

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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DEC 23 2010

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
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)  
AMENDMENTS TO 35 ILL. )  
ADM. CODE PART 229, )  
HOSPITAL/MEDICAL/INFECTIOUS )  
WASTE INCINERATORS )  
)  
)

11-20  
R10  
(Rulemaking - Air)

ORIGINAL

NOTICE

TO:


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

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

Jonathan Furr  
Chief Legal Counsel  
Illinois Dept. of Natural Resources  
524 South Second Street  
Springfield, Illinois 62701-1787

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the REGULATORY PROPOSAL FOR AMENDMENTS TO 35 ILL. ADM. CODE PART 229 and APPEARANCE 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: December 22, 2010  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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TABLE OF CONTENTS OF REGULATORY SUBMITTAL

Following is a Table of Contents of all pleadings and documents included with the regulatory action proposed:

1. Notice of Proposal
2. ~~Appearance of Charles E. Matoesian, Assistant Counsel, for the Illinois Environmental Protection Agency~~
3. ~~Director Douglas P. Scott's Proposal of Amendments~~
4. ~~Motion to Expedite Review~~
5. ~~Affirmation~~
6. ~~Motion to Waive Requirements~~
7. ~~Statement of Reasons~~
8. ~~Technical Support Document~~
9. ~~First Notice of Proposed Amendments~~
10. ~~Agency's Analysis of Economic and Budgetary Effects of Proposed Rulemaking~~
11. ~~Proposed Amendments to 35 Ill. Adm. Code Part 229:~~

The original and four (4) copies

12. Materials Incorporated by Reference (original only)
  - a. Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method)
  - b. Flue and Exhaust Gas Analyses ANSI/ASME PTC 19.10 - 1981
13. Stericycle Waste Management Plan
14. Proof of Service
15. Disk in Microsoft Word containing:
  - Proposed Amendments to 35 Ill. Adm. Code Part 229
  - First Notice of Proposed Amendments

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APPEARANCE

The undersigned, as one of its attorneys, hereby enters an Appearance on behalf of the Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY PROPOSAL OF  
AMENDMENTS

THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Agency"), pursuant to 35 Ill. Adm. Code 102.202, moves that the Board accept for hearing the Agency's proposal for amendment of 35 Ill. Adm. Code Parts 229. This regulatory proposal includes: 1) the proposed amendments; 2) the Statement of Reasons; and 3) an Appearance for the attorney representing the Illinois EPA.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: Douglas P. Scott  
Douglas P. Scott  
Director

DATED: December 22, 2010

P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-3397

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MOTION FOR EXPEDITED REVIEW

NOW COMES Proponent, the Illinois Environmental Protection Agency ("Illinois EPA"), by its attorney, and pursuant to 35 Ill. Adm. Code 101.512, respectfully submits this Motion for Expedited Review ("Motion"). In support of its Motion, the Illinois EPA states as follows:

1. On October 6, 2009, the United States Environmental Protection Agency ("USEPA") promulgated a notice entitled, "Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators; Final Rule" 74 Fed. Reg. 51368.
2. The aforementioned Federal Register Final Rule required states to have filed their amendments to each State's implementation plan ("SIP") with the USEPA within one year from the date of promulgation, i.e. October 6, 2010.
3. In accordance with the Federal Register, the Illinois EPA began drafting amendments to Part 229 of the Illinois Administrative Code.
4. Because of other commitments, and strained resources, the Illinois EPA did not complete the amendments by that date.

5. Accordingly, the USEPA shall develop a Federal Implementation Plan ("FIP") for Illinois under Section 129(b)(3) of the Clean Air Act within two years of the promulgation of the guidelines.
6. Illinois can still avoid the FIP, if it submits the SIP revision by October 6, 2011.
7. In light of the foregoing, it is necessary to expedite review in this matter.
8. As required by 35 Ill. Adm. Code Section 101.512, this Motion is accompanied by an Affirmation attesting that the facts cited herein are true.

