial impacts, the EPA should consider the impact of pass-through costs to communities for those facilities that are privately owned and should also consider the environmental and social costs of alternatives (i.e., landfilling).

Whether LMWCs are publicly owned or owned by private companies, they all predominately serve local governments in managing MSW. Costs on privately owned facilities will largely be passed along to municipal governments in the form of higher tip fees. Additionally, to provide a more complete picture of the costs of more stringent MACT limits, the EPA should assess the costs, including social costs of increased GHG and methane emissions, of alternatives to LMWCs, including landfilling.

Large MWC facilities have had significant improvements in environmental performance since the existing MACT floors were established.

LMWCs have had significant improvements in environmental performance since the existing MACT floors were established. These significant improvements have resulted from both regulatory and voluntary changes to reduce emissions, including:

- Replacement of electrostatic precipitators (“ESPs”) with fabric filters at LMWCs in Millbury MA, Honolulu HI, Camden NJ, Newark NJ, Rochester MA, and, most recently, Baltimore MD.
- Upgrades to existing selective non-catalytic reduction (“SNCR”) controls for nitrogen oxides (“NOx”) to meet Ozone Transport Region NOx reasonably available control technology (“RACT”) limits, and other pending upgrades to meet state requirements and the recently imposed Good Neighbor Plan impacting numerous facilities.

To the extent that EPA has presented information regarding how it determined potential options for the rulemaking, this information is incomplete. Specifically, the EPA has indicated that options under consideration are based on resetting MACT floors, but the EPA has not provided information regarding how this was done and how such recalculation is consistent with the Agency’s authority under the Clean Air Act (“CAA”).

Without being able to review the EPA’s database or understand its methodology and rationale for what data was utilized, we cannot adequately comment on the floors, their achievability, and the resulting costs of achieving the resulting emissions levels.

The EPA should complete a Residual Risk Analysis when reevaluating the MACT floors if this step was not completed.

The lack of data and detail for EPA’s proposed options greatly hinders – if not totally prevents – the Agency from receiving meaningful comments and input in accordance with the objectives of UMRA. No mention of Residual Risk Analysis (RRA) was included in the presentation materials. We request that the

Agency adopt this approach to UMRA compliance to increase the transparency of the various assumptions and CAA interpretations that underlay its proposed options. Completion of the RRA as part of the UMRA process and floor reevaluation could provide the EPA useful additional background for considering the options and the additional costs to state and local governments, as well as support the floor reevaluation.

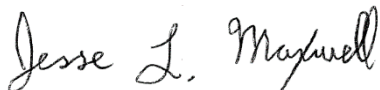
EPA needs to provide information regarding other potential changes to the emission standards that will impact owners and operators.

The presentation provided by EPA addressed the potential capital and operating costs resulting from the proposed changes in the MACT floors and the addition of emission controls to facilities. Emission standards also address other requirements for LMWC facilities including, but not limited to, reporting requirements; operator training and certification; hearings required for siting new facilities; operating parameter requirements for minimum reagent injection rates, maximum steaming rates and temperature requirements; emissions required to be monitored by continuous emission monitoring systems (CEMS); CEMS reporting and verification requirements; compliance testing requirements; and fugitive emission requirements. These requirements impact the capital and operating costs and otherwise increase the complexity of operating LMWC facilities. It is not clear from the information provided in the presentation if any of the changes to these requirements have been considered in the capital and operating cost impact estimations.

Thank you for your consideration of these comments and the submissions of LMWCs, communities, and other stakeholders impacted by these emissions standards. We look forward to continuing our collaborative efforts with the EPA as the Agency moves forward with its reevaluation of MACT floors.

Should you have any questions about these comments, please contact Jesse Maxwell, SWANA Advocacy & Safety Senior Manager at jmaxwell@swana.org or (240) 494-2237.

Sincerely,



Jesse L. Maxwell
Advocacy & Safety Senior Manager