ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE

ADMINISTRATIVE RULES REVIEW

Table of Contents

2014 Legislative Session

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1301

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Sixty-second Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act programs.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2013, **Vol. 13-8, pages 320 through 333**. DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at **www.deq.idaho.gov/58-0101-1301** or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Tiffany Floyd at **tiffany.floyd@deq.idaho.gov** or (208) 373-0440.

Dated this 21st day of October, 2013.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
Phone: (208)373-0418
Fax No.: (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act programs.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

Monday, September 9, 2013, 3:00 p.m.

Department of Environmental Quality
Conference Room A
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho are consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference at Section 107 to include those revised as of July 1, 2013.

Subsection 107.03.c. has been revised to ensure the incorporation by reference of 40 CFR Part 52 is aligned with Subsection 107.01. The added text underscores Idaho's intent to incorporate by reference federal regulations that apply to Idaho, not the rules and plans developed by other states that have been federally approved for the purposes of those states' implementation plans.

In addition, Sections 861 and 862, regarding hospital/medical/infectious waste incinerators,

have been deleted to remove requirements that have been superseded by recent updates to 40 CFR Parts 60 and 62. 40 CFR Part 60 and 40 CFR Part 62, Subpart HHH, are incorporated by reference into the proposed rule at Section 107. These changes allow DEQ to maintain EPA approval to regulate these sources. To ensure compliance with the statutory provisions regarding medical waste combustors, Section 39-128, Idaho Code, has been incorporated by reference into the proposed rule at Section 107.

DEQ intends to hold a public hearing regarding Idaho's request for continued EPA approval to regulate hospital/medical/infectious waste incinerators. The Notice of Public Comment Period and Public Hearing on the Proposed Submittal for Delegation of Regulation 40 CFR Part 62, Subpart HHH, is published under Docket No. 58-0000-1304 in the Idaho Administrative Bulletin, August 7, 2013, Vol. 13-8, and is available at **www.deq.idaho.gov/58-0101-1301** or by contacting the undersigned.

Members of the regulated community who may be subject to Idaho's air quality rules, special interest groups, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2013 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2014 legislative session if adopted by the Board and approved by the Legislature. DEQ will submit the final rule to EPA for approval.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. Information for obtaining a copy of the federal regulations is included in the rule.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting the federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Tiffany Floyd at **tiffany.floyd@deq.idaho.gov** or (208) 373-0440.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 9, 2013.

DATED this 9th day of July, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-1301

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

a. All federal publications: U.S. Government Printing Office at www.gpoaccess.gov/ecfr; ~~*and*~~ ~~*(4-7-11)*~~( )

b. Statutes of the state of Idaho: http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm; and ( )

~~*b*~~**c.** All documents herein incorporated by reference: (7-1-97)

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR Part 51 revised as of July 1, 201~~2~~3. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: ~~(4-4-13)~~( )

i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)

ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)

b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

c. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, Subparts A and N and Appendices D and E, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

d. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

e. Ambient Air Quality Surveillance, 40 CFR Part 58, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

f. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

g. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

h. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008, 40 CFR Part 62, Subpart HHH, revised as of July 1, 2013. ( )

~~h~~**i.** National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

~~i~~**j.** Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

~~j~~**k.** State Operating Permit Programs, 40 CFR Part 70, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

~~k~~**l.** Permits, 40 CFR Part 72, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

~~l~~**m.** Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

~~m~~n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 201~~2~~3. ~~(4-4-13)~~( )

~~n~~o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)

p. Medical Waste Combustors, Section 39-128, Idaho Code (1992). ( )

~~o~~q. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 201~~2~~3, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. ~~(4-4-13)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

~~***861. STANDARDS OF PERFORMANCE FOR HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS THAT COMMENCED CONSTRUCTION AFTER JUNE 20, 1996, OR FOR WHICH MODIFICATION IS COMMENCED AFTER MARCH 16, 1998.***~~

~~***01. Applicability.*** *All owners or operators of each individual hospital/medical/infectious waste incinerator for which construction is commenced after June 20, 1996 or for which modification is commenced after March 16, 1998 are subject to Section 861 except as noted in Subsection 861.02.* (4-5-00)~~

~~***02. Exemptions.*** (4-5-00)~~

~~***a.*** *A combustor is not subject to Section 861 during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor:* (4-5-00)~~