WHEREFORE, for the reasons set forth above, the Illinois EPA respectfully requests that the Board grant this Motion and expedite review in this matter.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

DATED: December 22, 2010

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

**THIS FILING IS SUBMITTED  
ON RECYCLED PAPER**



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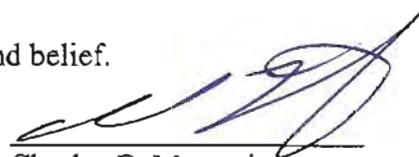
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AFFIRMATION

I, Charles E. Matoesian, under oath, hereby state and affirm that I am an Assistant Counsel for the Illinois EPA and the facts cited in the foregoing Motion for Expedited Review are true and correct to the best of my information and belief.



Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

SUBSCRIBED AND SWORN TO BEFORE ME

This 22 day of December, 2010

  
Notary Public



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MOTION FOR WAIVER OF COPY REQUIREMENTS

The Proponent, the Illinois Environmental Protection Agency ("Illinois EPA"), by its attorney, and pursuant to 35 Ill. Adm. Code 101.500, 102.110, 102.200, and 102.402, respectfully moves that the Illinois Pollution Control Board ("Board") waive the requirement that the Illinois EPA submit the original and nine copies of the regulatory proposal including all documents relied upon, and waive the requirement that the Illinois EPA provide copies of certain documents relied upon. In support of its Motion, Illinois EPA states as follows:

1. Section 102.200 of the Board's procedural rules requires that the original and nine copies of each regulatory proposal be filed with the Clerk. 35 Ill. Adm. Code Section 102.200. Section 27(a) of the Environmental Protection Act also requires that the Illinois EPA provide information supporting a regulatory proposal. 415 ILCS 5/27(a).

2. The Illinois EPA directly relied upon several documents when drafting the regulatory proposal, and incorporated by reference certain documents as well. The documents relied upon/incorporated by reference are as follows:

a) incorporations by reference:

1. ANSI/ASME PTC19.10-1981, Flue and Gas Analyses, [Part 10, Instruments and Apparatus].

2. ASTM D6784-02, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method).
  - 3) "Fabric Filter Bag Leak Detection Guidance", U.S. Environmental Protection Agency. (EPA-454/R-98-015, September 1997).
- b) *Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators; Final Rule.* 62 Federal Register 48348, September 15, 1997.
  - c) *Sierra Club v. EPA*, 167 F.3d 658 (DC Cir. 1999)
  - d) *Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators; Final Rule.* 74 Federal Register 51368, October 6, 2009.
  - e) *Sierra Club v. EPA*, 551 F.3d 1019 (DC Cir. 2008) (SSM Exemption). *Docket ID No.: EPA-HQ-OAR-2006-0534*
  - f) Thomas Holloway. January 12, 2007. *MACT Performance Data for HMIWI Facilities* (Docket ID No.: EPA-HQ-OAR-2006-0534)
  - g) Thomas Holloway. July 6, 2009. *Revised Compliance Costs and Economic Inputs for Existing HMIWI* (Docket ID No.: EPA-HQ-OAR-2006-0534)
  - h) *Medical Waste Incinerators – Background Information for Proposed Standards and Guidelines: Control Technology Performance Report for New and Existing Facilities* U.S. Environmental Protection Agency. July 1994. (EPA-453/R-94-044a).
  - i) *Medical Waste Incinerators – Background Information for Proposed Standards and Guidelines: Model Plant Description and Cost Report for New and Existing Facilities* U.S. Environmental Protection Agency. (July 1994. EPA-453/R-94-045a).
  - j) Stericycle, Inc. *Waste Management Plan*. Submitted to Illinois EPA as an attachment to annual performance test results.
  - k) *Response to Information Collection Request Stericycle, Inc.* December 20, 2007. Stericycle, Inc. December 20, 2007 (Docket ID No.: EPA-HQ-OAR-2006-0534)
  - l) *Guidelines for Protecting the Safety and Health of Health Care.* The National Institute for Occupational Safety and Health (NIOSH). Publication No. 88-119. September 1988.

