

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

AMENDMENTS TO 35 ILL.
ADM. CODE PART 229,
HOSPITAL/MEDICAL/INFECTIOUS
WASTE INCINERATORS

R11-20
(Rulemaking - Air)

RECEIVED
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MAY 25 2011
STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

NOTICE

TO:

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Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

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Kathleen M. Crowley
Hearing Officer
Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the ILLINOIS EPA ANSWERS AND FIRST ERRATA TO QUESTIONS REGARDING HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: _____



Charles E. Matoesian
Assistant Counsel
Division of Legal Counsel

DATED: May 23, 2011
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

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ILLINOIS EPA ANSWERS AND FIRST ERRATA TO QUESTIONS REGARDING
HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS

NOW COMES Respondent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA" or "Agency"), by its attorney, Charles E. Matoesian, and files this response to the questions of the Illinois Pollution Control Board's ("Board") attached to the Hearing Officer's Order of April 20, 2011.

1. Section 229.102 Definitions

IPCB: (a) In the definition of "Commercial HMIWI", please clarify whether the term "unrelated" means "not owned or operated by the owner of the HMIWI".

IEPA: *The definition of " Commercial HMIWI" is as provided in the Emissions Guidelines. The USEPA did not define the term "unrelated" in the amended NSPS\Emissions Guidelines for HMIWIs. We interpret the term, for example, as in a situation where the firm that owns the HMIWI and the firm that generated the waste offsite, are not owned or operated by the same parent company.*

IPCB: (b) The definitions of the terms "Minimum reagent flow rate" and "Minimum secondary chamber temperature" require demonstration of compliance with the applicable emission limits, including the limit for nitrogen oxide (NO_x) Would it be acceptable to the Agency if a cross reference to the emissions limit of Subpart E of Part 229 is added to both the definitions?

IEPA: *A cross reference has been added to the definitions of the terms "Minimum reagent flow rate" and "Minimum secondary chamber temperature".*

“Minimum reagent flow rate” means 90 percent of the highest 3-hour average reagent flow rate at the inlet to the selective noncatalytic reduction technology (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the applicable NOx emissions limit specified in Subpart E of this Part.

“Minimum secondary chamber temperature” means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO, dioxin/furan, and applicable NOx emissions limits specified in Subpart E of this Part.

2. Section 229.104 Incorporations by Reference

IPCB: IEP A has requested a waiver for filing copies of the items proposed to be incorporated by reference in Section 229.104. (The Board has yet to rule on the motion for waiver.)

Although IEPA provided an original of the items in proposed Section 229.104(h) and (i), IEPA did not file originals of proposed Section 229.104(f), (g), and (j). Since the latter are not items that need to be purchased, the Agency is requested to please provide one original of each so that the record reflects the version that appears as of the date of the proposal .

Rules incorporating materials by reference must also include the name and address of the entity/organization from which a copy of the material may be obtained by interested persons. The Agency is requested to please provide the relevant information for the materials proposed to be incorporated by reference at Sections 229.104 (h), (i) and (j).

IEPA:

The address for ASTM is:

ASTM International
100 Barr Harbor Drive
PO Box C70
West Conshohocken, PA, 19428-2959 USA

The address for ANSI is:

Mailing Address:
ANSI Attn: Customer Service Department
25 W 43rd Street, 4th Floor
New York, NY, 10036

The following is the ANSI Customer Service contact information:

E-mail: info@ansi.org

Phone: 212.642.4980

Fax: 212.302.1286

Attached to the original copy (only) are the hardcopies of the materials requested.

3. Section 229.110 General Applicability

ICPB: (a) The proposed subsection (a) sets forth the applicability requirements that cover HMIWIs for which construction commenced before December 1, 2008, or for which modifications commenced before April 6, 2010. The Agency is requested to please clarify whether HMIWIs for which construction commenced after December 1, 2008, or for which modification commenced after April 6, 2010 are subject to the New Source Performance Standards (NSPS) for HMIWIs under 40 CFR § 60 Subpart Ec. If so, would it be acceptable to the Agency to add a new subsection (a)(3) reflecting the applicability of the NSPS to HMIWIs beyond the dates specified in subsection (a)(2).

