

Alaska Oil and Gas Association



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Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building (11011A)
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Comments on EPA Proposed Rule; Reconsideration of Final Rule – Commercial and Industrial Solid Waste Incineration Units: Reconsideration and Proposed Amendments; Non-Hazardous Secondary Materials That Are Solid Waste – Docket ID No. EPA-HQ-OAR-2003-0119

Dear Administrator Jackson:

The Alaska Oil and Gas Association (“AOGA”) appreciates the opportunity to comment on the U.S. Environmental Protection Agency’s (“EPA”) proposed rule titled “Commercial and Industrial Solid Waste Incineration Units: Reconsideration and Proposed Amendments; Non-Hazardous Secondary Materials That Are Solid Waste,” specifically, the provisions for small remote incinerators (“SRI”). AOGA is a private non-profit trade association whose member companies account for the majority of oil and gas exploration, development, production, transportation, refining, and marketing activities in Alaska.

We incorporate by reference our May 20, 2011 Petition for Reconsideration of the EPA’s final rule titled “Standards of Performance for New Sources and Emissions Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units” (“CISWI Rule”). This document provides substantial information not addressed in the proposed rule which we believe remains relevant to the consideration of existing source and new source SRI emission standards.

The SRI subcategory was specifically established to address the unique operating and waste management conditions in Alaska, yet the existing source standards cannot be achieved in practice (to the best of our knowledge) by any existing SRI unit in the state. This is a clear violation of the Clean Air Act which mandates that emission standards for existing units reflect the performance achieved by the best performing 12 percent of units in the category.

Furthermore, given Alaska's extreme climate, it is not clear whether new SRI units could meet the new source standards. During a 2011 meeting between AOGA and EPA to discuss the CISWI Rule, even EPA acknowledged they could not identify new technology that could meet the new source SRI standards.

The SRI emission standards are not achievable (in part) because they do not account for the range of wastes burned in SRI units, which operating and waste management conditions require in Alaska, or the fact that different waste materials exhibit profoundly different emissions characteristics. The existing test data supports this conclusion. Instead, the SRI standards are based on very limited "snapshot in time" emissions at a particular unit, given the particular waste stream burned at that time. This contrasts to the other CISWI units where waste streams are less variable and standards were set based on more emissions data. We emphasize that additional testing data is extremely costly, problematic and time-consuming to collect in Alaska due the remoteness of operations, harsh weather conditions and lack of providers to conduct such tests. We urge EPA to take these considerations into account in setting the SRI standards in the new final rule, particularly in light of the overall level of emissions from SRI units compared to other CISWI units EPA regulates.

The Clean Air Act mandates that the cost of achieving emission reduction be taken into account when setting emission standards. On the contrary, cost was not adequately taken into account in setting the SRI standards; EPA's estimates of the cost of compliance for SRI units are too low. Furthermore, the SRI standards impose a disproportionate compliance burden on SRI units compared to the other CISWI units. For example, using EPA's data (prepared by Eastern Research Group, "ERG"), the lowest cost option for compliance for SRI units is \$234,200 per ton more than the average cost of compliance over all of the subcategories. In addition, these numbers do not include other potential costs such as costs associated with constructing and permitting the additional footprint that would be required for controls (acknowledged by ERG) or annual landfilling costs for SRI units which ERG estimated at between \$433,000 per year to \$24.6 million per year. These issues should be considered in revising the SRI standards.

The Clean Air Act also requires that non-air quality health and environmental impacts be taken into consideration in setting emission limits for CISWI units. We believe EPA failed to adequately take these impacts into account and remain concerned about unintended consequences if SRI units across Alaska are forced to shutdown, a very real possibility if the SRI standards are not revised in the new final rule. Oil and gas and other remote operations rely on SRI units to manage solid waste for several reasons, including limited, if any, access to land disposal options, the high cost of and safety concerns associated with transporting waste to alternative disposal sites, and the need to minimize wildlife interactions with waste, and any related interactions with humans. The proposed rule does not address any of these issues which will arise in case of forced shutdowns.

For example, many operations utilizing SRI units are not located on the road system necessitating transport of waste via barge, small aircraft and even helicopter in areas where

aircraft cannot land if incineration is not possible. Important to remember is that these transport options are all highly dependent on Alaska's extreme weather conditions, especially during the winter season, which in the Arctic lasts the majority of the year. Clearly, costs will quickly escalate due to the necessity of multiple trips to transport waste between remote operations and disposal sites. Safety will also be compromised due to increased travel back and forth in harsh weather conditions. Additionally, EPA failed to consider the potentially significant increased emissions associated with transport of waste from remote operations to disposal sites, which could easily exceed emissions associated with SRI units, or the increased volume of waste at area landfills, both inevitable adverse consequences of decreased waste incineration.

Likewise, if SRI units are forced to shutdown, significantly more waste will have to be stockpiled onsite until transport to a disposal site is possible, adversely impacting wildlife, including species listed as threatened under the Endangered Species Act (e.g., polar bears and spectacled eiders), attracted to stored waste. This will lead to increased wildlife-human interactions and decreased safety for onsite personnel. All of these issues could be avoided by onsite incineration.

Finally, we believe EPA violated the Clean Air Act by failing to exclude emissions during startup and shutdown periods from the maximum achievable control technology ("MACT") floor calculations for SRI units; employing flawed data analysis and statistical protocols to derive the Subpart CCCC sulfur dioxide emission limit for new sources; and failing to clarify the applicability of the CISWI rule to incinerators on marine vessels and outer continental shelf ("OCS") sources, instead leaving the issue up to regions to decide. On this last issue, we emphasize that no incinerators operating on marine vessels or OCS sources were included in the MACT floor analysis for SRI units and we suspect that a separate subcategory will be warranted should data be collected. All of these issues should be addressed in the new final CISWI rule.

AOGA is committed to continuing to work with EPA on solutions which will allow SRIs to continue to operate in Alaska. Please do not hesitate to contact me with any questions.

Sincerely,



KATE WILLIAMS
Regulatory and Legal Affairs Manager

Attachment(s)

Cc: The Honorable Lisa Murkowski, United States Senate
The Honorable Mark Begich, United States Senate
The Honorable Don Young, United States House of Representatives
Toni Jones, U.S. EPA, Sector Policies and Programs Division
George Faison, U.S. EPA, Office of Resource Conservation and Recovery