- m) Stericycle, Inc. *Environmental Responsibility*.  
<http://www.stericycle.com/medical-waste-disposal/health-safety.html>  
Assessed on March 10, 2010.
- n) *Economic Impacts of Revised MACT Standards for Hospital/Medical/Infectious Waste Incinerators*. Katherine Heller, et al. July 2009. (Docket ID No.: EPA-HQ-OAR-2006-0534)
- o) Illinois Environmental Protection Act (415 ILCS 5/et seq.).
- p) Clean Air Act (42 U.S.C. 7401 et seq.).

3. This entire regulatory proposal, including the documents listed above, is several hundred pages. Given the length of the proposal and the resources required to provide nine copies, Illinois EPA requests that the Board waive the normal copy requirements and allow Illinois EPA to file the original and four complete copies of the documents.

4. Further, several of the documents described above—material from US EPA dockets, portions of the Federal Register, the Clean Air Act, the Illinois, Environmental Protection Act, a court case, and an OSHA publication--are readily accessible to or are within the possession of the Board. Given the ease of accessibility of these documents, listed as items (a)(3) and (b) to (i), (k), (l) and (n) to (p) above, the Illinois EPA moves that the Board waive the requirement that the Illinois EPA provide copies of such documents. US EPA docket material can be easily accessed at [Http://www.regulations.gov](http://www.regulations.gov). Item (m) is a link to the Stericycle website, and so not a document that can be produced. Item (j) can be produced.

5. Section 5-75(a) of the Illinois Administrative Procedure Act (“IAPA”) provides that an agency may incorporate by reference the regulations, standards, and guidelines of an agency of the United States or a nationally recognized organization or association without publishing the incorporated material in full. 5 ILCS 100/5-75(a). Section 5-75(c) of the IAPA provides,

however, that such agency shall maintain a copy of the referenced material in at least one of its principal offices and shall make it available to the public upon request. 5 ILCS 100/5-75(c).


6. In developing this proposed rulemaking, the Illinois EPA incorporated by reference a document published by the American Society for Testing and Materials (“ASTM”) and one by the American Society of Mechanical Engineers (“ASME”), listed above as items (a)(1), and (a)(2). The documents are copyright protected and must be downloaded at a cost to the Illinois EPA. The Illinois EPA is also subject to additional fees for each copy provided to the Board. In order to keep costs incurred by the Illinois EPA at a minimum, Illinois EPA requests that the Board waive the normal copy requirements and allow the Illinois EPA to file only the originals of such documents. As an example, attached with the ASTM being filed are copies of the License Agreement/Copyright Notice utilized by the owners of the copyrights. A letter from ASME granting permission to make a copy is also attached. The Illinois EPA directs the Board’s attention to such document so that the Board may conform its handling of the standards consistent with that Agreement.

7. The Illinois EPA further asks that the production of these documents listed above to the Attorney General and Illinois Department of Natural Resources (“IDNR”), be waived.

WHEREFORE, the Illinois EPA moves that the Board waive the requirement that the Illinois EPA provide copies of the documents listed as items (a)(3), and (b) to (i), (k), (l) and (m), and (n) to (p), including to the Attorney General and IDNR; waive the requirement that the Illinois EPA provide an original and nine copies of the copyrighted materials listed as items (a)(1), and (a)(2), allowing the Illinois EPA to provide only the originals of such documents; and waive the requirement that the Illinois EPA provide an original and nine copies of the remaining documents in its proposal, allowing the Illinois EPA to provide the original and four copies.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
\_\_\_\_\_  
Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