IEPA: *HMIWIs for which construction commenced after December 1, 2008, or for which modification commenced after April 6, 2010 are subject to the New Source Performance Standards (NSPS) under 40 CFR Part 60, Subpart Ec, and are exempt from Part 229 requirements as specified under Section 229.112.*

Owners or operators of HMIWIs that are potentially subject to Subpart Ec requirements are encouraged to review the applicability requirements described under 40 CFR 60.50c(a) and (m) to determine if their units are subject to NSPS requirements.

IPCB: (b) The proposed subsection (h) appears to have a typographical error. The Agency is requested to clarify whether the proposed cross reference to the emission limits under Section 229.125(e) should be actually Section 229.125(c).

IEPA: The IEPA submits the following amendment to Section 229.110(h):

h) On and after January 1, 2014, each owner and operator of an HMIWI as defined in subsection 229.110 (a)(2) of this subpart is no longer subject to the provisions under New Source Performance Standards for Hospital/Medical/Infectious Waste Incinerators (40 CFR 60, Subpart Ec), but is subject to the emissions limits under Section 229.125(c) ~~(e)~~ or Section 229.126(c), and shall comply with all the applicable provisions of this Part.

4. Section 229.115 Compliance Schedules for HMIWIs that will Continue to Operate

IPCB: (a) Stericycle submitted an alternate proposal under 229.115(b), basically suggesting different dates for the increments of progress. Are these dates acceptable to the Agency? If not, the Agency is requested to please explain why not. If possible, the Agency is further requested to propose an alternate timeline for Stericycle's consideration. (The hearing officer notes that the Agency and Stericycle remain free to discuss this matter between themselves in advance of hearing, and are encouraged to present any mutually acceptable alternative timelines at or before hearing on June 8, 2011.)

IEPA: *Stericycle has not responded to our last email concerning this date. Accordingly, the Illinois EPA is keeping February 1, 2014 as the final compliance date as Stericycle indicated in their February 18, 2011, filing with the Board.*

IPCB: (b) Would it be acceptable to the Agency if the term "paragraph" is replaced by the term "subsection" (as the Joint Committee on Administrative Rules may require) in the proposed subsections (b)(1) and (b)(2).

IEPA: *The Illinois EPA proposes amending subsections 229.115(b)(1) and (b)(2) to read as follows:*

- 1) Except as provided in subsection ~~paragraph~~ (2) of this subsection and unless another date is specified in the provisions of this Part, all owners or operators of HMIWIs shall comply with all of the provisions of this Part by January 1, 2014.
- 2) Except as provided in subsection ~~paragraph~~ (3) of this subsection, the owner or operator of an HMIWI may have until October 6, 2014, to comply with this Part. To avail themselves of this extended compliance timeframe, the owner or operator of an HMIWI shall do all of the following:

5. Section 229.116 Compliance Schedules for HMIWIs that will Shut Down

IPCB: Under Section 229.116, is there an opportunity for HMIWIs pursuing the extended compliance timeframe with a deadline of October 6, 2014 (proposed 35 IAC 229.115(b) to decide to shut down at a date later than January 1, 2014?

If so, should the rules include a provision under Sections 229.115(b)(3) and 229.116(b) to recognize a later date than January 1, 2014 for those HMIWIs pursuing the extended compliance timeframe under Section 229.115(b)(2), as suggested below?

