

solid waste when combusted and that the units combusting those materials can continue to be used as fuels without having to meet the CISWI standards. Mr. Stanislaus requested that the industry representatives provide the Agency with supporting data on traditional fuels that could further inform the development of such guidance, and asked for feedback on the approach he outlined. In addition to this approach, the Agency is also exploring other options.

We recognize that stakeholders have also raised other issues with the NHSM rule. We are continuing to evaluate those issues expeditiously.

I believe we have made significant progress in addressing the concerns raised by the industry. I will continue to watch the issue closely and keep you informed. My goal is to bring these issues to closure as soon as possible.

Sincerely,

LISA P. JACKSON,  
*Administrator.*

U.S. ENVIRONMENTAL PROTECTION  
AGENCY, OFFICE OF SOLID WASTE  
AND EMERGENCY RESPONSE,  
Washington, DC, July 11, 2011.

Hon. RON WYDEN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR WYDEN: Thank you again for the constructive dialogue regarding issues relating to EPA's Non-Hazardous Secondary Materials (NHSM) rule, the Boiler Maximum Achievable Control Technology (MACT) rule and the Commercial and Industrial Solid Waste Incinerator (CISWI) rule. In the Administrator's letter of June 27, 2011 she indicated that the agency is exploring various pathways to address your specific concerns regarding implementation of the NHSM rule. EPA is committed to issuing guidance to assist industry in applying the legitimacy criteria, and had requested that industry representatives provide the agency with supporting data to further inform the development of such guidance.

We received additional information from industry and based on this information and further discussions, we have developed the enclosed concept paper for the development of guidance. The paper identifies approaches to the guidance that EPA continues to evaluate for determining whether concentrations of contaminants in the NHSM are "comparable" to concentrations of those same contaminants in traditional fuels. These comparisons are important in ensuring that NHSM are being legitimately recycled and are not solid wastes, as well as recognizing the varied uses of such secondary materials as product fuels.

We are optimistic about our ability to develop guidance that meaningfully addresses the industry concerns and we are giving it the highest priority within the agency. We intend to complete internal development of draft guidance based on the concept paper by August 31, 2011. In addition, we continue to evaluate all available options available to address the issues raised.

Please be assured that EPA will continue to keep you informed of our progress in addressing the issues involved with the NHSM rule, as well as the related Clean Air Act rulemakings. If you or your staff have any questions regarding the enclosed concept paper, please contact me or your staff may call Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-1859.

Sincerely,

MATHY STANISLAUS,  
*Assistant Administrator.*

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 571. Mrs. BOXER (for herself, Mr. GRAHAM, and Mr. INHOFE) submitted an amendment intended to be proposed by her to the bill H.R. 2055, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

SA 572. Mr. WEBB (for himself and Mr. LEE) submitted an amendment intended to be proposed by him to the bill H.R. 2055, supra; which was ordered to lie on the table.

SA 573. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2055, supra; which was ordered to lie on the table.

SA 574. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 556 proposed by Mr. JOHNSON of South Dakota (for himself and Mr. KIRK) to the bill H.R. 2055, supra; which was ordered to lie on the table.

SA 575. Ms. AYOTTE submitted an amendment intended to be proposed by her to the bill H.R. 2055, supra.

SA 576. Mr. SESSIONS (for himself, Mr. CORNYN, Mr. VITTER, and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill H.R. 2055, supra; which was ordered to lie on the table.

SA 577. Mrs. BOXER (for herself, Mr. GRAHAM, Mr. INHOFE, and Mr. NELSON of Florida) proposed an amendment to the bill H.R. 2055, supra.

SA 578. Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Ms. SNOWE, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 2055, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 571. Mrs. BOXER (for herself, Mr. GRAHAM, and Mr. INHOFE) submitted an amendment intended to be proposed by her to the bill H.R. 2055, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, between lines 5 and 6, insert the following:

SEC. 127. (a) FINDINGS.—Congress makes the following findings:

(1) Over 86,000 children attend Department of Defense Education Activity (DoDEA) schools across the United States, Europe, and the Pacific region.

(2) According to an October 2009 Report to Congress on Department of Defense Education Activity's Military Construction Program, 149 of 189 schools assessed, or nearly 79 percent, had facilities with an overall condition rating of either Q3 (poor) or Q4 (failing).

(3) The October 2009 Report to Congress also indicated that many DoDEA schools require significant recapitalization efforts to bring facilities up to current standards and eliminate space shortfalls and temporary facilities.

(4) In the Future Years Defense Plan for Fiscal Years 2012 through 2016, the Department of Defense has established a plan to recapitalize many but not all of these school facilities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the state of disrepair of more than ¾ of Department of Defense Education Activity school facilities is deplorable, and that the Department of Defense should make

every effort to accelerate the recapitalization of these facilities.

(c) RECAPITALIZATION OF SCHOOLS.—The Secretary of Defense is encouraged to include funding for each DoDEA school with an overall condition rating of Q3 (poor) or Q4 (failing) according to the October 2009 Report to Congress on Department of Defense Education Activity's Military Construction Program in the Future Years Defense Plan for Fiscal Years 2013 to 2017.

SA 572. Mr. WEBB (for himself and Mr. LEE) submitted an amendment intended to be proposed by him to the bill H.R. 2055, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 117, between lines 12 and 13, insert the following:

SEC. 410. No amounts appropriated or otherwise made available by this Act may be obligated or expended to implement or carry out any program that creates a price evaluation adjustment that is inconsistent with the holdings in the following:

(1) Adarand Constructors, Inc. v. Peña, 515 U.S. 200 (1995).

(2) Rothe Development Corporation. v. Department of Defense, 545 F. 3d 1023 (2008).

SA 573. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2055, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, between lines 5 and 6, insert the following:

SEC. 127. Not more than 60 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the Committees on Appropriations of the Senate and the House of Representatives a report that includes—

(1) an assessment of the property management and caretaker costs, including base security, fire protection, and maintenance of the military installations closed or realigned under the 2005 round of defense base closure and realignment;

(2) a description of the risks to property value, safety, and human life if such costs are not funded;

(3) a description of the extent to which the Department of Defense is funding such costs; and

(4) if such costs are not fully funded, an explanation for the shortfall.

SA 574. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 556 proposed by Mr. JOHNSON, of South Dakota (for himself and Mr. KIRK) to the bill H.R. 2055, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

Strike "Sec. 301. Not later" and all that follows and insert the following:

SEC. 301. (a) Not later than 90 days after the date of the enactment of this Act, the Executive Director of Arlington National