DATED: December 22, 2010

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STATEMENT OF REASONS

I. INTRODUCTION

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits this Statement of Reasons to the Illinois Pollution Control Board ("Board") pursuant to Sections 9.1(d), 27, 28, 39 and 39.5 of the Environmental Protection Act ("Act") (415 ILCS 5/9.1(d), 27, 28, 39, and 39.5) and 35 Ill. Adm. Code 102.202(b), in support of the attached proposed amendments to existing regulations. Included in this proposal are amendments to 35 Ill. Adm. Code Part 229 ("Part 229"), Hospital/Medical/Infectious Waste Incinerators, which update the existing Part 229 to incorporate amended Federal air quality standards. These changes include: revised emissions standards that are more stringent than existing standards , revised waste management plan provisions, allowing greater flexibility in demonstrating compliance and the removal of startup, shutdown and malfunction exemption. 74 Fed. Reg. 51368, 71 - 72. This proposal amends the most recent version of Part 229 as found on the Board's website.

## II. STATEMENT OF FACTS

In 1997, the United States Environmental Protection Agency (“US EPA”) published maximum achievable control technology (“MACT”) standards for hospital/medical/infectious waste incinerators (“HMIWI”) under Sections 111 and 129 of the Clean Air Act (“CAA”). Id. at 51369. As part of that effort, US EPA had to develop emission guidelines (“EG”) for existing sources and new source performance standards (“NSPS”) for new sources. Id. Following a lawsuit by environmental groups, the US Court of Appeals for the District of Columbia remanded the standards for US EPA to better explain its reasoning in the derivation of the standards. Id. at 51368. An HMIWI is defined as:

any device used to burn hospital waste or medical/infectious waste. Hospital waste means discards generated at a hospital, and medical/infectious waste means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals (e.g., vaccines, cultures, blood or blood products, human pathological waste, sharps). As explained in EPA’s regulations, hospital/medical/infectious waste does not include household waste, hazardous waste, or human and animal remains not generated as medical waste.

Id. at 51369. As for pollutants emitted by HMIWIs:

Incineration of hospital/medical/infectious waste causes the release of a wide array of air pollutants, some of which exist in the waste feed material and are released unchanged during combustion, and some of which are generated as a result of the combustion process itself. These pollutants include particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NOX); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO<sub>2</sub>).

Id.



Although remanded by the court, the 1997 regulations were not vacated and so were fully implemented by 2002. Technical Support Document (“TSD”) at 5. On February 6, 2007 US EPA proposed a response to the court’s remand. 74 Fed. Reg. at 51370. Later after receiving comments, after further court rulings on other MACT standard cases, the US EPA amended its response on December 1, 2008. Id. The USEPA also considered the promulgation of the final amendments as having fulfilled its statutory obligation under CAA Section 129 to conduct the first 5-year review of the 1997 EG/NSPS rule. Id.

The matter before the Board today concerns the final rule promulgated on October 6, 2009. That final rule combined the proposals from the prior versions, specifically:

[t]he changes proposed in 2007 included provisions allowing existing sources to use previous emissions test results to demonstrate compliance with the revised emissions limits; annual inspections of air pollution control devices (APCD); a one-time visible emissions test of ash handling operations; CO continuous emissions monitoring systems (CEMS) and bag leak detection systems for new sources; and several approved monitoring alternatives. The 2008 proposal included changes regarding requirements for NO<sub>x</sub> and SO<sub>2</sub> emissions testing for all HMIWI; performance testing requirements for small rural HMIWI; monitoring requirements for HMIWI that install selective non-catalytic reduction (SNCR) technology to reduce NO<sub>x</sub> emissions; and procedures for test data submittal. The changes included in this final action include revised provisions regarding waste segregation and removal of exemptions regarding startup, shutdown, and malfunction (SSM).

Id. at 51372.

## Applicability

As noted above, this action makes numerous changes to the existing HMIWI's NSPS and EG. The amended emissions guidelines apply to each individual HMIWI as noted in Section 60.32e(a) of the Code of Federal Regulations:

- (1) For which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998.
- (2) For which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010.

Id. at 51402. An important change is that “[a]ll HMIWI that complied with the NSPS as promulgated in 1997 are considered ‘existing’ sources under the amended standards and are required to meet the emissions limits under the revised EG or the 1997 NSPS, whichever is more stringent.” Id. at 51374. Accordingly, the list of existing HMIWIs is increased to include those that were constructed prior to December 1, 2008, or modified prior to April 6, 2010. Id.