~~*i.* *Notifies the Department of an exemption claim; and* (4-5-00)~~

~~*ii.* *Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste and/or chemotherapeutic waste is burned.* (4-5-00)~~

~~***b.*** *Any co-fired combustor is not subject to Section 861 if the owner or operator of the co-fired combustor:* (4-5-00)~~

~~*i.* *Notifies the Department of an exemption claim;* (4-5-00)~~

~~*ii.* *Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and* (4-5-00)~~

~~iii. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor. (4-5-00)~~

~~c. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to Section 861; (4-5-00)~~

~~d. Any combustor which meets the applicability requirements under 40 CFR Part 60, Subparts Cb, Ea or Eb (relates to certain municipal waste combustors) is not subject to Section 861; (4-5-00)~~

~~e. Any pyrolysis unit is not subject to Section 861; (4-5-00)~~

~~f. Cement kilns firing hospital waste and/or medical/infectious waste are not subject to Section 861; (4-5-00)~~

~~g. Physical or operational changes made to an existing hospital/medical/infectious waste incinerator solely for the purpose of complying with emission guidelines under 40 CFR Part 60, Subpart Ce are not considered a modification and do not result in an existing hospital/medical/infectious waste incinerator becoming subject to Section 861; (4-5-00)~~

~~h. Affected facilities subject to Section 861 are not subject to the requirements of 40 CFR Part 64. (4-5-00)~~

~~03. Definitions. As used in Section 861, definitions shall have the meaning given in 40 CFR Part 60 including, but not limited to: (4-5-00)~~

~~a. "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. (4-5-00)~~

~~b. "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, ten percent (10%) or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted. (4-5-00)~~

~~c. "Hospital" means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty-four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision. (4-5-00)~~

~~d. "Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste. (4-5-00)~~

~~e. "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation. (4-5-00)~~

~~f. "Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans. (4-5-00)~~

~~g. "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)). (4-5-00)~~

~~h. "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 of testing of biologicals that is listed in Subsections 861.03.h.i. through 861.03.h.vii. The definition of medical/infectious waste does not include hazardous waste identified or listed under 40 CFR Part 261; household waste as defined in 40 CFR Section 261.4(b)(1); ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation; and domestic sewage materials identified in 40 CFR Section 261.4(a)(1): (4-5-00)~~

~~i. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures. (4-5-00)~~

~~ii. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers. (4-5-00)~~

~~iii. Human blood and blood products including: (4-5-00)~~

~~(1) Liquid waste human blood; (4-5-00)~~

~~(2) Products of blood; (4-5-00)~~

~~(3) Items saturated and/or dripping with human blood; or (4-5-00)~~

~~(4) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory~~

~~*analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.* (4-5-00)~~

~~*iv. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.* (4-5-00)~~

~~*v. Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.* (4-5-00)~~

~~*vi. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.* (4-5-00)~~

~~*vii. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades.* (4-5-00)~~

~~***i.*** *"Modification or modified hospital/medical/infectious waste incinerator" means any change to a hospital/medical/infectious waste incinerator unit after July 2, 1999:* (4-5-00)~~

~~*(1) The cumulative costs of the modifications, over the life of the unit, exceed fifty percent (50%) of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or* (4-5-00)~~

~~*(2) The change involves a physical change or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Sections 129 or 111 of the Clean Air Act.* (4-5-00)~~

~~***j.*** *"Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable);* (4-5-00)~~

~~***k.*** *"Pyrolisis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy.* (4-5-00)~~

~~***04. Requirements****. The following requirements apply to all owners or operators of HMIWI subject to Section 861.* (4-5-00)~~

~~***a.*** *All owners or operators of hospital/medical/infectious waste incinerators subject to Section 861 must comply with 40 CFR Part 60, Subpart Ec as incorporated by reference into these rules at Section 107. Where "Administrator" or "EPA" appears in 40 CFR Part 60,*~~

~~"Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (4-5-00)~~

~~**b.** Beginning September 15, 2000 or on the effective date of an EPA approved operating permit program under Clean Air Act Title V and the implementing regulations under 40 CFR Part 70, whichever date is later, affected facilities shall operate pursuant to a permit issued under the EPA approved state operating permit program. (4-5-00)~~

~~**c.** All owners or operators of hospital/medical/infectious waste incinerators subject to Section 861 must comply with provisions of Section 39-128, Idaho Code. (3-15-02)~~