IEPA: *Any HMIWI unit that is granted compliance extension but later decides to shut down must do so no later the final compliance date as specified in the increments of progress to avoid enforcement action. Since the unit is shutting down, not retrofitting, the owner or operator must submit a request to have the increments of progress revised.*

6. Section 229.120 CAAPP Permit Requirements

IPBC: Section 229.115(b)(2) allows for extending the deadline for compliance with Part 229 requirements from January 1,2014 to October 6,2014 if certain conditions are met. The proposed Section 229. 120(a)(2) requires compliance with the permit requirements by January 1,2014, but does not provide for the extended compliance deadline of October 6, 2014 under Section 229.115(b)(2). The Agency's proposal includes several provisions in other sections of the rules that prescribe the January 1,2014 deadline without accounting for the extended compliance deadline of October 6, 2014. Please comment on whether the following requirements should be amended, as suggested, to recognize the extended deadline under Section 229.115(b)(2):

IEPA: *No changes are needed to existing requirements timeline.*

The purpose of a compliance extension is to allow for additional time for compliance demonstration by owners or operators of HMIWI units that need to construct, reconstruct equipment or for process modification in order to achieve compliance. The issuance of a compliance extension to an HMIWI unit does not preclude its owner or operator from continuing to comply with applicable existing Part 229 requirements while the owner or operator takes steps to achieve final compliance with amended requirements.

An owner or operator of an HMIWI unit as defined under Section 229.110(a)(1) or (a)(2) that is granted a compliance extension will continue to comply with all applicable existing Part 229 or HMIWI NSPS requirements until the final compliance date specified in the increments of progress. Upon achieving final compliance, the units that were granted compliance extension will start complying with the applicable amended requirements under Part.

HMIWI units that were not granted, or that did not request for compliance extension are required to comply with all applicable requirements of the amended Part starting January 1, 2014.

7. Section 229.126 Emissions Limits for Rural HMIWIs

IPCB: Should Section 229.126(c) and (e) also apply to rural HMIWIs as defined in Section 229.110(a)(2)?

IEPA: *Subsections 229.126(c) and (e) introductory texts have been revised to indicate applicability of these subsections to HMIWIs as defined in subsection 229.110(a)(2).*

c) On and after January 1, 2014, except as provided for in Section 229.115(b)(2), a rural HMIWI, as defined in Section 229.110(a)(1) or (a)(2) of this Part, shall comply with the following emissions limits:

e) On and after the date on which the initial performance test is completed or required to be completed under Section 229.142 of this Part, whichever date comes first, no owner or operator of a rural HMIWI, as defined in Section 229.110 (a)(1) or (a)(2) of this Part, subject to the emissions limits under subsection (c) of this Section, shall cause to be discharged into the atmosphere visible emissions of combustion ash from ash conveying system (including conveyor transfer points), enclosures of ash conveying systems, buildings, or other sources in excess of 5 percent of the observation period of 9 minutes per 3-hour period, according to Method 22, 40 CFR 60, Appendix A, incorporated by reference at Section 229.104(d) of this Part, except as provided by the following exclusions:

8. Section 229.146 Annual Testing for Opacity

IPCB: Proposed Section 229.146(a) and (b) do not specify "Before January 1, 2014" and "On and after January 2, 2014" as in proposed Section 229.148(a)(1) and (2). Should an initial timeframe be specified to indicate that HMIWIs subject to emissions limits under Section 229.125(c) do not need to comply with the opacity test schedule until "On or after January 1, 2014"?

IEPA: *A timeline currently exists in Section 229.14. This timeline gives meaning and context to the Illinois EPA's wording in Section 229.146(a) and (b).*

9. Section 229.150 Compliance with Operating Parameter Values

IPCB: Section 229.150(a) states, " ... an HMTWI ... shall not operate above any of the applicable maximum or below any of the applicable minimum operating parameter values specified in Appendix B of this Part." Appendix B does not actually appear to list "operating parameter values", but rather "Operating Parameters to be Monitored ... " Would you please comment on a possible clarification of this section since no actual minimum or maximum values are listed in Appendix B?

