§ 19-0306. Municipal solid and regulated medical waste incineration facilities.

1. Definitions. When used in this section:

a. "Municipal solid waste incineration facility" means a facility that is owned, operated, or utilized by, or under contract with, a municipality or political subdivision and which utilizes high temperature thermal destruction technologies, including combustion for the recovery of thermal value or for the disposal of municipal solid waste.

b. "Solid waste" means any materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owner at the time of such discharge or rejection, except sewage and other highly diluted water carried materials or substances and those in gaseous form.

c. "Regulated medical waste incineration facility" means an incinerator which is operated or utilized for the disposal or treatment of regulated medical waste, as defined in title 15 of article 27 of this chapter and which may utilize high temperature thermal destruction technologies, including combustion for the recovery of thermal value.

2. Within thirty days of the effective date of this section and pursuant to the state administrative procedure act, the commissioner shall, in consultation with the commissioner of health, propose final draft operating requirements for emissions of air contaminants from municipal solid waste incineration facilities. Such operating requirements shall be effective and shall apply to municipal solid waste incineration facilities for which a permit to construct has been issued and final engineering drawings have been accepted by the commissioner after one hundred twenty days after such operating requirements have been formally promulgated. Such operating requirements shall govern the operation and management of such facilities with respect to air contamination, and shall include but not be limited to provisions for:

a. Maintenance of a minimum incineration temperature and the means and location at which such temperature shall be measured;

b. Residence or exposure time for incineration;

c. Appropriate levels of control for acid gas, sulfur dioxide, oxides of nitrogen, and hydrochloric acid with regard to the following:

(i) the level of protection provided the public health and environment;

(ii) the likely or potential reductions of acid gas emissions from a separate, nearby source of such emissions as a result of a proposed facility becoming operational;

(iii) the likely economic impact of such controls due to associated capital and operating costs, and in relation to alternative solid waste management options, including landfilling; and

(iv) the appropriateness of reduced or modified levels of such controls for smaller facilities;

d. Combustion efficiency;

e. Monitoring of emissions for toxic air contaminants, or surrogates thereof where appropriate, to determine compliance with permit emission limits twice within the first eighteen months of operation and once each within the next two eighteen month intervals and subsequently at the discretion of the commissioner, and following any detection of permit violations in a manner to be determined by the commissioner;

f. Continuous monitoring for oxygen, carbon monoxide, carbon dioxide, opacity and temperature;

g. Sampling and testing of the combined ash and dust residue at least annually to determine appropriate disposition or disposal based on relative toxicity; provided, however, that separate testing of ash and dust shall be required if they are not mixed prior to disposal.

3. The department shall undertake further investigation of appropriate cooling methods for achieving the condensation and collection of air

contaminants and of the necessity for, and appropriate means of, regulating fine particulates. Upon such investigation, the commissioner shall issue a report on his findings and may promulgate appropriate regulations.

4. The department shall, in promulgating any new or revised rule or regulation, accompany such rule making with an environmental impact statement or a written assessment stating the extent to or means by which such rule or regulation will prevent, control or prohibit air pollution.

5. Operating requirements established pursuant to this section for municipal incineration facilities shall be embodied in rules and regulations of the department promulgated in accordance with the state administrative procedure act.

6. On or before the effective date of this subdivision, the commissioner shall, in consultation with the commissioner of health, promulgate proposed operating requirements for the emission of air contaminants from regulated medical waste incineration facilities. Such operating requirements shall, where appropriate, be consistent with the provisions of this section provided, however, that the commissioner shall require such facilities to employ the best available control technologies. Such operating requirements shall be effective and shall apply to all regulated medical waste incineration facilities, for which an operating permit has been issued, ninety days after such operating requirements have been formally promulgated pursuant to the state administrative procedure act provided, however, that where regulated medical waste incineration facilities are owned by health care facilities licensed pursuant to article twenty-eight of the public health law and in operation by permit of the department on or before September first, nineteen hundred eighty-seven, then such standards shall become effective as to such facilities on January first, nineteen hundred ninety-two.

7. Each person who operates a facility for the incineration of regulated medical waste shall report to the commissioner on the volume

and sources of regulated medical waste that it incinerated on-site during the six months next following the effective date of this subdivision. Such report shall be the same as or similar to the report required to be filed with the administrator. The commissioner is authorized to require reports pursuant to this subdivision at least annually thereafter.