BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS, ADOPTION OF 35 ILL. ADM. CODE 229	)	R99-10 (Rulemaking - Air)

NOTICE

TO: **Dorothy Gunn, Clerk**
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

Matthew Dunn
Attorney General's Office
James R. Thompson Center
100 W. Randolph, 12th Floor
Chicago, Illinois 60601

Robert Lawley
Chief Legal Counsel
Department of Energy and Nat. Resources
524 South Second Street
Springfield, Illinois 62701-1787

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE TO COMMENTS and the MOTION TO AMEND RULEMAKING PROPOSAL of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: _____
Bonnie R. Sawyer
Assistant Counsel
Division of Legal Counsel

DATED: February 3, 1999

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST
R99-10

Russell Karlins
Medical Waste Solutions, Inc.
P.O. Box 17699
Chicago, IL 60601

A.D. Volz
OSF Healthcare System
800 NE Glen Oak Avenue
Peoria, IL 61603-3200

Mike Behrens
Blessing Hospital
Broadway at 11th Street
Quincy, IL 62301

J. Elmer Bortzer
USEPA, Region V
Regulation Department Section
77 West Jackson Boulevard
Chicago, IL 60606

Linda Brand
DCCA
Small Business Office
520 East Adams Street
Springfield, IL 62701

Herbert Bruss
Hopedale Medical Complex
P.O. Box 267
Hopedale, IL 61747

John Hooker
Hanson Engineers
1525 South Sixth Street
Springfield, IL 62703-2886

Ruth Hughes
Jefferson County Animal Shelter
107 E. Perkins
Mt. Vernon, IL 62864

Thomas R. Kennedy
Oak Forest Hospital of Cook County
15400 S. Cicero Avenue
Oak Forest, IL 60452

Buddy W. King
Memorial Medical Center
701 North 1st
Springfield, IL 62781

Kerry Loiselle
St. Joseph Medical Center
2200 East Washington
Bloomington, IL 61761

Robert Simmons
Pfizer Animal Health
P.O. Box 221, Lincoln Rd. E.
White Hall, IL 62092

Jerry Smith
Illini Community Hospital
640 W. Washington Street
Pittsfield, IL 62363

A.D. Volz
OSF Healthcare System
800 NE Glen Oak Avenue
Peoria, IL 61603-3200

John N. Wentz
Hammond Henry Hospital
210 West Olk Street
Geneseo, IL 61254

Jeff Wynveen
Baxter Healthcare Corp.
Route 120 & Wilson Road
Round Lake, IL 60073

Mike Zagofa
Memorial Hospital
800 N. Rutledge
Springfield, IL 62781

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
HOSPITAL/MEDICAL/INFECTIOUS	)	
WASTE INCINERATORS	)	R99-10
ADOPTION OF 35 Ill. Adm. Code 229	)	(Rulemaking - Air)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE TO COMMENTS

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits its response to comments raised by the Pollution Control Board ("Board") at the hearing held on January 21, 1999, in the above captioned matter.

I. ISSUE: Was proposed 35 Ill. Adm. Code 229 (Part 229) properly submitted by the Illinois EPA and adopted by the Board for First Notice as a "fast-track" rulemaking under Section 28.5 of the Illinois Environmental Protection Act (415 ILCS 5/28.5) ("Section 28.5")?

A. Introduction

On November 24, 1998, the Illinois EPA submitted its proposal In the Matter Of: Hospital/Medical/Infectious Waste Incinerators: Adoption of 35 Ill. Adm. Code 229. The proposal contained a cover sheet which prominently stated that the rule was proposed under Section 28.5 of the Act as a fast-track rulemaking. On December 3, 1998 the Board adopted the proposed rule for First Notice, stating that the "adoption by the Board of this new part is authorized under Section 28.5 of the Environmental Protection Act."

On January 21, 1999, the Board held the first hearing on this rulemaking proposal. At this hearing, the Board questioned whether the proposal was appropriately under Section 28.5 of the Act when it was not identical to the Federal emission guidelines for hospital, medical/infectious waste incinerators (HMIWIs). Board Member Flemal explained: "[p]erhaps

in further focus on that issue, I think our concern is that we want to be on the safe side of the very first provision that we find in 28.5 of the act which says this section shall apply solely to the adoption of rules required to be adopted by the state, and we want to make sure that everything that we're considering as provisions within this 28.5 rule comport with that requirement . . ." Transcript p. 36.