Should Section 229.150(a) reference proposed Section 229.152(b) for instances where applicable operating parameter values are not specified in Appendix B of this Part 229?

IEPA: *Subsections 229.150(a) and (c) original texts have been revised to provide more clarity.*

a) Following the date on which the initial performance test is completed, or is required to be completed under Section 229.142 of this subpart, whichever date comes first, an HMIWI, using a dry scrubber followed by a fabric filter, a wet scrubber, or dry scrubber followed by a fabric filter and a wet scrubber ~~or a selective noncatalytic reduction system~~ to comply with the emission limits of this Part, shall not operate above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameter values specified in Appendix B of this Part. All operating parameters shall be measured as a 3-hour rolling average (calculated each hour as a 3-hour rolling average ~~the average~~ of the previous 3 operating hours) at all times. For batch HMIWIs, the charge rate shall be measured on a per batch basis.

cb) For HMIWIs using air pollution control equipment other than a dry scrubber followed by a fabric filter, a wet scrubber, or dry scrubber followed by a fabric filter and a wet scrubber ~~or a selective noncatalytic reduction system~~ to comply with the emission limits under Section 229.125 or Section 229.126 of this Part, following the date on which the initial performance test is completed, as provided in Section 229.142 of this Part, an HMIWI shall not operate above any applicable maximum or below any applicable minimum operating parameter values established in its CAAPP permit.

de) Operating parameter limits do not apply during performance tests.

10. Section 229.160 Compliance Requirements for Rural HMIWIs

IPCB: For the benefit of the record, would you please explain how "Operating parameter limits do not apply during performance tests" (proposed Section 229.160(c)), yet "Operation above the maximum charge rate or below the minimum secondary chamber temperature determined during the initial performance test shall constitute a violation of the established operating parameter(s)" (Proposed Section 229.160(d))? Similar wording appears at proposed Section 229.150(d).

IEPA: *In conducting an initial performance test operating parameter limits at which compliance is achieved with applicable emissions limits are established. The established values are required to be monitored to determine continuous compliance with applicable emissions limits. If a subsequent performance test is required, new operating parameter limits at which compliance is achieved with applicable emissions limits are required to be established. This is so because the operating scenarios when the initial and the subsequent tests were conducted may or may not be the same, and this may result in different outcomes in terms of the level of emissions of tested pollutants during each test.*

Illinois EPA suggests the following changes to Section 229.142:

- c) Following the date on which the initial performance test is completed or is required to be completed under Section 229.142 of this Subpart, whichever date comes first, the owners or operators of a rural HMIWI shall not operate their HMIWI either above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times. ~~Operating parameter limits do not apply during performance tests.~~
- d) Operating parameter limits do not apply during performance tests.
- d) ~~Operation above the maximum charge rate or below the minimum secondary chamber temperature determined during the initial performance test shall constitute a violation of the established operating parameter(s).~~

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AMENDMENTS TO 35 ILL.) (Rulemaking - Air)
ADM. CODE PART 229,)
HOSPITAL/MEDICAL/INFECTIOUS)
WASTE INCINERATORS)
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PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached ILLINOIS EPA ANSWERS AND FIRST ERRATA TO QUESTIONS REGARDING HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS of the Illinois Environmental Protection Agency upon the persons to whom it is directed, by placing it in envelopes addressed to:

TO:

John Therriault, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

Matthew J. Dunn, Chief
Environmental
Enforcement/Asbestos
Litigation Division
Illinois Attorney General's Office
69 West Washington Street, 18th
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5815 Weldon Springs Rd.
Clinton, IL 61727

Kathleen M. Crowley
Hearing Officer
Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

and mailing same by First Class Mail from Springfield, Illinois on May 23, 2011 with sufficient postage affixed.

[Handwritten signature]

SUBSCRIBED AND SWORN TO BEFORE ME

this 23rd day of 2011

Cynthia L. Wolfe
Notary Public

