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Via Email and Regulations.gov

Environmental Protection Agency
EPA Docket Center, Docket ID No. EPA-HQ-OAR-2017-0183
Mail Code 28221T
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Dear Administrator Regan:

The undersigned 79 groups and 20 individuals support EPA's proposal to strengthen its emission standards for large municipal waste combustors, and urge EPA to go even further to make the standards as protective to surrounding communities as possible. Seventy-nine percent of the nation's large incinerators – including most of the highest-emitting incinerators – are located in environmental justice communities. These incinerators are often some of the biggest emitters in the communities in which they are located. This is no wonder given EPA's failure to issue incinerator standards that meet the requirements of the Clean Air Act on the timeline required by the Act. EPA last revised this set of pollution standards in 2006 and it was required to do so again in 2011. Almost a decade and a half later, EPA is finally taking this mandatory action.

In the 2024 Proposed Rule, EPA proposed amendments that will take some of the necessary steps in alleviating the burden communities have suffered from the incinerators in their neighborhoods. We support EPA's proposed amendments to include lower emissions limits for some pollutants, remove startup shutdown and malfunction (SSM) exemptions and alternative percent compliance options, and require better recordkeeping and electronic reporting for incinerators, to name a few important improvements.

However, there are still many gaps left in this proposed rule. EPA can use this rulemaking process as an opportunity to do right by the frontline communities that have waited decades for the protections of the 1990 Clean Air Act Amendments. In order to do so, EPA must finalize a rule that, at a minimum:

- **Requires that incinerators reduce emissions to the maximum achievable extent.** This is the standard that Congress imposed on EPA over three decades ago, but which EPA has yet to meet. When calculating the emission floors, EPA must use the most recent and reliable data it has and not rely on data alterations like backdating or numerical and statistical manipulation. Furthermore, when considering what level of emission reduction is achievable, EPA must not rely on arbitrary cost-effectiveness analyses that leave too much pollution in our communities. To truly protect communities, EPA must set emission limits that are more stringent than the bare-minimum floors for all regulated pollutants.
- **Sets emissions standards and regulates dangerous pollutants that are not currently regulated under the incinerator standards.** The Clean Air Act requires EPA to list and regulate seriously harmful pollutants such as POM and PCBs, which are emitted by LMWCs. PFAS are another dangerous pollutant LMWCs emit that are known to pose serious health risks,

but are similarly not monitored or regulated. EPA should require incinerators to monitor and report these dangerous emissions so the Agency can collect the necessary data to regulate them.

- **Requires incinerators to use continuous emission monitors for all regulated pollutants.** This technology has existed for years. But EPA's current rules make continuous monitoring optional for most pollutants, so barely any incinerators continuously monitor the pollutants that they don't have to. This is particularly important for particulate matter, mercury, and hydrochloric acid, all of which have well-documented harmful effects on human health. Reliable continuous monitors exist for all of these pollutants, and should be required. Moreover, LMWCs should be required to submit the collected CEMS data for all pollutants to EPA's Compliance and Emissions Data Reporting Interface (CEDRI) database for better recordkeeping and transparency.
- **Keeps the Title V permit requirement for incinerators that burn wood waste, clean lumber, and yard waste.** Wood burning produces significant amounts of air pollution, and thus should not be excluded from Title V permit regulation.
- **Requires incinerators sort waste before burning for safety, efficiency, and proper disposal.** The CAA requires incinerators to sort through waste and remove pollutants prior to incineration to reduce emissions. This includes organics and plastics, which are responsible for pollutants such as NOx and heavy metals respectively. Both of these categories of waste can easily be diverted to facilities that can put these materials to productive use in accordance with EPA's own guidance on best composting and recycling practices. EPA should require that incinerators sort and divert these materials out of the waste stream prior to burning.
- **Requires increased protections against accidents and the burning of prohibited wastes.** Incinerators have been catching on fire and burning prohibited wastes, exposing our communities to additional toxics above and beyond those from the incinerators' daily operations. Worse still, municipal solid waste incinerators are burning or trying to burn industrial and medical waste on purpose, but without being subject to EPA's standards for medical waste incinerators and industrial waste incinerators. EPA should clarify the types of waste that incinerators can burn and require incinerators to take increased safety and oversight measures to avoid the intentional and accidental burning of prohibited wastes.
- **Removes the impermissible recycling unit and cement kiln exemption.** The Clean Air Act requires that LMWC regulations apply to all municipal solid waste incinerators with capacities of over 250 tons a day, but EPA's rule wrongfully excludes recycling units and cement kilns from these combustor requirements. EPA should do away with this exemption.
- **Adds siting requirements and requires a cumulative impact analysis to protect communities that are already overburdened.** The Clean Air Act calls for the LMWC Rule to incorporate siting requirements, but so far EPA's LMWC Rules have failed to include these necessary provisions. Nearly 80% of LMWCs are in environmental justice communities, and without siting requirements, the only recourse these communities have had has been reactive rather than preemptive. Instead of leaving communities to fend for themselves using a patchwork of tools such as Title VI Civil Rights Act complaints and permit comment periods, EPA can use this rulemaking to preemptively protect people by imposing siting requirements

so already overburdened environmental justice communities aren't exposed to new LMWCs in the first place.

EPA's decades-plus failure to issue the incinerator standards that Congress promised is an affront to environmental justice communities nationwide. It has been over thirty years since Congress told EPA to protect the public from the harms of this incinerator pollution, and environmental justice communities are still waiting for those protections. EPA has committed to advancing equitable outcomes in environmental justice communities and building meaningful engagement with these communities. The time to deliver on those commitments is now. EPA must revise the large municipal waste incinerator standards to ensure maximum protections for surrounding communities.

Sincerely,

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**Signing as individuals, not on behalf of an organization*

***Signing as both individuals and on behalf of their organizations*