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August 8, 2024

Honorable Administrator Michael S. Regan
U. S. Environmental Protection Agency
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

RE: The National Tribal Air Association’s Comments on the U.S. EPA’s Proposed *Standards of Performance for New Stationary Sources (NSPS) and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units Revisions to Definitions*, Docket ID No. EPA-HQ-OAR-2003-0156.

Dear Honorable Administrator Regan,

The National Tribal Air Association (NTAA) is pleased to submit this letter to provide comments on the U. S. Environmental Protection Agency’s (EPA) Proposed *Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units Revisions to Definitions*, Docket ID No. EPA-HQ-OAR-2003-0156.

The NTAA is a member-based organization with 157 Member Tribes. The organization’s mission is to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of American Indian and Alaskan Natives Tribes. As such, the NTAA uses its resources to support the efforts of all federally recognized Tribes in protecting and improving the air quality within their respective jurisdictions. Although the organization always seeks to represent consensus perspectives on any given issue, it is important to note that the views expressed by the NTAA may not be agreed upon by all Tribes. Further, it is also important to understand that interactions with the organization do not substitute for Nation-to-Nation consultation, which can only be achieved through direct communications between the federal government and American Indian Tribal Governments and Alaskan Natives.



The NTAA acknowledges the addition of the definition of rudimentary combustion sources to the NSPS and emissions guidelines to the Other Solid Waste Incineration (OSWI) Rules. The NTAA acknowledges that the proposed changes are a response to input from the State of Alaska, Alaska Native Villages, and other rural Tribes in the previous 2020 proposal to the OSWI rule. The NTAA also understands that the EPA is deferring regulation at this time. The NTAA, however, understands that adding the definition of rudimentary combustion sources to the OSWI rule will require regulation of these sources in 2025.

The NTAA does not support the proposal to add the definition of rudimentary combustion sources to the OSWI rules currently. As an alternative, the NTAA strongly encourages the EPA to actively engage with impacted Villages to collect the information needed to draft a future regulation without changing the definition at this time. The NTAA agrees that EPA may regulate these sources in the future, but the definition does not need to change prior to any regulatory proposal.

It is unclear to the NTAA why EPA is proposing this definition change when it could instead conduct an advanced notice of proposed rulemaking and ask for the additional data requested in the current proposal. The NTAA is concerned that prematurely changing the definition puts the EPA on track for developing regulations without the appropriate data. Instead, the EPA should work with Alaska Tribes to actively collect the data EPA seeks, as well as other information such as community concerns, practices, and Traditional Ecological Knowledge, that should be considered in the regulatory development. The EPA should also recognize that these communities have very limited resources to assemble the information, and some Tribes have concerns about sharing information about their communities. As a result, the EPA will need to provide resources to Tribes to collect the information and consult with individual Tribes as they are moving forward.

In addition, in considering future regulations, the EPA must consider not only important environmental concerns generated from these sources, but also the potential unintended consequences of any future regulation. In establishing regulations for existing sources, the EPA must not force communities with few resources to purchase commercially available combustion devices. The EPA also acknowledges potential negative consequences of the future regulation when it states that the regulations could impact current Tribal burn practices and incentivize communities to revert to open burning, degrading air quality and causing health, safety, and financial risks, which the EPA notably used as a rationale for deferring the regulation.

In closing, the NTAA appreciates the opportunity to submit this comment on this proposed action and looks forward to further work with EPA on this important issue. If you have any questions or require clarification from the NTAA, please do not hesitate to contact NTAA's staff member Laura McKelvey at lauradmckelvey@gmail.com.



Respectfully,

Syndi Smallwood

Chair

Executive Committee, National Tribal Air Association

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