~~862. EMISSION GUIDELINES FOR HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS THAT COMMENCED CONSTRUCTION BEFORE JUNE 20, 1996.~~

~~**01. Applicability**. All owners or operators of each individual hospital/medical/infectious waste incinerator for which construction is commenced on or before June 20, 1996, are subject to Section 862 except as noted in Subsection 862.02. (4-5-00)~~

~~**02. Exemptions**. (4-5-00)~~

~~**a.** A combustor is not subject to Section 862 during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor: (4-5-00)~~

~~i. Notifies the Department of an exemption claim; and (4-5-00)~~

~~ii. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste and/or chemotherapeutic waste is burned. (4-5-00)~~

~~**b.** Any co-fired combustor is not subject to Section 862 if the owner or operator of the co-fired combustor: (4-5-00)~~

~~i. Notifies the Department of an exemption claim; (4-5-00)~~

~~ii. Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and (4-5-00)~~

~~iii. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor. (4-5-00)~~

~~**c.** Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to Section 862. (4-5-00)~~

~~**d.** Any combustor which meets the applicability requirements under 40 CFR Part 60, Subparts Cb, Ea or Eb (relates to certain municipal waste combustors) is not subject to Section 862. (4-5-00)~~

~~**e.** *Any pyrolysis unit is not subject to Section 862.* (4-5-00)~~

~~**f.** *Cement kilns firing hospital waste and/or medical/infectious waste are not subject to Section 862.* (4-5-00)~~

~~**g.** *Physical or operational changes made to an existing hospital/medical/infectious waste incinerator solely for the purpose of complying with emission guidelines under 40 CFR Part 60, Subpart Ce are not considered a modification and do not result in an existing hospital/medical/infectious waste incinerator becoming subject to Section 862.* (4-5-00)~~

~~**h.** *Affected facilities subject to Section 862 are not subject to the requirements of 40 CFR Part 64.* (4-5-00)~~

~~**03. Definitions**. *As used in Section 862, definitions shall have the meaning given in 40 CFR Part 60 including, but not limited to:* (4-5-00)~~

~~**a.** *"Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells.* (4-5-00)~~

~~**b.** *"Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, ten percent (10%) or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted.* (4-5-00)~~

~~**c.** *"Hospital" means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty-four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision.* (4-5-00)~~

~~**d.** *"Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste.* (4-5-00)~~

~~**e.** *"Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation.* (4-5-00)~~

~~**f.** *"Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.* (4-5-00)~~

~~g. "Large HMIWI," except as provided in Subsections 862.03.g.iv.(1) and 862.03.g.iv.(2), means: (4-5-00)~~

~~i. A HMIWI whose maximum design waste burning capacity is more than five hundred (500) pounds per hour; or (4-5-00)~~

~~ii. A continuous or intermittent HMIWI whose maximum charge rate is more than five hundred (500) pounds per hour; or (4-5-00)~~

~~iii. A batch HMIWI whose maximum charge rate is more than four thousand (4,000) pounds per day. (4-5-00)~~

~~iv. The following are not large HMIWI: (4-5-00)~~

~~(1) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to five hundred (500) pounds per hour; or (4-5-00)~~

~~(2) A batch HMIWI whose maximum charge rate is less than or equal to four thousand (4,000) pounds per day. (4-5-00)~~

~~h. "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)). (4-5-00)~~

~~i. "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 of testing of biologicals that is listed in Subsections 862.03.i.i. through 862.03.i.vii. The definition of medical/infectious waste does not include hazardous waste identified or listed under 40 CFR Part 261; household waste as defined in 40 CFR Section 261.4(b)(1); ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation; and domestic sewage materials identified in 40 CFR Section 261.4(a)(1): (4-5-00)~~

~~i. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures; (4-5-00)~~

~~ii. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers. (4-5-00)~~

~~iii. Human blood and blood products including: (4-5-00)~~

~~(1) Liquid waste human blood; (4-5-00)~~

~~(2) Products of blood; (4-5-00)~~

~~(3) Items saturated and/or dripping with human blood; or (4-5-00)~~

~~(4) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category. (4-5-00)~~

~~iv. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips. (4-5-00)~~

~~v. Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals. (4-5-00)~~

~~vi. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases. (4-5-00)~~

~~vii. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades. (4-5-00)~~

~~**j.** "Medium HMIWI": (4-5-00)~~

~~i. Except as provided in Subsection 862.03.j.ii., medium HMIWI means: (4-5-00)~~