## Standards

The existing Part 229 rule will continue to apply until January 1, 2014, to sources as defined in paragraph (a)(1) above. Id. at 51402-03. Sources in Illinois, as defined in paragraph (a)(2) above will continue to comply with the 1997 NSPS until January 1, 2014. Id. at 51374. Beginning January 1, 2014, any HMIWI as defined in paragraph (a)(1) or (2) will comply with the amended Part 229 standards; former NSPS sources are required to meet the more stringent of the emissions limits under 1997 NSPS and the amended Part 229 standards. Id. at 51403. The Illinois EPA has chosen January 1, 2014, as the date Illinois sources must be in compliance. This date is within the

statutory compliance deadline of five years after the date of promulgation of the EG/NSPS rule amendments (October 6, 2009). Id. at 51405. Illinois has only one known HMIWI source as of the date of filing, Stericycle, Inc at its Clinton, Illinois facility. TSD at 11.

The amended EG also impose new work practice standards. The waste management plan provisions are revised to “minimize or eliminate from the HMIWI waste stream any plastic wastes, Hg and other hazardous wastes (e.g., Hg-containing dental waste, Hg-containing devices), pharmaceuticals, and confidential documents and other paper products that could be shredded and recycled.” Id. at 51374. An owner or operator of a commercial HMIWI is required to conduct training and education programs in waste segregation for each of the firm’s waste generator clients and ensure each client prepares its own waste management plan. TSD at 12. Per Section 129 of the CAA, the EG/NSPS rules apply only to incinerators; they do not apply directly to medical waste generators except if they have on-site incinerators. Id. Emissions from incinerators depend on what is being burned, and can be minimized by waste management plan (that includes waste segregation), amongst others. TSD at 7.

Commercial HMIWIs are subject to Occupational Safety and Health Administration (“OSHA”) requirements regarding the handling of medical waste from the point of generation to treatment and disposal. In order to comply with OSHA requirements commercial HMIWI operators are not expected to practice waste segregation on materials received from waste generator clients. Fed. Reg. at 51393. The sealed medical waste bags received from clients may contain waste types that ordinarily do not require incineration (e.g., municipal-type waste such as cafeteria and

office type wastes). The municipal-type waste can be recycled or sent to the municipal landfill. Some hospital waste can be treated by means other than incineration before disposal thereby minimizing emissions of hazardous emissions that would otherwise result from incineration. TSD at 7. To promote greater waste segregation commercial HMIWI operators are required to provide training and education programs in waste segregation to each of their waste generator clients and ensure that each client prepares its own waste management plan TSD at 12.

### Performance Testing

The rulemaking makes several changes to the performance testing and monitoring provisions. Specifically, regarding performance testing and monitoring, the:

...amendments require all HMIWI to demonstrate initial compliance with the revised NO<sub>x</sub> and SO<sub>2</sub> emissions limits. The 1997 standards did not require testing and demonstration of compliance with the NO<sub>x</sub> and SO<sub>2</sub> emissions limits...The amendments allow sources to use results of their previous emissions tests to demonstrate initial compliance with the revised emissions limits as long as the sources certify that the previous test results are representative of current operations.

Id. at 51372-73.

Concerning inspections, for each HMIWI, the amendments require annual inspections of air pollution control devices and equipment. Id. at 51373. The amendments further require a onetime visible emissions test of the ash handling operations to be conducted during the initial performance test. Id. The amendments allow as options, the use of monitoring devices such as continuous emissions monitoring systems, bag leak detection systems, and continuous automated sampling system for compliance demonstration. Id.