Section 28.5(a) provides that "[t]his Section shall apply solely to the adoption of rules proposed by the Agency and required to be adopted by the State under the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (CAAA)." 415 ILCS 5/28.5(a). As explained in greater detail in the Illinois EPA's statement of reasons, the rule under consideration in this docket is required to be adopted by the State by section 111(d) and section 129 of the Clean Air Act. 42 U.S.C. 7411(d) and 7429.

B. Response

The Illinois EPA maintains that this rule is required to be adopted by the State under the Clean Air Act despite differences between the Board's proposed rule and the federal emission guidelines for HMIWIs. Section 28.5 is clearly not limited to the adoption of rules that are required to be identical to federal rules but is intended to encompass many Clean Air Act requirements where states have significant discretion in deciding how to comply with the federal requirement.

In past rulemakings, the Board has clearly interpreted Section 28.5 to apply in cases analogous to this proposal in which the rulemaking proposal itself was required by the Clean Air Act, but where its provisions clearly went beyond the minimal requirements the State Plan must meet to comply with the Clean Air Act. See, In the Matter Of: Enhanced Vehicle Inspection and

Maintenance (I/M) Regulations: Amendments to 35 Ill. Adm. Code 240, R98-24, July 8, 1998, Adopted Rule, Final Order (rulemaking where procedures for enhanced inspection and maintenance were promulgated for both the Chicago and Metro-East ozone non-attainment areas, even though the Clean Air Act only requires "basic" inspection and maintenance testing in Metro-East).

Additionally, the Board has interpreted Section 28.5 to apply to the 9 percent and 15 percent Rate of Progress Plans, in which Section 182 of the Clean Air Act required Illinois to promulgate a series of regulations under Section 110 of the Clean Air Act which together made up the Illinois State Implementation Plan (SIP) for achieving the required amount of emissions reductions. See, In the Matter of 15 Percent Rate-of-Progress Plan Rules: Part IV: Tightening Surface Coating Standards; Surface Coating of Automotive/Transportation and Business Machine Plastic Parts; Wood Furniture Coating; Reactor Processes & Distillation Operation Processes in SOCMI; Bakery Ovens, R94-21, April 20, 1995. Although Illinois was required to develop a SIP that achieved the requisite reductions, the Clean Air Act gave the State the flexibility to develop the individual regulations to meet the SIP requirement.

Section 28.5 is designed to allow the expeditious promulgation of federally required rules. This section was originally adopted to address the requirements of the Clean Air Act as amended in 1990. Section 28.5 was therefore intended to address the types of rules that are federally required but for which the state retains a great deal of discretion. Section 28.5 is distinguishable from the "identical in substance" rulemaking procedures found at 415 ILCS 5/28.4. Section 28.5 does not limit coverage to rules that must be adopted in substantially the same form as final federal regulations; it applies to the adoption of rules "required to be adopted

by the State under the Clean Air Act," which should not be interpreted to limit the state's discretion to craft the rules it deems appropriate.

This process is representative of the structure established by the Clean Air Act whereby States and the federal government work in tandem to ensure that its goals are met. One of the major aspects of this structure is that U.S. EPA establishes standards but States are afforded discretion to determine the appropriate approach to meet these standards.[2]

This is the structure provided for regulation of existing sources in Sections 111(d) and 129 of the Clean Air Act. U.S. EPA is required to promulgate performance standards for existing HMIWIs and States are required to develop a plan to ensure that these standards are met. In fact, like the State Implementation Plans required by Section 110 of the Clean Air Act, Section 111(d) of the CAA requires the U.S. EPA to establish a process under which States must develop and submit plans for the control of emissions from any source category, not otherwise regulated, for which U.S. EPA has promulgated a performance standard. Congress intended State Plans developed pursuant to Section 111(d) to resemble SIPs submitted pursuant to Section 110 by stating:

> The [U.S. EPA] Administrator shall prescribe regulations which shall establish a procedure similar to that provided by section 110 under which each State shall submit to the Administrator a plan which (A) establishes standards of performance for any existing source for any pollutant (i) for which air quality criteria have not been issued or which is not included on a list published under section 108(a) or emitted from a source category which is regulated under section 112 or 112(b) but (ii) to which a standard of

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[2] *See* Commonwealth of Virginia, et al. v. Environmental Protection Agency, State of Connecticut, et al., 108 F.3d 1397, 1997 U.S. App. Lexis 4299, pp. 11-13, (D.C. Circuit, 1997) (describing the structure of the Clean Air Act whereby the federal government determines the ends, i.e., air quality standards, but the states are given discretion and responsibility in selecting the means to meet those ends).

performance under this section would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such standards of performance.

