

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Ms. Denise Lee
Anson County & Blue Ridge
Environmental Defense League
Wadesboro, North Carolina 28170

Dear Ms. Lee:

Thank you for your letter of March 12, 1998 to Administrator Browner expressing your concerns about the new Maximum Achievable Control Technology (MACT) regulations the Environmental Protection Agency (EPA) is developing for hazardous waste combustors (HWCs).

In your letter, you expressed concern that the currently proposed rule will not adequately reduce exposure to dioxins, mercury and PCBs emitted by HWCs. Although the emissions estimates you quoted came from a 1997 EPA document, they are 1990 estimates. Current (1997) estimates show about a 91 percent reduction of HWC dioxin/furan emissions and about a 5 percent reduction of HWC mercury emissions from 1990. These reductions are at least in part a result of Administrator Browner's Hazardous Waste Combustion Strategy and the proposal of MACT standards for these sources. When the MACT standards go into effect, it is anticipated that they will achieve significant additional reductions in dioxin/furan and mercury emissions.

Your letter also stated that effective pollution prevention measures are crucial to protecting public health and the environment and that this rulemaking offers an excellent opportunity to use them. The Agency agrees and has evaluated many waste minimization/pollution prevention incentives or requirements conceptualized within the Agency or proposed by public commenters. Six different approaches were proposed in our April 1996 proposed rule and three are included in the so-called "Fast Track" rule. These include additional time to consider, plan and adopt waste minimization approaches for compliance with lower emission limits. This Fast Track rule is currently ready for the Administrator's signature and should be publicly released shortly. By being promulgated ahead of the remainder of the MACT rule, it gives companies a head start on pollution prevention planning before the standards take effect.

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You were concerned that the proposed rule would not require HWCs to report what they are burning or to accurately monitor their emissions and certify compliance with the standards. The HWC proposal would require facilities to monitor emissions of hazardous air pollutant surrogates continuously and set operating parameters through performance testing to ensure that emission standards are met. This will be accomplished within the current structure of the Title V permitting program under the Clean Air Act. and with its full suite of compliance and enforcement regulation. Also, the Agency is moving forward with an early compliance planning requirement, which is a progressive refinement to the current regulatory structure. This will require owners and operators to submit a notification of their intent to comply with the standards and report their progress. This will serve as a planning and public outreach tool for achieving compliance with the MACT standards.

You also expressed concern that the HWC rule will set a precedent for subsequent MACT regulations in which industry costs might be considered more important than public health and the environment. You also reminded the Agency that it is possible to consider non-air health quality impacts and environmental justice in establishing MACT standards. I can assure you that we are aware of these issues. First, the benefits of the MACT standards for HWCs, as proposed, are numerous: significant reductions in dioxin and mercury, thereby reducing cancer cases resulting from dioxin and neurological effects from mercury; reduced mercury levels in foods, reducing abnormalities in children; reduced surface water concentrations of mercury, leading to improvements in water quality criteria for selected watersheds; and, improved property values around combustion facilities. The aggregate value of all these benefits, while not monetized, is expected to be well above the projected costs to industry. Second, the risk analyses include the receptor populations of children and subsistence scenarios, thereby ensuring that we are cognizant of special subgroups and of EPA's commitment to protecting children. Third, the Agency has considered environmental justice issues. For the proposal, the Agency found that less than 37 percent of all facilities have surrounding minority populations greater than corresponding county minority populations. In addition, less than 36 percent of all facilities were found to have surrounding populations with poverty levels exceeding county average poverty rates. The Agency is refining this environmental justice analysis for the final rule.

You were concerned that the emission standards in the HWC rule might be based on the worst performance by any source that used a particular control technology and that any deviation from the language of Section 112 of the Clean Air Act might be because of concerns of achievability. The control technology used to identify a given MACT floor standard is defined by the technology (or technologies) used by the best performing (i.e., lowest emitting) 6 percent of sources for that hazardous air pollutant. The sources using this technology are then examined to

determine the level of control that can reasonably be expected using this technology. This level determines the MACT floor standard. The Agency then considers the cost-effectiveness of going "beyond the floor" to a more stringent level, using more aggressive technologies than those currently used by the best performing sources.

You also expressed concern that Agency staff might be reluctant to change the emission standards methodology in the HWC rule because to do so would depart from Office of Air Quality Planning and Standards (OAQPS) precedent. You recommended that such rules might be based on such things as air permits, technology, or actual performance. The Office of Solid Waste (OSW) is developing this rule consistent with the policies and principles that OAQPS uses for MACT rulemakings. The Agency acknowledges that standards can be based on various types of data and information about facility operations and performance. For this rulemaking, OSW is developing standards based on the rather large emissions database currently in hand, which comes from trial burns. OSW has endeavored to use these data to identify best control technologies and has included certain control practices (i.e., feedrate control) that are not "end of the pipe." We are confident that the final standards will not only be in accordance with EPA policies and the underlying legal structure, but will also reflect achievable MACT levels of performance.

Thank you for your interest in our hazardous waste regulatory programs and I trust that these responses give you a better picture of the Agency's perspective on the final HWC MACT regulations, now being developed. Although the formal comment period has closed on the proposed rule, we have included your comments in the administrative record for the rulemaking.

Sincerely,

Elizabeth A. Cotsworth, Acting Director
Office of Solid Waste