~~(1) A HMIWI whose maximum design waste burning capacity is more than two hundred (200) pounds per hour but less than or equal to five hundred (500) pounds per hour; or (4-5-00)~~

~~(2) A continuous or intermittent HMIWI whose maximum charge rate is more than two hundred (200) pounds per hour but less than or equal to five hundred (500) pounds per hour; or (4-5-00)~~

~~(3) A batch HMIWI whose maximum charge rate is more than one thousand six hundred (1,600) pounds per day but less than or equal to four thousand (4,000) pounds per day. (4-5-00)~~

~~ii. The following are not medium HMIWI: (4-5-00)~~

~~(1) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to two hundred (200) pounds per hour or more than five hundred (500) pounds per hour; or (4-5-00)~~

~~(2) A batch HMIWI whose maximum charge rate is more than four thousand (4,000) pounds per day or less than or equal to one thousand six hundred (1,600) pounds per day. (4-5-00)~~

~~**k.** "Modification or modified hospital/medical/infectious waste incinerator" means any change to a HMIWI unit after July 2, 1999: (4-5-00)~~

~~i. The cumulative costs of the modifications, over the life of the unit, exceed fifty percent (50%) of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or (4-5-00)~~

~~ii. The change involves a physical change or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Sections 129 or 111 of the Clean Air Act. (4-5-00)~~

~~**l.** "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable); (4-5-00)~~

~~**m.** "Pyrolisis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy; (4-5-00)~~

~~**n.** "Small HMIWI": (4-5-00)~~

~~i. Except as provided in Subsection 862.03.n.ii., small HMIWI means: (4-5-00)~~

~~(1) A HMIWI whose maximum design waste burning capacity is less than or equal to two hundred (200) pounds per hour; or (4-5-00)~~

~~(2) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to two hundred (200) pounds per hour; or (4-5-00)~~

~~(3) A batch HMIWI whose maximum charge rate is less than or equal to one thousand six hundred (1,600) pounds per day. (4-5-00)~~

~~ii. The following are not small HMIWI: (4-5-00)~~

~~(1) A continuous or intermittent HMIWI whose maximum charge rate is more than two hundred (200) pounds per hour; or (4-5-00)~~

~~(2) A batch HMIWI whose maximum charge rate is more than one thousand six~~

hundred (1,600) pounds per day. (4-5-00)

04. Requirements. The following requirements apply to all owners or operators of HMIWI subject to Section 862: (4-5-00)

a. Except as provided in Subsection 862.04.b., all owners or operators of HMIWI subject to Section 862 shall comply with the following requirements within one (1) year after EPA approval of the State Plan: (4-5-00)

i. Emission limits: (4-5-00)

(1) Small HMIWI: (4-5-00)

(a) Particulate matter: One hundred fifteen (115) milligrams per dry standard cubic meter (mg/dscm). (4-5-00)

(b) Carbon monoxide: Forty (40) parts per million by volume (ppm). (4-5-00)

(c) Dioxins/furans: One hundred twenty-five (125) nanograms per dry standard cubic meter (ng/dscm). (4-5-00)

(d) Hydrogen chloride: One hundred (100) ppm or ninety-three percent (93%) reduction. (4-5-00)

(e) Sulfur dioxide: Fifty-five (55) ppm. (4-5-00)

(f) Nitrogen oxides: Two hundred fifty (250) ppm. (4-5-00)

(g) Lead: One point two (1.2) mg/dscm or seventy percent (70%) reduction. (4-5-00)

(h) Cadmium: Point sixteen (0.16) mg/dscm or sixty-five percent (65%) reduction. (4-5-00)

(i) Mercury: Point fifty-five (0.55) mg/dscm or eighty-five percent (85%) reduction. (4-5-00)

(2) Medium HMIWI: (4-5-00)

(a) Particulate matter: Sixty-nine (69) mg/dscm. (4-5-00)

(b) Carbon monoxide: Forty (40) ppm. (4-5-00)

(c) Dioxins/furans: One hundred twenty-five (125) ng/dscm. (4-5-00)

(d) Hydrogen chloride: One hundred (100) ppm or ninety-three percent (93%) reduction. (4-5-00)

(e) Sulfur dioxide: Fifty-five (55) ppm. (4-5-00)