Finally, this rule removes the startup, shutdown and malfunction exemption provision from the HMIWI standards. *Id.* at 51375. After USEPA's re-proposal, "the U.S. Court of Appeals in *Sierra Club v. EPA*, 551 F.3d 1019 (DC Cir. 2008), vacated provisions in EPA's CAA Section 112 regulations governing emissions of hazardous air pollutants during SSM periods." *Id.*

### Recordkeeping and Reporting Requirements

Records must be kept of all actions, procedures required to demonstrate compliance with the rule. *Id.* at 51373. Furthermore, HMIWIs are required to submit "along with each test report, a description, including sample calculations, of how operating parameters are established during the initial performance test and, if applicable, re-established during subsequent performance tests." *Id.* at 51374. A new option is that HMIWIs have the choice to submit electronic copies of annual stack reports. *Id.* at 51373.

## **III. GEOGRAPHIC REGIONS AND SOURCES AFFECTED**

HMIWI sources throughout the state could be affected by this proposal, but, at present the Agency is only aware of one affected source in the state, Stericycle, Inc at its Clinton, Illinois facility.

## **IV. PURPOSE AND EFFECT OF THE PROPOSAL**

This proposal is necessitated due to the remand of NSPS and EG standards promulgated as part of the process to determine a MACT standard for HMIWIs in 1997.

This action fulfills Illinois' obligation to establish emissions standards under section 129(b) no later than 1 year after the promulgation of emission guidelines for the HMIWI source category, and submit to the USEPA plans for the implementation and enforcement of the emission guidelines with respect to the existing HMIWI in their State. TSD. at 5.

At hearing, Dixon Nwaji will testify for the Illinois EPA. Mr. Nwaji will testify as to the purpose and effect of the proposal. He will also provide a brief recitation of the status of HMIWIs in Illinois and how the proposal will affect them.

#### **V. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS**

There are 14 commercial HMIWI operated at ten facilities that are located in ten states. TSD at 16. There are two existing HMIWI units (at one source) in operation in Illinois that are subject to the Part 229 requirements. TSD at 11. The two units are both categorized as large HMIWIs based on waste charging capacity and are commercially operated by Stericycle, Inc. at its Clinton facility. Id. Stericycle, Inc. is a leading provider of medical waste management services to hospitals, clinics, dental offices, blood banks, research facilities, and other waste generators. TSD at 12. The company owns and operates six commercial HMIWI facilities (including the Illinois facility) in the United States. Id. In addition to its use of incineration to treat hospital/medical/infectious waste, Stericycle also uses other treatment methods such as autoclaving and its proprietary Electro-Thermal Deactivation (ETD) process to treat waste at its other facilities. Id.

The US EPA believes most sources "should be able to meet the revised limits using control technology already available to the industry." 74 Fed Reg 51371.

Based on the results of past performance tests, neither of these HMIWI meets all the nine 2009 MACT floor limits. TSD at 12. The control option costs include control costs, testing costs, monitoring, recordkeeping and reporting costs. Id. at 13. The costs are itemized as capital and annual costs. Id. The total MACT floor annual costs for the HMIWIs are: Unit 1, \$376, 220 and Unit 2, \$333,136. Id. at 14. The total emission reduction needed to meet the 2009 MACT floor limits for Unit 1 was determined to be 237 pounds of emissions at a total annual cost of \$376,220, with the unit average cost effectiveness value of \$3,169,273 per ton. Id. For Unit 2, with the total emission reduction of 41 pounds at a total annual cost of \$333,136, the unit average cost effectiveness value was determined to be \$16,361,729 per ton. Id. USEPA believes that even in the absence of increased regulatory requirements, less expensive alternative waste treatment options are available to almost all facilities that operate HMIWI. Id. at 16. The additional costs imposed by the amended standards both to commercial operators and waste generators will accelerate the trend towards alternative waste treatment options. Id.

## **VI. COMMUNICATION WITH INTERESTED PARTIES**

The rule has been shown to Stericycle, Inc., the only known affected source in Illinois. In addition, the Illinois EPA has informed the Illinois Environmental Regulatory Group of the rule, as representatives of the regulated community.