42 U.S.C. §7411(d)(1).[3]

Likewise, Section 129 affords States considerable discretion in developing their plan provided the State plan is "*at least as protective as the guidelines* promulgated by the Administrator [of U.S. EPA] and shall provide that each unit subject to the guidelines shall be in compliance with all requirements of this section not later than 3 years after the State plan is approved by the Administrator but not later than 5 years after the guidelines were promulgated." 42 U.S.C. 7429(b)(2) (emphasis supplied). If, in exercising this discretion, a State adopts a more protective rule to control emissions from hospital, medical and infectious waste incineration, the rule remains under the purview of the plan required under Section 129.[4]

The rules for development of State plans under Section 111(d), which includes Section 129 plans, clarify that the plan submitted by the state must be "*for the control of the designated pollutant* to which the guideline applies." 40 CFR § 60.23 (emphasis supplied). The emphasis is

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[3]In Train v. Natural Resources Defense Council, 421 U.S. 60, 64, S.Ct. 1470 (1975), the Court found, in reference to SIPs, that "[t]he Act [Clean Air Act] expressly gave the states initial responsibility for determining the manner in which air quality standards were to be achieved." And, "[t]he Act gives the Agency [U.S.EPA] no authority to question the wisdom of a State's choices of emissions limitations if they are part of a plan which satisfies the standards of § 110(a)(2), and the Agency may devise and promulgate a specific plan of its own only if a State fails to submit an implementation plan which satisfies those standards. §110(c). Thus, so long as the ultimate effect of a State's choice of emission limitations is compliance with the national standards for ambient air, the State is at liberty to adopt whatever mix of emission limitations it deems best suited to its particular situation." Id. at 79.

[4]If a submitted state plan meets the "at least as protective" criteria, U.S. EPA would be required to approve the rule as there would be no justification in rule or in law for disapproval. And, U.S. EPA would not be authorized to promulgate a federal rule on top of an approvable state rule as the authority to do so in Section 129(b)(3) is based on a state's failure to submit an "approvable plan."

on controlling the pollutants of concern rather than merely regulating certain sources. This is consistent with the "at least as protective" language used in Section 129 of the Clean Air Act. Section 129 is specifically concerned with pollutants released from various types of solid waste incineration. The "protection" that is relevant under Section 129 is the protection of public health and the environment from pollution released from the incineration of waste. In the instant rule, the "designated pollutants" are those created through the incineration of hospital, medical and infectious waste. Illinois' plan must therefore be at least as protective as the federal guidelines for the control of the designated pollutants from the incineration of hospital, medical and infectious waste and, thereby, be at least as protective of public health and the environment.

C. Proposed Part 229

The proposed rule differs from the federal emission guidelines substantively in three instances. In each of these instances, the proposed rule is more protective than the minimal federal guidelines. First, the rule applies waste management provisions to hospitals that send waste off-site for incineration while the emission guidelines require waste management plans only from HMIWIs. Second, the rule subjects pathological waste incinerators that only burn human corpses intended for interment or cremation to minimal notification and record keeping requirements while such incinerators are exempt from all requirements under the emission guidelines. Finally, the rule requires a trained and qualified operator to be on-site at all times the HMIWI is operational while the emission guidelines allow this operator to be available within one hour.

1. Waste Management

The emission guidelines require a State plan to "include the requirements for a waste

U.S. EPA admits that the requirements "are somewhat open-ended." But, as the waste management provisions of the rule include hospitals, even if waste is not incinerated onsite, the waste management plan provisions apply to some apparatus to which a standard is not applicable and is therefore arguably more protective than the emission guidelines minimally require. Even assuming the waste management plan provisions in the rule are more protective than is minimally federally required, the provision is still appropriately before the Board pursuant to Section 28.5 because it is at least as protective as required under the federal emission guidelines.