~~(f) Nitrogen oxides: Two hundred fifty (250) ppm. (4-5-00)~~

~~(g) Lead: One point two (1.2) mg/dscm or seventy percent (70%) reduction. (4-5-00)~~

~~(h) Cadmium: Point sixteen (0.16) mg/dscm or sixty-five (65%) reduction. (4-5-00)~~

~~(i) Mercury: Point fifty-five (0.55) mg/dscm or eighty-five percent (85%) reduction. (4-5-00)~~

~~(3) Large HMIWI: (4-5-00)~~

~~(a) Particulate matter: Thirty-four (34) mg/dscm. (4-5-00)~~

~~(b) Carbon monoxide: Forty (40) ppm. (4-5-00)~~

~~(c) Dioxins/furans: One hundred twenty-five (125) ng/dscm; (4-5-00)~~

~~(d) Hydrogen chloride: One hundred (100) ppm or ninety-three percent (93%) reduction. (4-5-00)~~

~~(e) Sulfur dioxide: Fifty-five (55) ppm. (4-5-00)~~

~~(f) Nitrogen oxides: Two hundred fifty (250) ppm. (4-5-00)~~

~~(g) Lead: One point two (1.2) mg/dscm or seventy percent (70%) reduction. (4-5-00)~~

~~(h) Cadmium: Point sixteen (0.16) mg/dscm or sixty-five percent (65%) reduction. (4-5-00)~~

~~(i) Mercury: Point fifty-five (0.55) mg/dscm or eighty-five (85%) reduction. (4-5-00)~~

~~ii. Stack opacity requirements as provided in 40 CFR Section 60.52c(b) of Subpart Ec. (4-5-00)~~

~~iii. Operator training and qualification requirements as provided in 40 CFR Section 60.53c of Subpart Ec. (4-5-00)~~

~~iv. Waste management plan as provided in 40 CFR Section 60.55c of Subpart Ec. (4-5-00)~~

~~v. Compliance and performance testing as provided in 40 CFR Section 60.56c of Subpart Ec excluding the fugitive emissions testing requirements under Section 60.56c(b)(12) and (c)(3) of Subpart Ec. (4-5-00)~~

~~vi. Monitoring requirements as provided in 40 CFR Section 60.57c of Subpart Ec. (4-5-00)~~

~~vii. Reporting and recordkeeping requirements as provided in 40 CFR Section 60.58c(b) (f) of Subpart Ec excluding fugitive emissions under Section 60.58c(b)(2)(ii) and siting under Section 60.58c(b)(7).~~ ~~(4-5-00)~~

~~viii. Permit requirements. Beginning September 15, 2000 or on the effective date of an EPA-approved operating permit program under Clean Air Act title V and the implementing regulations under 40 CFR Part 70, whichever date is later, affected facilities shall operate pursuant to a permit issued under the EPA approved state operating permit program.~~ ~~(4-5-00)~~

~~**b.** All owners or operators of small HMIWI that are located more than fifty (50) miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burn less than two thousand (2,000) pounds per week of hospital/medical/infectious waste, shall comply with the following requirements within one (1) year after EPA approval of the State plan in lieu of the requirements in Subsection 862.04.a.:~~ ~~(4-5-00)~~

~~i. Emission limits:~~ ~~(4-5-00)~~

~~(1) Particulate matter: One hundred ninety-seven (197) mg/dscm.~~ ~~(4-5-00)~~

~~(2) Carbon monoxide: Forty (40) ppm.~~ ~~(4-5-00)~~

~~(3) Dioxins/furans: Eight hundred (800) ng/dscm.~~ ~~(4-5-00)~~

~~(4) Hydrogen chloride: Three thousand one hundred (3,100) ppm.~~ ~~(4-5-00)~~

~~(5) Sulfur dioxide: Fifty-five (55) ppm.~~ ~~(4-5-00)~~

~~(6) Nitrogen oxides: Two hundred fifty (250) ppm.~~ ~~(4-5-00)~~

~~(7) Lead: Ten (10) mg/dscm.~~ ~~(4-5-00)~~

~~(8) Cadmium: Four (4) mg/dscm.~~ ~~(4-5-00)~~

~~(9) Mercury: Seven point five (7.5) mg/dscm.~~ ~~(4-5-00)~~

~~ii. Stack opacity requirements as provided in 40 CFR Section 60.52c(b) of Subpart Ec.~~ ~~(4-5-00)~~