## **VII. THE ILLINOIS EPA'S PROPOSAL**

Section 229.100 Abbreviations:

The Illinois EPA proposes adding nanometers to the list of abbreviations.

Section 229.102 Definitions:

The Illinois EPA is proposing to add the definitions of “Bag Leak Detection System,” “Commercial HMIWI,” “Minimum Reagent Flow Rate,” and amend the definition of “Minimum Secondary Chamber Temperature.”

Section 229.104      Incorporations by Reference:

The Illinois EPA proposed adding several portions of the Code of Federal Regulations, US EPA Methods and technical standards to the materials incorporated by reference.

Section 229.110      General Applicability:

The Illinois EPA proposes amending applicability to create two classes of HMIWIs, one for those for which construction commenced either on or before June 20, 1996, or modification was commenced either on or before March 16, 1998; and those for which construction commenced either after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010.

Section 229.112      Exemptions:

The Illinois EPA proposes amending the exemptions to make exempt any HMIWIs that meets the applicability provisions for *New Source Performance Standards Hospital/Medical/Infectious Waste Incinerators* under Subpart Ec of 40 CFR 60. Before, all HMIWIs for which construction commenced after 1996, were exempt.

Section 229.115      Compliance Schedules for HMIWIs That Will Continue to Operate:

The Illinois EPA proposes altering the compliance schedules for HMIWIs that will continue to operate depending upon whether it is before January 1, 2014, or on and after January 1, 2014.

Section 229.116      Compliance Schedules for HMIWIs That Will Shut Down:

The Illinois EPA proposes altering the compliance schedule for HMIWIs which cease operation.

Section 229.120      CAAPP Permit Requirements:

The Illinois EPA proposes detailing the new dates which HMIWIs must have a CAAPP and when the application for the CAAPP is due.

Section 229.125      Emissions Limits for Small, Medium, and Large HMIWIs:



The Illinois EPA proposes creating separate standards for pollutants depending upon whether it is before January 1, 2014 or on and after that date. Creates different standards for HMIWIs which meet the criteria of Section 229.110(a)(1), and those which meet the applicability criteria under Section 229(a)(2).

Section 229.126      Emissions Limits For Rural HMIWIs:

The Illinois EPA proposes creating different standards for rural HMIWIs depending upon whether it is before January 1, 2014, or on and after January 1, 2014.

Section 229.130      Operation During Periods of Startup, Shutdown, or Malfunction:

The rulemaking repeals this entire section

Section 229.142      Initial Performance Testing and Establishment of Operating Parameters for All HMIWIs:

The Illinois EPA proposes amending the section to create initial performance tests and operating for all HMIWIs. Divides HMIWIs requirements depending upon whether it is before January 1, 2014, or on or after that date.

Section 229.      Annual Testing For Opacity:

The Illinois EPA proposes creating a new compliance schedule for the annual opacity test.

Section 229.148      Annual Performance Testing for All Small, Medium and Large HMIWIs:

The Illinois EPA proposes expanding annual performance testing to cover all HMIWIs.

Section 229.150      Compliance with Operating Parameter Values:

The Illinois EPA proposes amending the method to define operating parameters and adds selective non-catalytic reduction system as a compliance option.

Section 229.152      Compliance Requirements for HMIWIs using CEMS:

The Illinois EPA proposes allowing continuous emissions monitoring as a way to demonstrate compliance.

Section 229.154      Violations by HMIWIs Equipped with a Dry Scrubber Followed by a Fabric Filter:

The Illinois EPA proposes defining the violation limits for the new compliance alternatives (ex. CEMS).

Section 229.156      Violations by HMIWIs Equipped with a Wet Scrubber:

The Illinois EPA proposes defining the violation limits for the new compliance alternatives (ex. CEMS).

Section 229.158      Violations by HMIWIs Equipped with a Dry Scrubber Followed by a Fabric Filter and a Wet Scrubber:

The Illinois EPA proposes defining the violation limits for the new compliance alternatives (ex. CEMS).