Section 129 allows States discretion to submit more protective plans to fulfill this Clean Air Act requirement. This provision is intended to address emissions and related public health and welfare concerns from the incineration of these types of waste. Therefore, the fact that this provision is more protective means it is appropriate to fulfill the state plan required to be adopted by Illinois under section 129 of the Clean Air Act. As explained above, the fact that the rule is more protective does not remove it from the purview of the plan required under section 129 of the CAA nor from Section 28.5 authority.

2. Pathological Waste Incinerators

In the emission guidelines, U.S. EPA excluded human remains intended for cremation or interment from the definition of both hospital and medical/infectious waste. Under this approach, pathological waste incinerators that incinerate only human remains such as crematoriums would not be covered by the rule. Of note, the emission guidelines further exempt facilities that burn only pathological waste from the emissions control requirements. In this instance, only notification and record keeping requirements apply to pathological waste combustors that incinerate pathological waste other than human remains intended for cremation

management plan at least as protective as those requirements listed in § 60.55c of subpart Ec of this part." 40 CFR 60.35e. Section 60.55c applies to owners and operators of affected facilities which is defined as any apparatus to which a standard is applicable, which, in this case, is an HMIWI. 40 CFR 60.2.

Assuming § 60.35e requires state plans to, at a minimum, apply to any incinerator to which a standard is applicable, this would include commercial HMIWIs that accept waste generated off-site. U.S. EPA recognized difficulties with devising waste management requirements for such incinerators. "Facilities operating commercial HMIWI have little control over the wastes that are accepted from offsite locations. This is one reason why the requirements for Waste Management Plans are somewhat open-ended." Hospital/Medical/Infectious Waste Incinerator Emission Guidelines: Summary of the Requirements for Section 111(d)/129 State Plans, EPA-456/R-97-007, p. A-32 (November, 1997) (hereinafter "Summary of Guidelines"). U.S. EPA further recognized that the most feasible approach for waste management for such facilities was found in waste reduction from the waste generators that are their customers. See "Summary of Guidelines," p. A-32.

Illinois EPA therefore found it appropriate to require minimal waste planning at the facilities that are significant generators of hospital, medical or infectious waste combusted at commercial HMIWIs, i.e., hospitals sending waste off-site for incineration. Illinois EPA finds this approach the most appropriate method to fully address the management of waste associated with hospital, medical or infectious waste incineration and to be the best method to assure effective waste management for waste incinerated off-site.

It is somewhat difficult to determine the minimum level of protectiveness needed when

Further, the Illinois EPA believes that the significance of incinerator operations and the associated emissions necessitates operation by or supervision of operation by a trained and qualified operator. This provision in the Board's proposed rule does not expand the scope of the minimal requirements of the emission guidelines but is merely more stringent than this minimal federal requirement. As described above, the requirements are appropriately part of Illinois' plan required by Section 129 to regulate HMIWI emissions because they are at least as protective as the emission guidelines and were appropriately accepted by the Board as a Section 28.5 proposal.

D. Compliance with Sections 27 and 28 of the Act and the Illinois Administrative Procedure Act

Even if the Board determines that the portions of this rulemaking proceeding which go beyond the minimum requirements of the emission guidelines are outside the scope of Section 28.5, the Illinois EPA recommends that the Board allow its proposal to proceed under a single rulemaking docket. By conducting docket R99-10 in accordance with the timing requirements of Section 28.5, this rulemaking proceeding is also in compliance with the requirements of Sections 27 and 28 of the Act and the Illinois Administrative Procedure Act. Any perceived problem with proceeding under 28.5 may be remedied by amending the Authority provisions for this rulemaking to include Sections 27 and 28 of the Act.

The Illinois EPA's proposal meets the 27(a) requirements for a rulemaking proposal, in addition to those of Section 28.5(e). The hearing schedule established by the Hearing Officer complies with the requirements for an economic impact hearing under Section 27(b)(2), as well as the requirement of Section 28 that a hearing be held within two areas of the state for a state-wide regulation. The notice and other requirements of Section 28 will also be met by this proceeding. Therefore, proceeding with R99-10 under the fast-track rulemaking provisions of

or interment.

The Board's proposed rule does not exclude human remains intended for cremation or interment from the definition of medical/infectious waste. However, the exemption from control requirements for pathological waste combustors remains applicable to these facilities. Therefore, crematorium-type facilities will be required to comply with only minimal reporting and record keeping requirements like other pathological waste incinerators. The Illinois EPA maintains that meeting these minimal requirements is important to establish a sufficient database to ensure that the appropriate facilities are complying with the rule.