~~iii. Initial equipment inspection which, at a minimum includes the following:~~ ~~(4-5-00)~~

~~(1) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot flame sensor, as necessary;~~ ~~(4-5-00)~~

~~(2) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;~~ ~~(4-5-00)~~

~~(3) Inspect hinges and door latches, and lubricate as necessary;~~ ~~(4-5-00)~~

~~(4) Inspect dampers, fans, and blowers for proper operation; (4-5-00)~~

~~(5) Inspect HMIWI door and door gaskets for proper sealing; (4-5-00)~~

~~(6) Inspect motors for proper operation; (4-5-00)~~

~~(7) Inspect primary chamber refractory lining; clean and repair/replace lining as necessary; (4-5-00)~~

~~(8) Inspect incinerator shell for corrosion and/or hot spots; (4-5-00)~~

~~(9) Inspect secondary/tertiary chamber and stack, clean as necessary; (4-5-00)~~

~~(10) Inspect mechanical loader, including limit switches, for proper operation, if applicable; (4-5-00)~~

~~(11) Visually inspect waste bed (grates), and repair/seal, as appropriate; (4-5-00)~~

~~(12) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments; (4-5-00)~~

~~(13) Inspect air pollution control device(s) for proper operation, if applicable; (4-5-00)~~

~~(14) Inspect waste heat boiler systems to ensure proper operation, if applicable; (4-5-00)~~

~~(15) Inspect bypass stack components; (4-5-00)~~

~~(16) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and (4-5-00)~~

~~(17) Generally observe that the equipment is maintained in good operating condition. (4-5-00)~~

~~iv. Equipment repairs. Within ten (10) operating days following an equipment inspection all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department establishing a date whereby all necessary repairs of the designated facility shall be completed. (4-5-00)~~

~~v. Equipment inspection. Equipment inspections shall be conducted annually (no more than twelve (12) months following the previous annual equipment inspection), as outlined in Subsection 862.04.b.iii. and 862.04.b.iv. (4-5-00)~~

~~vi. Compliance and performance testing requirements as follows: (4-5-00)~~

~~(1) Compliance and performance testing requirements as provided in 40 CFR Section 60.56c(a)(b)(1) through (b)(9), (b)(11) (Hg only), and (c)(1) of Subpart Ec. The two thousand (2,000) lb/week limitation under Subsection 862.04.b. does not apply during performance tests.~~

~~(4-5-00)~~

~~(2) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits.~~ ~~(4-5-00)~~

~~(3) Following the date on which the initial performance test is completed or is required to be completed under 40 CFR Section 60.8, whichever date comes first, ensure that the designated facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three (3) hour rolling averages (calculated each hour as the average of the previous three (3) operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s).~~ ~~(4-5-00)~~

~~(4) Except as provided in Subsection 862.04.b.vi.(5), operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three (3) hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits;~~ ~~(4-5-00)~~

~~(5) The owner or operator of a designated facility may conduct a repeat performance test within thirty (30) days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted using the identical operating parameters that indicated a violation under Subsection 862.04.b.vi.(4).~~ ~~(4-5-00)~~

~~vii. Monitoring requirements as follows:~~ ~~(4-5-00)~~

~~(1) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.~~ ~~(4-5-00)~~

~~(2) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.~~ ~~(4-5-00)~~

~~(3) The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for seventy-five percent (75%) of the operating hours per day and for ninety percent (90%) of the operating hours per calendar quarter that the designated facility is combusting hospital waste and/or medical/ infectious waste.~~ ~~(4-5-00)~~

~~viii. Reporting and recordkeeping requirements as follows:~~ ~~(4-5-00)~~

~~(1) Maintain records of the annual equipment inspections, any required maintenance,~~

~~*and any repairs not completed within ten (10) days of an inspection or the timeframe established by the Department; and* *(4-5-00)*~~

~~*(2) Submit an annual report containing information recorded under Subsection 862.04.b.vii.(1) no later than sixty (60) days following the year in which data were collected. Subsequent reports shall be sent no later than twelve (12) calendar months following the previous report, once the unit is subject to permitting requirements under Title V of the Clean Air Act, the owner or operator must submit these reports semiannually. The report shall be signed by the facilities manager.* *(4-5-00)*~~

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