Section 229.160      Compliance Requirements for Rural HMIWIs:

The Illinois EPA proposes amending the compliance requirements for rural HMIWIs depending on whether it is before Jan. 1, 2014, or on and after Jan. 1, 2014.

Section 229.162      Inspection Requirements for All HMIWIs

The Illinois EPA proposes amending the inspection requirements for HMIWIs depending on whether it is before Jan. 1, 2014, or on and after Jan. 1, 2014.

Section 229.166      Monitoring Requirements for All HMIWIs

The Illinois EPA proposes amending the monitoring requirements for HMIWIs depending on whether it is before Jan. 1, 2014, or on and after Jan. 1, 2014. Also allows bag leak detection system in some circumstances. Also has special rules if selective noncatalytic reduction system is used as a compliance method and allows CEMs as a substitute for certain parameters.

Section 229.168      Monitoring Requirements for Rural HMIWIs

The Illinois EPA proposes amending the monitoring requirements for rural HMIWIs depending on whether it is before Jan. 1, 2014, or on and after Jan. 1, 2014.

Section 229.180      Waste Management Requirements for Commercial HMIWIs

The Illinois EPA proposes new requirements to enhance waste management practices at the point of generation. Included within this is the requirement that an owner or operator of each commercial HMIWI company provide training and education programs in waste segregation to each of their waste generator clients and ensure that each client prepares its own waste management plan.

Section 229.182      Recordkeeping Requirements

The Illinois EPA proposes amending the list of pollutants to keep records of. Also lists pollutants to record if a selective noncatalytic reduction system is used to comply and requires records to be kept if a bag leak detection system is used. Records recordkeeping of performance tests, annual air pollution control equipment test, if a bag leak detection systems are used, and for any maintenance of the HMIWI.

Section 229.184      Reporting Requirements

The Illinois EPA proposes listing requirements if test data or reports are submitted before Jan. 1, 2014, or on or after Jan. 1, 2014. Also has schedule of when annual reports are due and what must be in them. Has special provisions if a bag leak detection system is used.

Section 229.APPENDIX B      Operating Parameters to be Monitored and Minimum Measurement and Recording Frequencies

The Illinois EPA proposes amending the table to add a column for Selective Noncatalytic Reduction systems and a row for Minimum Reagent Flow Rate.

Section 229.APPENDIX C      Reference Test Methods and Procedures for Performance Tests.

The Illinois EPA proposes adding several measurement methods and standardized tests to the allowable list of methods and tests. Also allows several alternatives to reference tests and performance tests such as bag leak detection system, and CEMs.

## **VIII. CONCLUSION**


The Illinois EPA proposes these amendments to 35 Ill. Adm. Code 229 to update specified provisions and to reflect current standards established by the US EPA under the Federal Clean Air Act.

**WHEREFORE**, for the reasons stated above, the Illinois EPA hereby submits this regulatory proposal and requests the Board adopt these proposed amendments to Part 229 for the State of Illinois.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_

  
Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

DATED: December 22, 2010

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE  
DEC 23 2010  
STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
)  
AMENDMENTS TO 35 ILL. )  
ADM. CODE PART 229, )  
HOSPITAL/MEDICAL/INFECTIOUS )  
WASTE INCINERATORS )  
)  
)

11-20  
R18  
(Rulemaking - Air)

ORIGINAL

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached REGULATORY PROPOSAL FOR AMENDMENTS TO 35 ILL. ADM. CODE PART 229 and APPEARANCE of the Illinois Environmental Protection Agency upon the persons to whom it is directed, by placing it in envelopes addressed to:

TO:

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

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

Jonathan Furr  
Chief Legal Counsel  
Illinois Dept. of Natural Resources  
524 South Second Street  
Springfield, Illinois 62701-1787

and mailing same by First Class Mail from Springfield, Illinois on December 22, 2010 with sufficient postage affixed.

SUBSCRIBED AND SWORN TO BEFORE ME

this 22<sup>nd</sup> day of December, 2010

Brenda Boehner  
Notary Public