In this instance, the Board's proposed rule includes requirements designed to ensure that this exemption is applied properly in the State of Illinois. As this proposed rule requires this minimal notification and record keeping from more facilities than the emission guidelines, it is more protective than the minimum elements required for a state plan under the emission guidelines. Again, as this provision will make the state plan more rather than less protective than the emission guidelines, the requirements are appropriately part of Illinois' plan required by Section 129 to regulate HMIWI emissions and appropriately accepted by the Board as a Section 28.5 proposal.

3. Trained and Qualified Operators

The emission guidelines allow a trained and qualified operator to be available within one hour of the HMIWI during all periods of operation. The Board's proposed rule requires the trained and qualified operator to be on-site at all times during HMIWI operation. The Illinois EPA believes that this difference from the emission guidelines is needed as the emission guidelines approach is too ambiguous and would be difficult to implement, monitor and enforce.

Section 28.5 does not overstep the Board's rulemaking authority under the Act, and guarantees that Illinois will have promulgated an approvable State plan to control emissions from hospital, medical, and infectious waste incinerators by September 15, 1999 as required by Seciton 129 of the Clean Air Act.

II. ISSUE: At the first hearing, the Board asked questions regarding the interaction between the definition of medical/infectious waste under proposed Part 229 and the definition of Potentially Infectious Medical Waste or "PIMW" under land pollution rules addressing the disposal of biological materials found at 35 Ill. Adm. Code 1420.102 and 415 ILCS 5/3.84. Specifically, Board Member Flemal stated his concern as follows: "I'm particularly interested to know whether there's a concern out there in the regulated community that in having these two separate sections, we're going to have either confusion or problems with disparate regulation in its complying with the two." Transcript, p. 40

Response

The differences in how PIMW and medical/infectious waste are defined will not create disparate regulatory requirements for facilities that must comply with both regulations. The attached flow chart illustrates how these two regulatory programs interact. The definitions used in these programs differ based on the purpose of each program but these differences should not impact how a facility elects to dispose of its waste or the associated requirements applicable.

The definition of PIMW is intended to identify waste materials that are potentially infectious. Once identified as potentially infectious, this rule requires that such materials undergo treatment to eliminate the infectious potential or the potential for transmitting disease. Currently available treatment methods include autoclaving, microwaving and incineration. Regardless of the treatment method, the materials remaining after treatment must meet minimum PIMW efficacy standards to ensure that such items no longer possess the potential of

transmitting disease prior to disposal. If PIMW is treated through incineration, the resulting ash must meet these efficacy standards.

On the other hand, the purpose of Part 229 is to control air pollution from incineration, not prescribe waste treatment or disposal requirements. And, air pollution from incineration is not necessarily linked to the infectious nature of the waste incinerated.

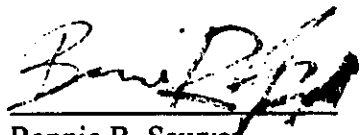
At one outreach meeting hosted by the Illinois EPA, one commentor was confused as to the interaction between the definition of medical/infectious waste in the proposed rule and the definition of PIMW found at 35 Ill. Adm. Code 1420.102. The confusion appears to focus on a misconception that the HMIWI rule directs how a facility may dispose of the waste or which waste streams require treatment prior to disposal. Part 229 does not direct facilities to dispose of their waste in any particular manner. Medical/infectious waste is only defined in Part 229 to determine whether or not an incinerator is covered by the rule. See "Summary of Guidelines, p. A26. As explained above, a facility may elect to treat its PIMW by incinerating it. If it does so, emissions from this incineration will be subject to Part 229. However, Part 229 does not prescribe that incineration is required.

To a certain extent, the definition of medical/infectious waste is broader than PIMW as some waste that may not have an infectious potential qualifies as medical/infectious waste and is subject to Part 229 if incinerated. A common example of this sort of waste is intravenous bags. Intravenous bags are considered PIMW only if they have been in contact with an infectious agent such as blood or body fluids. Part 229 defines medical/infectious waste to include all intravenous bags regardless of contact with any infectious agent. This difference, however, does not create any conflict with the PIMW rule. Facilities are not required to incinerate such wastes

to treat the potentially infectious nature. If materials defined as medical/infectious waste but not as PIMW are not incinerated, neither rule applies. This means that other disposal methods (without PIMW treatment) and recycling options remain available to address this waste. If incinerated, however, the incinerator becomes subject to Part 229.

