

February 21, 2012

RCRA Docket  
EPA Docket Center  
Environmental Protection Agency  
Mail Code: 28221T  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

RE: Docket ID No. EPA-HQ-RCRA-2008-0329

Dear Sir/Madam:

The Municipal D Waste Task Force within the Materials Management Subcommittee of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) appreciates the opportunity to provide comments regarding the U.S. Environmental Protection Agency's ("EPA") proposed Commercial and Industrial Solid Waste Incineration Units: Reconsideration and Proposed Amendments: Non-Hazardous Secondary Materials That Are Solid Waste (cumulatively called the "CISWI Reconsideration," 76 *FR* 80452, December 23, 2011), which encompasses revisions to:

- Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced after November 30, 1999 or for which Modification or Reconstruction is Commenced after June 1, 2001, 40 C.F.R. Part 60, Subpart CCCC ("NSPS CCCC")
- Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999, 40 C.F.R. Part 60, Subpart DDDD ("NSPS DDDD")
- Solid Wastes Used as Fuels or Ingredients in Combustion Units – General, 40 C.F.R. Part 241, Subpart A
- Solid Wastes Used as Fuels or Ingredients in Combustion Units – Identification of Non-Hazardous Secondary Materials That Are Solid Wastes When Used as Fuels or Ingredients in Combustion Units, 40 C.F.R. Part 241, Subpart B

ASTSWMO is an association representing the waste management and remediation programs of the 50 States, five Territories and the District of Columbia (States). Our membership includes State waste program experts in the management and regulation of solid and hazardous waste.

These comments have not been reviewed or adopted by the ASTSWMO Board of Directors. In addition, individual State or Territorial solid waste programs may also provide comments based

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on their perspectives and experiences. In commenting on the Non-Hazardous Secondary Materials That Are Solid Waste proposed rule, we recognize that our State colleagues who regulate and administer air programs may also provide EPA with their views on issues raised in the rule reconsiderations efforts.

Following are the comments of the ASTSWMO Municipal D Waste Task Force:

- 1) We appreciate EPA adding “or contractual arrangement” to the definition of “Established tire collection program”. We understand this to afford the opportunity for “factory” or “off-spec” tires to be collected and combusted. We appreciate and support EPA identifying whole tires and tires that are not discarded as non-hazardous secondary materials so long as they are not discarded. However, we believe the proposed rule should go further and specifically identify whole tires and tires with wire as a traditional fuel instead of a non-waste exempt specified non-hazardous secondary material when burned as a fuel material.
- 2) We appreciate and support EPA including a national petition for rulemaking that provides an opportunity for States and/or industries to work collaboratively at a national level to request that materials be identified as an exempt waste. In addition, we strongly encourage and would find the development and deployment of an on-line form to identify materials for non-waste determinations very useful.
- 3) We appreciate and support the current biomass position, and we find it useful that EPA is providing additional examples within the proposed revision to the definition of “clean cellulosic biomass”.
- 4) The proposed rule references contaminants found in non-secondary materials prior to combustion. The list of contaminants should be a comparison of contaminants released as combusted emission. Therefore, the contaminants should be a comparison between emitted contaminants and emissions standards, and not pre-combusted contaminants versus emitted contaminants.
- 5) We appreciate and support the new section regarding tires collected via an established tire program and resinated wood being categorized as non-hazardous secondary materials to be burned as traditional fuels so long as they are not discarded.
- 6) We are, in these comments, requesting that landfill gas be determined to be a traditional fuel. In addition, EPA should clarify that landfill gas that is burned without drying first be determined to be a traditional fuel and not subject to the solid waste incinerator requirements. If landfill gas cannot be determined to be a traditional fuel, we request that the EPA Administrator determine that processed and unprocessed landfill gas be determined to be a non-waste exempt secondary material.

Thank you for your consideration of the views of the Municipal D Waste Task Force. If you have any questions about these comments, you can contact me at 303-692-3348 or [charles.johnson@state.co.us](mailto:charles.johnson@state.co.us).

Sincerely,

*Charles G. Johnson*  
(KC)

Charles G. Johnson, Chair  
ASTSWMO Municipal D Task Force