Respectfully submitted,

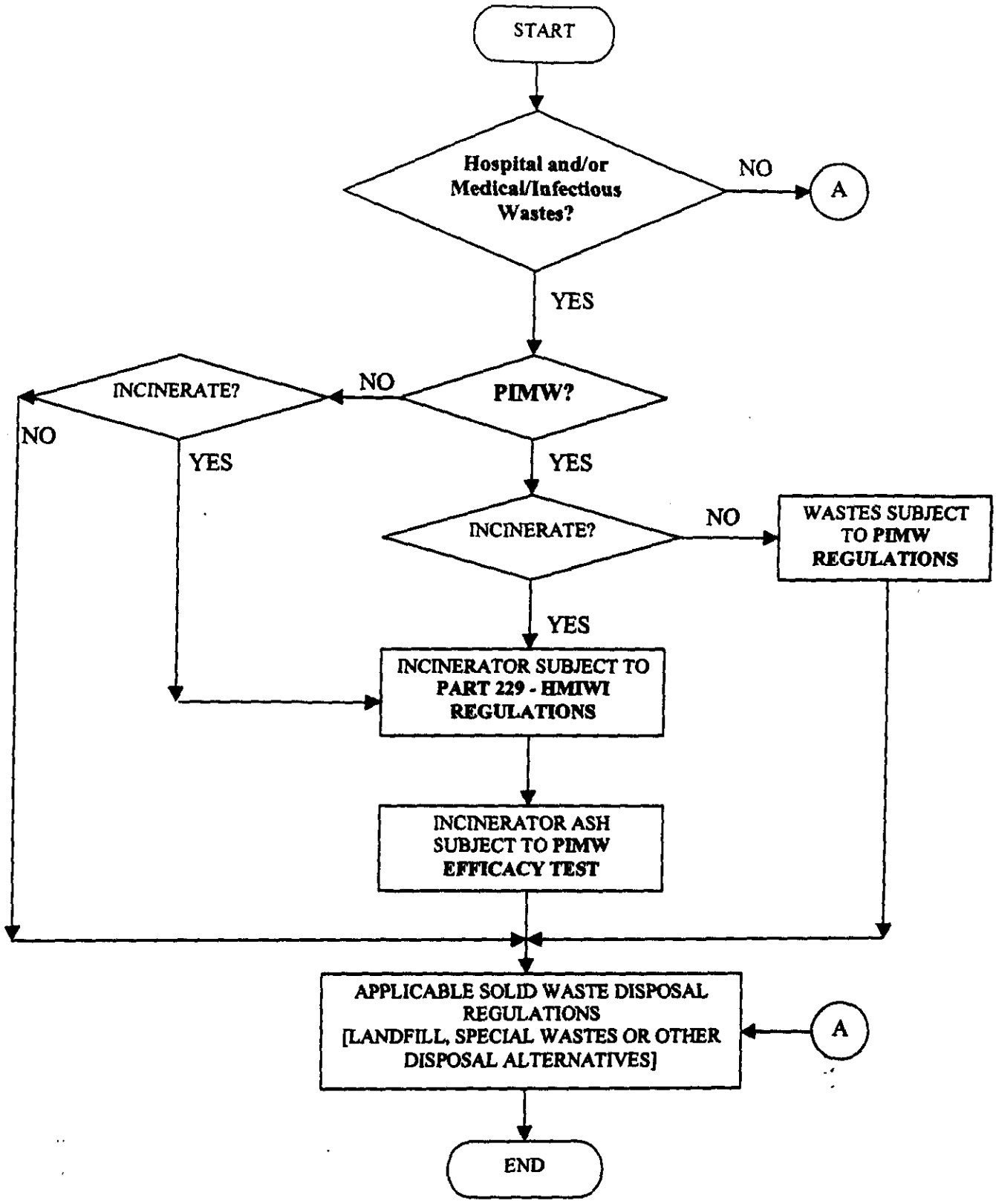
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Bonnie R. Sawyer
Assistant Counsel
Division of Legal Counsel

DATED: February 3, 1999

P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544



GENERAL RELATIONSHIP BETWEEN HMIWI AND PIMW REGULATIONS

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
HOSPITAL/MEDICAL/INFECTIOUS	)	
WASTE INCINERATORS	)	R99-10
ADOPTION OF 35 Ill. Adm. Code 229	)	(Rulemaking - Air)
	)	

MOTION TO AMEND RULEMAKING PROPOSAL

NOW COMES Proponent, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA") by its attorney, Deborah J. Williams, and requests that the Illinois Pollution Control Board ("Board") amend the Illinois EPA's proposed adoption of 35 Ill. Adm. Code Part 229, as set forth in the R99-10 Rulemaking Docket filed on November 24, 1998, to add a new Section 229.181 to Subpart K. In support of its Motion, the Illinois EPA states as follows:

1. As the Illinois EPA indicated at the January 21, 1999 hearing on this matter, there is one aspect of the Illinois EPA's proposal which arguably fails to meet the minimum requirements of the U.S. EPA's emission guidelines for existing hospital, medical, and infectious waste incinerators. Transcript at pp. 13-14. Although the Illinois EPA proposal contained waste management plan requirements for hospitals with on-site incinerators, hospitals shipping waste to off-site incinerators, and commercial hospital, medical, and infectious waste incinerators; it did not provide for waste management planning by non-hospital facilities covered by the regulations which have on-site incinerators. The federal emission guideline, on the other hand, requires that waste management plans be submitted by all "affected facilities," which in the case of Illinois EPA's proposal, would mean all HMIWIs subject to the emission limits contained in Subpart E of the proposed Part 229.

2. The federal emission guideline requires existing that existing HMIWIs comply with

the following waste management plan requirements contained in the New Source Performance Standard for new HMIWIs:

> The owner or operator of an *affected facility* shall prepare a waste management plan. The waste management plan shall identify both the feasibility and the approach to separate certain components of solid waste from the health care waste stream in order to reduce the amount of toxic emissions from incinerated waste... It should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emission reductions expected to be achieved, and any other environmental or energy impacts they might have. The American Hospital Association publication entitled "An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities"... shall be considered in the development of the waste management plan.

40 CFR 60.55c (emphasis added). The emission guideline also requires submission of a waste management plan "no later than 60 days following the initial performance test." 40 CFR 60.58c.

3. After discussing the first notice version of the rule with U.S. EPA and contrasting the federal requirements with the current version of proposed Part 229, the Illinois EPA recommends amending the rule to require waste management plans from owners or operators of HMIWIs other than those at hospitals or commercial facilities. The waste management provisions recommended would only require these facilities to assess their current waste management practices and evaluate the feasibility of utilizing certain additional practices.

4. The Illinois EPA is currently unable to provide a solid estimate of how many non-hospital, non-commercial HMIWIs exist and will be subject to this provision until more detailed information is received from sources during the notification period. These other "affected facilities" might include mental health facilities, skilled nursing care facilities, nursing homes, or other health care facilities which have an HMIWI on-site, but do not meet the definition of "hospital" found in 229.102. It may also include veterinary clinics or research facilities which burn medical/infectious waste on-site, but do not meet the definition of co-fired combustor found in 229.102. However, of

the facilities identified by the Illinois EPA so far, the universe of facilities subject to 229.181 should include those sources listed in Table 7-1 of the Technical Support Document (TSD) which do not meet the definition of hospital and do not accept waste generated off-site, as well as those sources listed in Table 7-3 of the TSD which are actually subject to the emission limits because they do not burn 100 percent exempt wastes or meet the definition of co-fired combustor.

5. The Illinois EPA recommends the adoption by the Board of the following amendment to proposed Part 229 which add a new Section 229.181 to Subpart K of the rule:

SUBPART K: WASTE MANAGEMENT PLAN REQUIREMENTS

Section 229.181 Waste Management Plan Requirements for Other HMIWIs

The owner of operator of an HMIWI that is subject to emission limits in Subpart E of this Part, but is not subject to the waste management plan provisions of Sections 229.176 or 229.180 of this Subpart, shall develop a waste management plan in accordance with this Section.

(a) The owner or operator of an HMIWI subject to this Section shall conduct an assessment of its current waste management program and submit a waste management plan to the Agency, in accordance with Section 229.184(b) of this Part, that:

(1) Identifies, pursuant to subsection (b) of this Section, the additional technically and economically feasible measures for reducing the volume and toxicity of the waste to be incinerated; and

(2) Where practical, outlines a schedule for the implementation of the selected measures.

(b) In identifying additional technically and economically feasible waste management practices, the owner or operator shall consider:

(1) Segregating waste streams;

(2) Phasing out the use of products containing toxic materials;

(3) Reusing products and equipment;

(4) Reducing the use of packaging and disposable items;

(5) Collecting recyclable materials; and

(6) Improving inventory control, training and housekeeping practices.

(c) In assessing its current waste management practices, the facility shall consider technical information on alternative waste management practices, such as the American Hospital Association publication entitled "An Ounce of Prevention: Waste Management Strategies for Health Care Facilities," incorporated by reference at Section 229.104(a) of this Part.

(d) Any waste management plan that has been developed by a facility subject to this Section prior to the effective date of this regulation may be incorporated into the waste management plan required for that facility, to the extent that such a plan is consistent with the requirements of this Section.

(e) The waste management plan shall be updated every 5 years to coincide with either the issuance or renewal of the facility's CAAPP permit.

WHEREFORE, for the reasons set forth above, the Illinois EPA requests that the Board amend the Illinois EPA's proposal to adopt the new 35 Ill. Adm. Code Part 229 to reflect the changes provided above.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: Deborah J. Williams

Deborah J. Williams
Assistant Counsel
Division of Legal Counsel

DATED: February 3, 1999

P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE TO COMMENTS and the MOTION TO AMEND RULEMAKING PROPOSAL upon the person to whom it is directed, by placing in an envelope addressed to:

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

Matthew Dunn
Attorney General's Office
James R. Thompson Center
100 W. Randolph, 12th Floor
Chicago, Illinois 60601

Robert Lawley
Chief Legal Counsel
Department of Energy and Nat. Resources
524 South Second Street
Springfield, Illinois 62701-1787

SEE ATTACHED SERVICE LIST

and mailing it from Springfield, Illinois on February 3, 1999, by First Class Mail, with sufficient postage affixed.

Sandy Doley

SUBSCRIBED AND SWORN TO BEFORE ME
this 3rd day of February, 1999.

Notary Public

OFFICIAL SEAL
RICHARD C. WARRINGTON
NOTARY PUBLIC STATE OF ILLINOIS
My Comm. Expires Jan. 27, 2000

SERVICE LIST
R99-10

Russell Karlins
Medical Waste Solutions, Inc.
P.O. Box 17699
Chicago, IL 60601

A.D. Volz
OSF Healthcare System
800 NE Glen Oak Avenue
Peoria, IL 61603-3200

Mike Behrens
Blessing Hospital
Broadway at 11th Street
Quincy, IL 62301

J. Elmer Bortzer
USEPA, Region V
Regulation Department Section
77 West Jackson Boulevard
Chicago, IL 60606

Linda Brand
DCCA
Small Business Office
520 East Adams Street
Springfield, IL 62701

Herbert Bruss
Hopedale Medical Complex
P.O. Box 267
Hopedale, IL 61747

John Hooker
Hanson Engineers
1525 South Sixth Street
Springfield, IL 62703-2886

Ruth Hughes
Jefferson County Animal Shelter
107 E. Perkins
Mt. Vernon, IL 62864

Thomas R. Kennedy
Oak Forest Hospital of Cook County
15400 S. Cicero Avenue
Oak Forest, IL 60452

Buddy W. King
Memorial Medical Center
701 North 1st
Springfield, IL 62781

Kerry Loiselle
St. Joseph Medical Center
2200 East Washington
Bloomington, IL 61761

Robert Simmons
Pfizer Animal Health
P.O. Box 221, Lincoln Rd. E.
White Hall, IL 62092

Jerry Smith
Illini Community Hospital
640 W. Washington Street
Pittsfield, IL 62363

A.D. Volz
OSF Healthcare System
800 NE Glen Oak Avenue
Peoria, IL 61603-3200

John N. Wentz
Hammond Henry Hospital
210 West Olk Street
Geneseo, IL 61254

Jeff Wynveen
Baxter Healthcare Corp.
Route 120 & Wilson Road
Round Lake, IL 60073

Mike Zagofa
Memorial Hospital
800 N. Rutledge
Springfield, IL 62781